

A. Purpose

Frederick County Public Schools (FCPS) [Regulation 403-01, *Student Discipline*](#), outlines a range of consequences imposed for inappropriate student conduct. The procedures below outline the process for suspension and expulsion as well as the additional steps that must be considered for students with disabilities.

B. Background

The Code of Maryland Regulations (COMAR) 13a.08.01.11 outlines the disciplinary procedures for students including suspension and expulsion. This regulation is in alignment with the Student Code of Conduct, school system policies/regulations and local and state laws concerning student suspension and expulsion.

C. Definitions

1. **Terms Related to Student Removal (in progressive order as defined by COMAR)**
 - a. “Expulsion” is defined as the exclusion of the student from the student's regular school program for forty--five (45) school days or longer, which only may occur under the following circumstances:
 - i. The superintendent/designee has determined that the student’s return to school prior to the completion of the expulsion period would pose an imminent threat of serious harm to other students or staff;
 - ii. The superintendent/designee limits the duration of the exclusion to the shortest period practicable; and
 - iii. The school system provides the excluded student with comparable educational services and appropriate behavioral support services to promote successful return to the student's regular academic program.
 - b. “Extended Suspension” is defined as the exclusion of a student from a student's regular program for a time period between eleven (11) and forty-four (44) school days, which only may occur under the following circumstances:
 - i. The Superintendent/designee has determined that:
 1. The student's return to school prior to the completion of the suspension period would pose an imminent threat of serious harm to other students and staff; or
 2. The student has engaged in chronic and extreme disruption of the educational process that has created a substantial barrier to learning for other students across the school day, and other available and appropriate behavioral and disciplinary interventions have been exhausted.
 - ii. The superintendent/designee limits the duration of the exclusion to the shortest period practicable; and

- iii. The school system provides the excluded student with comparable educational services and appropriate behavioral support services to promote successful return to the student's regular academic program.
- c. "In-school Suspension" is defined as the removal of a student within the school building from the student's current education program for up to but not more than ten (10) school days in a school year for disciplinary reasons by the school principal.
- d. "Long-term Suspension" is defined as the removal of a student from school for a time period between four (4) and ten (10) school days for disciplinary reasons by the principal.
- e. "Short-term Suspension" is defined as the removal of a student from school for up to, but not more than, three (3) school days for disciplinary reasons by the principal.

2. Terms Related to Behavioral Support

- a. "Behavior Intervention Plan/Behavior Support Plan (BIP/BSP)" is defined as a written, proactive plan designed to address problem behaviors exhibited by a student in the educational setting through the use of positive behavioral interventions, strategies, and supports.
- b. "Functional Behavioral Assessment (FBA)" is defined as a systematic process of gathering information to guide the development of an effective and efficient BIP for the problem behavior. This includes the identification of the functions of the problem behavior, as well as the description of the behavior exhibited in the educational setting and the identification of environmental and other factors and settings that contribute to or predict the occurrence, nonoccurrence and maintenance of behavior over time.
- c. "Restorative Practice" is defined as a continuum of relationship-focused processes that include preventative, proactive, and responsive measures for both staff and students. These practices help to create a sense of, and a commitment to, community that helps to prevent and address conflict and wrongdoing.
- d. "Student Code of Conduct" is defined as an FCPS framework, aligned with local, state, and federal regulations, that provides expectations for positive behaviors that support a safe and nurturing learning environment for each and every student. It highlights the responsibilities of students, parents/guardians, and staff as well as interventions and supports available. It also outlines progressive discipline strategies for inappropriate behaviors.

3. Terms Related to Students with Disabilities

- a. "Change of placement" is defined as the removal of a student from the current placement (as reflected in the student's IEP) for more than 10 consecutive school days, or a series of removals that constitutes a pattern (as determined by the IEP team). A pattern is based on the following factors: the behavior is substantially similar to previous behaviors in the school year, the length of each removal, the total amount of time of the removal, and the proximity of removals to one another.
- b. "Free, Appropriate Public Education (FAPE)" is defined as an instructional setting, as determined by the IEP team, where the student can access the general education curriculum, receive educational benefit, and progress toward meeting the goals set forth in the student's IEP.

