

<b>DESCRIPTOR TERM:</b>  Students	<b>Millard District Policy</b> <b>File Code: 6090</b>  <b>Approved: 08-13-20</b>
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## SAFE SCHOOLS

### I. PURPOSE AND DEFINITIONS

#### A. PURPOSE

This policy is adopted by the Board of Education of the Millard School District pursuant to Utah Code and the Gun-Free Schools. It is the intent of the Board to provide every student in the District with an opportunity to learn in an environment which is safe, conducive to the learning process and free from unnecessary disruption. The Board has invited and received input from District employees, parents and guardians of students, students, and the community. The Board now adopts this policy, based on the principle that every student is expected to follow rules of conduct, show respect for others, and obey persons in authority at the schools.

#### B. DEFINITIONS

1. **Suspension** means removal of a student from the student's regular classroom assignment for a definite period of time.
2. **In-school Suspension** means temporary reassignment, for a specific period of time, to a designated suspension classroom within the school.
3. **Short-term Suspension** means exclusion of the student from the school, school grounds, and school activities and functions for a specific period of time that is equal to or less than 10 school days.
4. **Long-term Suspension** means exclusion of the student from the school, school grounds, and school activities and functions for a specific period of time that is greater than 10 school days.
5. **Expulsion** means termination of the student's status as a student enrolled in the school. Expulsion may be for an indefinite or fixed period of time.
6. **Involuntary Transfer** means reassignment of a student from one school, campus, or academic program, to a different school, campus, or academic program within the District. Involuntary transfer may be for an indefinite period of time or for a fixed period of time.

7. **School District Location** means in any school building or on any school premises; on any school-owned vehicle or in any other school-approved vehicle used to transport students to and from school or school activities; off school property at any school-sponsored or school-approved activity, event or function, such as a field trip or athletic event, where students are under the jurisdiction of the school district.
8. **Disruptive Behavior** means conduct which unreasonably interferes with the educational process or instruction of students in the classroom or elsewhere, including foul, profane, vulgar or abusive language.

*Utah Code § 53A-11-904 (2010)*

9. **Bullying** means intentionally or knowingly committing an act that:
- a. endangers the physical health or safety of a school employee or student; or
  - b. involves any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements involves forced or involuntary consumption of any food, liquor, drug, or other substance; or
  - c. involves forced or coerced actions or activities of a sexual nature or with sexual connotations; or
  - d. involves other physical activity that endangers the physical health and safety of a school employee or student; or
  - e. involves physically obstructing a school employee's or student's freedom to move; and
  - f. is done for the purpose of placing a school employee or student in fear of:
    - i. physical harm to the school employee or student; or
    - ii. harm to property or family of the school employee or student.
  - g. The conduct described above constitutes bullying regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

*Utah Code § 53A-11a-102 (2011)*

10. **Communication** means the conveyance of a message, whether verbal, written, or electronic.

*Utah Code § 53A-11a-102 (2011)*

11. **Cyber-Bullying** means:

- a. Using the Internet, a cell phone, or another device to send or post text, video, or an image with the intent or knowledge, or with reckless disregard, that the text, video, or image will hurt, embarrass, or threaten an individual, regardless of whether the individual directed, consented to, or acquiesced in the conduct, or voluntarily accessed the electronic communication.
- b. In addition, any communication of this form that is generated off-campus but causes or threatens to cause a material and substantial disruption at school or interference with the rights of students to be secure may also be considered cyber-bullying.

*Utah Code § 53A-11a-102 (2011)*

12. **Harassment** means repeatedly communicating to another individual, in an objectively demeaning or disparaging manner, statements that contribute to a hostile learning or work environment for the individual.

*Utah Code § 53A-11a-102 (2011)*

13. **Hazing** means intentionally or knowingly committing an act that:

- a. endangers the physical health or safety of a school employee or student; and
- b. involves any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;
- c. involves consumption of any food, liquor, drug, or other substance;
- d. involves forced or coerced actions or activities of a sexual nature or with sexual connotations;
- e. involves other physical activity that endangers the physical health and safety of a school employee or student; or

- f. involves physically obstructing a school employee's or student's freedom to move; and
- g. is done for the purpose of initiation or admission into, affiliation with, holding office in, or as a condition for, membership or acceptance, or continued membership or acceptance, in any school or school sponsored team, organization, program, or event; or
- h. if the person committing the act against a school employee or student knew that the school employee or student is a member of, or candidate for, membership with a school, or school sponsored team, organization, program, or event to which the person committing the act belongs to or participates in.
- i. The conduct described in above constitutes hazing, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

*Utah Admin. Code R277-613-1 (2011)*

*Utah Code § 76-5-107.5 (2011)*

*Utah Code § 53A-11a-102 (2011)*

14. **Retaliate** means an act or communication intended:
- a. as retribution against a person for reporting bullying or hazing; or
  - b. to improperly influence the investigation of, or the response to, a report of bullying or hazing.
15. **Weapon** means "dangerous weapon," which includes any firearm or any object that is used for, or is readily capable of, causing death or serious bodily injury. "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle or short barreled rifle, or any device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive. The following factors are used in determining whether an object other than a firearm is a dangerous weapon:
- a. the location and circumstances in which the object was used or possessed;
  - b. the primary purpose for which the object was made;

- c. the character of the wound, if any, produced by the object's unlawful or improper use;
- d. the manner in which the object was unlawfully or improperly used;
- e. whether the manner in which the object is used or possessed constitutes a potential imminent threat to public safety; and
- f. the lawful purposes for which the object may be used.