- c. “Individualized Education Plan (IEP)” is defined as a plan or program developed to ensure that a child who has a disability identified under the law and is attending an elementary or secondary educational institution receives specialized instruction and related services.
- d. “Interim Alternative Education Setting (IAES)” is defined as a setting determined by the IEP team, to which a student may be removed for up to 45 school days, due to any of the following behavioral violations: (1) carries or possesses a weapon, (2) knowingly possesses or uses an illegal drug, (3) sells or solicits the sale of a controlled substance, or (4) inflicts serious bodily injury upon another person. (Serious bodily injury is defined as that which involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.)
- e. “Manifestation IEP Meeting” is defined as a required IEP team meeting held when a student has been suspended more than 10 cumulative school days to determine whether a student's behavior that resulted in the disciplinary removal is a manifestation of the student's disability. The IEP team must convene a manifestation meeting each time the student is subject to a removal that constitutes a change of placement or to an IAES, in accordance with the Code of Maryland Regulations.
- f. “Placement” is defined as a continuum of educational settings where a student’s IEP may be carried out, such as general education classrooms, special classrooms, and special schools. The educational placement decision must be made by a team and in conformity with LRE requirements.
- g. “Procedural Safeguards” is defined as protections established by the individuals with disabilities education improvement act (IDEA 2004) and afforded to the parents of students with disabilities.
- h. “Student with a Disability” is defined as a student who falls within one of the classifications set forth in the Individuals with Disabilities Education Act (IDEA) and Section 200.1(zz) of the Commissioner of Education regulations, and who, because of such classification, requires special education or related services. This also includes students who qualify as a student with a disability pursuant to Section 504 of the Rehabilitation Act, and who, because of such qualification, requires a Section 504 Plan.

D. Procedures

1. Discipline is intended to teach and motivate students to demonstrate appropriate behavior. In alignment with the Student Code of Conduct, suspension and expulsion are level 4 and 5 responses. These disciplinary consequences are administered in proportion to the severity and/or pattern of the unacceptable student behavior. They are also utilized in alignment to school system policies/regulations and local and state laws, using the following criteria:
 - a. The student’s age (in Grades PreK-2, suspension and expulsion generally may not be used; please refer to D.6 for further information).
 - b. Previous serious behavior intervention infractions (including the nature of any prior misconduct, the number of prior instances of misconduct, and the progressive disciplinary measures implemented for such misconduct).
 - c. Cultural or linguistic factors that may provide context to understand student behavior.
 - d. The circumstances surrounding the incident and disruption to the school.

- e. Imminent threat of serious harm.
 - f. Protections established by the Individuals with Disabilities Education Improvement Act (IDEA 2004) and afforded to students with disabilities.
 - g. Other mitigating or aggravating circumstances, such as references to, or the inclusion of, hate language and/or the display of images and symbols that promote hate and can be reasonably expected to cause substantial disruption to school or district operations or activities. This prohibition will not be used, however, to prevent responsible discussion of such language, images, or symbols for educational purposes.
2. Each FCPS principal or their designee may suspend for cause, for not more than (10) school days per incident, any student who is under their direction in accordance with the FCPS approved disciplinary guidelines and the Student Code of Conduct.
3. **When a Student is Suspended, the Principal or Their Designee Will:**
- a. Inform the student of the reason(s) for the suspension and provide an opportunity for the student to respond before the suspension becomes effective. If the student elects not to offer a response or denies the allegations, the student has the right to an explanation of the evidence supporting the allegations and the principal can proceed with issuing an appropriate disciplinary consequence in accordance with FCPS [Regulation 403-01, Student Discipline](#).
 - b. Provide the student's parents or guardian with written notification of the suspension action taken by the school and include the name and contact information for the designated staff liaison.
 - c. Promptly offer a conference with the student, student's parent/guardian and appropriate school personnel during the suspension period.
 - d. Provide, at or before the conference, the student with oral or written notice of the offense that the student is suspected to have committed and provide an opportunity for the student to offer a response.
 - e. Determine if the student has an IEP or a 504 plan, and if they do, what actions should be considered in order to protect the student's educational rights (see Procedures #4).
 - f. Immediately remove a student whose presence in school poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process if the notice and conference required is provided as soon as possible.
 - g. Assign a staff person, (the student's case manager if they have an IEP) to be the liaison between the student's teacher(s) and the student during the suspension or expulsion period. Liaisons will communicate weekly, by phone or email, about classwork assignments and school-related issues with all suspended/expelled students and/or their guardians.
 - h. Provide access to daily classwork and assignments for suspended or expelled students not assigned to an alternative placement which shall be reviewed and corrected by teachers on a weekly basis and returned.
4. **Student Removals**
- a. **In-School Intervention (ISI).** ISI is an in-school removal where the following educational services are provided and is not considered to be a suspension, and should not be documented as such.

- i. Opportunity to make appropriate progress in the general curriculum;
- ii. Receive special education and related services specified on the student's Individualized Education Plan (IEP), if the student is a student with a disability in accordance with COMAR 13A.05.01;
- iii. Receive instruction commensurate with the program afforded to the student in the regular classroom; and
- iv. Participate with peers as he/she would in his/her current education to the extent appropriate
- b. **In-School Suspension (ISS).** An in-school removal is considered an In School Suspension when the educational services listed under ISI are not provided. This in-school removal shall be documented as suspension.
- c. **Out of School Suspension (OSS).** In alignment with the Student Code of Conduct, principals may suspend a student up to 10 school days when the infraction is determined to be a Level 4 violation in the Discipline Matrix. These removals are considered either short-term or long-term suspensions, as defined above.
- d. **Extended Suspension (for students in grades 3 through 12)**
 - i. In alignment with the Student Code of Conduct, principals may recommend to the Superintendent that a student receive an extended suspension (from 11 to 44 days) when the infraction is determined to be a Level 5 violation in the Discipline Matrix. If the principal finds that an extended suspension may be warranted, the principal will immediately report the matter in writing to the Superintendent/designee.
 - ii. At the request of a principal, the Superintendent/designee may suspend a student for more than ten (10) school days.
 - iii. Upon receipt of a written report from a principal requesting an extended suspension, the Superintendent/designee shall promptly make a thorough investigation of the matter.
 - iv. If, after the investigation, the Superintendent/designee finds that an extended suspension is warranted, the Superintendent/designee shall promptly notify the parent or guardian in writing.
 - v. The Extended Suspension process as previously described shall be completed by the tenth (10th) school day of the initial suspension. If additional time is necessary to complete the process, the student shall be allowed to return to school, unless the Superintendent/designee determines that the student's return to school would pose an imminent threat of serious harm to other students or staff.
 - vi. If the student is not allowed to return to school after the tenth (10th) day, the Superintendent/designee shall notify the student and the parent or guardian within twenty-four (24) hours and provide the reasons for the delay in the process and the denial of reentry and send a copy of the notice to the State Superintendent of Schools.
 - vii. If, after the conference, the Superintendent/designee finds that an extended suspension is warranted, the student or the student's parent or guardian may appeal to the Board of Education within ten (10) calendar days after the determination.

5. **Expulsion (for students in grades 3 through 12)**

- a. If the principal finds that an expulsion is warranted, the removal of a student for 45 or more school days, the principal immediately shall report the matter in writing to the

Superintendent.