Possession of a weapon shall not violate this policy if possession is approved in writing by the responsible school administrator or if the item or material is present or to be used in connection with a lawful activity approved in writing by the responsible school administrator before the material in question is brought on school premises.

*Utah Code § 76-10-501 (2014)*

*Utah Code § 76-10-505.5 (2013)*

16. **Unlawful Conduct** means any conduct by a student which violates any local, state, or federal law or regulation, or violates any District or school policy, or violates the legal rights of another person, and includes, but is not limited to, the following:

- a. Harassment: harassment occurs when a student, with intent to frighten or harass another, communicates in writing a written or recorded threat to commit any violent felony.

*Utah Code § 76-5-106 (1995)*

- b. Burglary: burglary means entering or remaining in a building or any portion of a building with the intent to commit an additional crime.

*Utah Code § 76-6-202 (2012)*

- c. Theft: theft means obtaining or exercising unauthorized control over the property of another with the purpose to deprive him or her thereof.

*Utah Code § 76-6-404 (1973)*

- d. Criminal mischief: criminal mischief means intentionally damaging, defacing, or destroying the property of another; or recklessly or willfully shooting or propelling a missile or other object at or against a motor vehicle, bus, airplane, locomotive, train, railway car, or caboose, whether moving or

standing, or intentionally and unlawfully tampering with the property of another so as to recklessly endanger human life, health, or safety or recklessly causes or threatens a substantial interruption or impairment of critical infrastructure.

*Utah Code § 76-6-106 (2012)*

- e. Assault: assault means an attempt, with unlawful force or violence, to do bodily injury to another; a threat, accompanied by a show of immediate force or violence, to do bodily injury to another; or an act, committed with unlawful force or violence, that causes bodily injury to another or creates a substantial risk of bodily injury to another.

*Utah Code § 76-5-102 (2003)*

- f. Gang activity.

*Utah Code § 76-9-801 -- 804*

*Utah Code § 76-9-901 -- 907*

- 17. **Making a False Alarm:** a student makes a false alarm if he or she initiates or circulates a report or warning of any fire, impending bombing, or other crime or catastrophe, knowing that the report or warning is false or baseless and is likely to cause the evacuation of any building or public transport; improper activation of school alarms or safety systems.

*Utah Code § 76-9-105 (2002)*

- 18. **Willfully Defaces** or otherwise injures school property.

*Utah Code § 53A-11-806 (2008)*

- 19. **Disrupting the Operation of a School:** Disrupting the operation of a school occurs when a person, after being asked to leave by a school official, remains on school property for the purpose of encouraging or creating an unreasonable and substantial disruption or risk of disruption of a class, activity, program, or other function of the school.

*Utah Code § 76-9-106 (1992)*

- 20. **Terroristic Threats:** A student commits a terroristic threat if the student threatens to commit any offense involving bodily injury, death, or substantial property damage, and:

- a. Threatens to use a weapon of mass destruction or hoax weapon of mass destruction; or
- b. The student acts with intent to:

- i. Influence or affect a government or unit of government or intimidate or coerce a civilian population; or
- ii. Cause action of any nature by an official or volunteer agency organized to deal with emergencies; or
- iii. Prevent or interrupt the occupation of a building or a portion of a building, a place to which the public has access, or a facility or vehicle of public transportation operated by a common carrier.

*Utah Code § 76-5-107 (2010)*

21. **Sexual Harassment** means conduct on the basis of sex that satisfies one or more of the following:

- a. A school employee conditioning education benefits on participation in unwelcome sexual conduct, (i.e. quid pro quo); or
- b. Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
- c. Sexual assault (as defined in the Clery Act), dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).

### **C. BASIS OF SAFE SCHOOL POLICIES**

Students should be aware that certain behavior, outlined herein and in other policies of the District, is unacceptable and may result in disciplinary action. The Superintendent and his/her designees will enforce District policies with the aim to make students demonstrating unacceptable behavior, and their parents or guardians, understand that such behavior will not be tolerated and will be dealt with in accordance with the District's conduct and discipline policies.

### **D. PUBLICATION OF SAFE SCHOOL POLICY**

A copy of this policy shall be given to each student in school upon enrollment in the school. Each student transferring to a school in the district who was not attending a school in the district just prior to the transfer shall receive a copy of this policy. When a copy of this policy is provided to a student, a copy shall also be provided to the student's parent or guardian.