- b. At the request of a principal, the Superintendent/designee may expel a student for 45 or more school days.
- c. Upon receipt of a written report from a principal requesting an expulsion, the superintendent/designee shall promptly make a thorough investigation of the matter.
- d. If, after the investigation, the Superintendent/designee finds that an expulsion is warranted, the superintendent/designee shall promptly notify the parent or guardian in writing.
- e. The expulsion process as previously described shall be completed by the tenth (10th) school day of the initial suspension. If additional time is necessary to complete the process, the student shall be allowed to return to school, unless the Superintendent/designee determines that the student's return to school would pose an imminent threat of serious harm to other students or staff.
- f. If the student is not allowed to return to school after the tenth (10th) day, the Superintendent/designee shall notify the student and the parent or guardian within twenty-four (24) hours and provide the reasons for the delay in the process and the denial of reentry and send a copy of the notice to the State Superintendent of Schools.
- g. If, after the conference, the Superintendent/designee finds that an expulsion is warranted, the student or the student's parent or guardian may appeal to the Board of Education within ten (10) calendar days after the determination.

6. Suspension and Expulsion of Prekindergarten through 2nd Grade Students

- a. Except as provided below, a student enrolled in a prekindergarten program, kindergarten, 1st grade, or 2nd grade may not be suspended or expelled from school.
- b. Prior to imposing a suspension as outlined above, administrators shall consult with the Supervisor of Mental Health and Psychological Services/designee. Documentation shall include whether the behavior presented an imminent risk of serious harm that could not be reduced or eliminated through other interventions and supports.
- c. A prekindergarten, kindergarten, 1st grade, or 2nd grade student may only be expelled from school if required by federal law; or
 - i. Suspended for not more than 5 school days per incident if the school administration, in consultation with the Supervisor of Mental Health and Psychological Services/designee. Documentation shall include whether the behavior presented an imminent risk of serious harm that could not be reduced or eliminated through other interventions and supports.
 - ii. The principal or school administration shall promptly contact the parent or guardian of a student suspended or expelled.
 - iii. Intervention and support will be provided to address the student's behavior if the student is:
 - 1. Suspended; or Enrolled in a prekindergarten program, kindergarten, 1st grade, or 2nd grade and
 - 2. is disruptive to the school environment; or
 - 3. commits an act that would be considered an offense subject to suspension but for the student's grade.
- d. Intervention and support provided to students who are suspended or expelled may include:

- i. Positive behavior interventions and supports;
- ii. A behavior intervention plan;
- iii. A referral to a student support team;
- iv. A referral to an individualized education program team; and/or
- v. A referral for appropriate community-based services.
- e. **Remedying Impact of Behavior.** The appropriate administrator shall remedy the impact of a student's behavior on school climate through appropriate intervention methods that may include restorative practices.

7. Students with Disabilities Suspended More than 10 Cumulative School Days in a School Year

- a. Students with disabilities may be suspended for separate incidents of misconduct, beyond the ten (10) days per school year on a case-by-case basis. The school principal shall confer with a director of special education and/or director of student services, prior to the decision to suspend the student for more than 10 days in a given school year to discuss suspension alternatives and/or additional support needed. The student must continue to receive FAPE during any suspension from school beyond 10 cumulative days in any given school year.
- b. Within one school day of the removal the student from the current placement for violation of a school rule, the principal/designee shall:
 - i. Notify the parents of the decision, in writing
 - ii. Provide the parents with the procedural safeguards notice, and
 - iii. File the discipline-related documentation in the special education discipline folder
- c. Pending a manifestation meeting, the principal, in consultation with the student's special education case manager, will determine which services are needed in order to provide FAPE.
- d. Within ten (10) days of removing the student for additional days of suspension, the school IEP team must conduct a manifestation meeting, following procedures provided by the office of Special Education.
- e. **Court-ordered removal.** If the IEP team determines that maintaining the student in his or her current placement is substantially likely to result in injury to himself or herself or to others and the parents do not agree to a change of placement, the school district may seek a temporary injunction from a court to remove the student for more than ten (10) days.
- f. Removal to an Interim Alternative Educational Setting (IAES).
- g. The principal, in consultation with the director of special education and/or director of student services, may order the removal of a student with disabilities to an IAES, for up to 45 school days, for any of the following reasons: (1) carries or possesses a weapon (device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2 ½ inches in length.) (2) knowingly possesses or uses an illegal drug, (3) sells or solicits the sale of a controlled substance, or (4) inflicts serious bodily injury upon another person. The IEP team shall determine the appropriate IAES setting.
- h. Dispute resolution process of IEP team decision regarding IAES setting
 - i. Reasonable efforts shall be made through the meeting process to resolve the

disagreement(s) between parents and other IEP team members concerning the student's program, services and recommendations. Parents disagreeing with the final IEP team decision may meet informally with the building principal and appropriate special education coordinator in an attempt to resolve the disagreement(s).

- ii. If the disagreement(s) cannot be resolved at the school level, an appeal may be made to the supervisor of special education to initiate further attempts toward resolution.
- iii. If resolution cannot be reached, formal mediation and/or a due process hearing may be requested through the coordinator for due process hearings. The appeal process will be initiated upon receipt of the written request.
- iv. Stay Put provisions - If parents request a hearing, the student will remain in the disciplinary setting pending a decision by an administrative law judge. An expedited hearing will be requested. The student will also remain in the disciplinary setting when a court has temporarily enjoined the student from returning to his/her current educational placement, or the student has been placed in an interim alternative educational setting (IAES) due to weapons, drugs, or serious bodily injury.

8. Appeal Process for Suspension of Ten (10) Days or Less

- a. A parent or guardian may appeal the decision for the suspension by requesting reconsideration of the decision by the principal within five (5) school days of the decision. The purpose of the reconsideration review is to provide the principal or designee the opportunity to review any new evidence the parent or guardian may have to offer as it relates to the original decision made regarding the student suspension. The principal will issue a decision within five (5) school days.
- b. If not satisfied, the parent or guardian may appeal the decision to the Superintendent under Board [Policy 105, Appeal and Hearing Procedures](#), as a §4-205(c) appeal using the Superintendent level appeal form. The Superintendent may appoint a designee in the appeal. The Superintendent or designee will issue a decision within 10 school days.
- c. If the parent or guardian is not satisfied with the outcome, they may further appeal to the Board of Education in accordance with Board Policy 105 as a §4-205(c) appeal using the Board level appeal form.

9. Appeal Process for Suspensions of More Than Ten (10) Days or an Expulsion

- a. If an appeal is filed within 10 days of the superintendent/designee's decision, the Board of Education shall have forty-five (45) days from the date the appeal was received to hear the appeal and issue a decision.
- b. This timeline period may be extended if the parent, guardian or his/her representative requests additional time or if, due to extraordinary circumstances or unusual complexity of a particular appeal, the Board of Education determines that it will be unable to hear an appeal and issue a decision within forty-five (45) days, it may petition the State Superintendent for an extension of time.
- c. The student or the student's parent or guardian or representative:
 - i. Shall be provided the school system's witness list and a copy of the documents that the school system will present at the hearing five (5) days before the hearing; and

- ii. May bring counsel and witnesses to the hearing.
- d. Unless a public hearing is requested by the parent or guardian of the student, a hearing shall be held out of the presence of all individuals except those whose presence is considered necessary or desirable by the Board of Education.
- e. The appeal to the Board of Education does not stay the decision of the Superintendent.
- f. The decision of the Board of Education is final.

10. Provisions Regarding a Suspended or Expelled Student

- a. A student expelled or suspended from school shall remain away from the school premises during the suspension period and may only return to the school premises with the exception of appointments previously scheduled and approved by the principal.
- b. A student suspended or expelled from school shall be allowed to return to school on the day that the terms and conditions of the suspension or expulsion are met whether or not the student, parent, or guardian has filed an appeal of the suspension.
- c. If a student has been suspended or expelled, the principal may not return the student to the classroom without conferring with the teacher who referred the student to the principal, if the student was referred by a teacher, other teachers as appropriate, other appropriate school personnel, the student, and the student's parent or guardian.
- d. If a student's disruptive behavior results in action less than suspension, the principal shall confer with the teacher who referred the student to the principal before returning the student to that teacher's classroom. The principal may satisfy this requirement by consulting with the teacher before returning the student to the classroom.
- e. FCPS may deny attendance to a student who is currently expelled or on extended suspension from another school system for a length of time equal to that expulsion or extended suspension.

- 11. Restitution.** Unless a student is referred to the Department of Juvenile Services, any student that damaged, destroyed, or substantially decreased the value of school property or property of another that was on school property or at school sponsored activity may be required to pay restitution. During a conference with the student and the student's parent/guardian and/or through written notification, the principal may require the student or the student's parent/guardian to make restitution. The restitution may be made in the form of monetary restitution not to exceed the lesser of the fair market value of the property, or \$2,500, or by the student's assignment to a school work project, or both. Failure to provide restitution, as assigned, may result in suspension/expulsion.

- 12. Corporal Punishment.** Corporal punishment may not be used to discipline a student in a public school in the State of Maryland.

- 13. Reasonable Action(s) to Prevent/Respond to Violence.** A principal, teacher, school security guard, or other school system personnel in any public school may take reasonable action necessary to prevent violence on school premises or on a school-sponsored trip, including intervening in a fight or physical struggle that takes place in his or her presence, whether the fight is among students or other individuals. The degree and force of the intervention may be as reasonably necessary to prevent violence, restore order and to

protect the safety of the combatants and surrounding individuals. *See MD Educ Code § 7-307 (2018).*

14. Procedures to be Followed to Collect, Monitor, Analyze and Report Student Discipline Data

- a. The Superintendent, or his/her designee, shall collect data on all student suspensions and expulsions each school year.
- b. Suspension data shall be analyzed according to incidences and length of suspension. Data shall also be disaggregated according to racial groupings and service category.
- c. Beginning with the 2015-2016 school year, the Board of Education shall report all suspension data to MSDE. The Superintendent, or his/her designee, shall report suspension data to all principals, to inform school-based decision-making and professional development for school staff.
- d. Accountability, Monitoring and Reporting for System and School Improvement. Each FCPS school will designate a multi-disciplinary team to review suspension data, including disproportionality, at least quarterly. Strategies to reduce any identified disproportionate representation should be incorporated into the school's improvement plan.

15. Procedures to be Followed to Provide Ongoing Professional Development for School System Staff and School Resource Officers. The directors of Student Services and Special Education are responsible for coordinating ongoing staff professional learning.

E. Related Information

1. Board Policy

- a. [Policy 105, Appeal and Hearing Procedures](#)
- b. [Policy 403, Student Discipline](#)
- c. [Policy 408, Suspension and Expulsion](#)

2. Code of Maryland Regulations (COMAR)

- a. COMAR 13A.05.01
- b. COMAR 13A.08.01.11A
- c. COMAR 13A.08.01.15

3. Deactivated FCPS Regulations

- a. Regulation 400-17, *Suspension and Expulsions – Students with Disabilities*

4. FCPS Regulations

- a. [Regulation 403-01, Discipline](#)

5. FCPS Resources

- a. [Student Code of Conduct](#)

6. Maryland Law

- a. Maryland Annotated Code, Education Article, Section 7-306(b)(1)

b. Maryland Annotated Code, Education Article, Section 7-305.1

F. Regulation History (Maintained by Legal Services)

<i>Responsible Office</i>	Student Services, School Accountability & School Administration
Adoption Dates	11/15/23
Review Dates	08/08/23, 11/15/23
Revision Dates	