*Utah Code § 53A-11-903(2) (a) (2007)*

A copy of this policy shall be posted in a prominent place in each school in the district. Any significant change in this policy shall be posted in each school in the district, and a copy of the revised policy shall be distributed to the students in each school.

*Utah Code § 53A-11-903(2) (b) and (c) (2007)*

## **E. AUTHORITY TO IMPOSE DISCIPLINE**

The Board of Education hereby delegates to each school principal within the District the authority to suspend a student in the principal's school for up to ten (10) school days, in accordance with this policy.

The Board of Education hereby delegates to the superintendent the authority to suspend a student for up to one (1) school year.

The Board of Education has the authority to expel a student for a fixed or indefinite period.

*Utah Code § 53A-11-905 (2007)*

## **II. CONDUCT WARRANTING DISCIPLINE**

A student may be disciplined for the conduct described below. The type of the discipline imposed will depend on the nature of the particular conduct.

### **A. CONDUCT WHICH MAY WARRANT, BUT DOES NOT REQUIRE SUSPENSION OR EXPULSION:**

1. A student may be disciplined for any of the following prohibited conduct when it occurs in a school building, or on or in proximity to school property; in conjunction with any school sponsored activity; in or on a school vehicle; is directed at or against another student or a district employee; or when it threatens harm or does harm to the school, school property, a person associated with the school, or property of a person associated with the school.
  - a. Any unlawful conduct, as that is defined above.
  - b. Frequent or flagrant willful disobedience, defiance of proper authority, or disruptive behavior, including the use of foul, profane, vulgar, or abusive language.
  - c. Willful destruction, defacing, or damaging of school property.
  - d. Behavior, or threatened behavior, which poses an immediate and significant threat to the welfare, safety or morals of other



students or school personnel or to the operation of the school.

- e. Disruptive behavior, as that is defined above.
  - f. Possession or use of pornographic material on school property that would constitute a misdemeanor offense under Utah Code Ann. § 76-10-1235. (This includes accessing such material through the District computer network or by using any District-owned device.)
  - g. Bullying, harassment, cyberbullying, retaliation, and making false allegations of bullying, bullying or retaliation. See Policy 6105.
  - h. Any use of an electronic device or camera to record sounds or images or otherwise capture material in an unauthorized setting or at an unauthorized time shall subject the user of the device to increased discipline based on the circumstances and whether the student has been involved in prior violations of this policy.
    - i. The use of any device or any electronic device or camera to threaten, intimidate or embarrass another or to capture and transmit test information or any other information in a manner constituting fraud, theft or academic dishonesty will result in an immediate suspension of not less than three (3) days or more than ten (10) days.
    - i. The use of any device in a manner which may be physically harmful to another person, such as shining a laser in the eyes of another student, will result in an immediate suspension of not less than three (3) days or more than ten (10) days. When a student repeatedly engages in such behavior, the punishment may be increased as is appropriate.
2. Selling, giving, delivering, transferring, possessing, controlling, or distributing an alcoholic beverage on or in proximity to school property or at or in proximity to any school sponsored event.
  3. Selling, giving, delivering, transferring, possessing, controlling, or distributing tobacco products on or in proximity to school property or at or in proximity to any school sponsored event. Students shall not smoke or use tobacco products on school property or at any

school-related or school-sanctioned activity on or off school property. "Tobacco products" includes an electronic cigarette as that has been defined by state law.

*Utah Code § 76-10-101*

4. Being under the influence of an alcoholic beverage or controlled substance on or in proximity to school property or at or in proximity to any school sponsored event.
5. Engaging in, assisting, permitting, or otherwise being involved in hazing, as provided by the District's policy prohibiting hazing, Policy 6105.

*Utah Code § 53A-11-902(5) (2010)*

*Utah Code § 53A-11-904(1) (2010)*

*Utah Code § 53A-3-501 (1998)*

*Utah Code § 53A-11-908 (2010)*

6. Engaging in conduct that contains the elements of the offense of arson or aggravated arson under the Utah Criminal Code.

*Utah Code § 76-6-102 (2013)*

*Utah Code § 76-6-103 (1986)*

7. Engaging in conduct that contains the elements of any felony.
8. Sexual Harassment.
9. Gang-related activity: A "gang" as defined in this policy means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more criminal acts, which has an identifiable name or identifying sign or symbol, and whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity. Gang-related activity includes but is not limited to:
  - a. Wearing, possession, using, distributing, displaying, or selling any clothing, jewelry, emblem, badge, symbol, sign, or other things which evidence membership in a gang;
  - b. Use of a name associated with or attributable to a gang;
  - c. Signing gang slang or symbols;
  - d. Designation of turf or an area for gang activities or occupation or ownership;

- e. Marking or spray painting graffiti on school property; or
- f. Any combination of the preceding activities.

**B. CONDUCT WHICH REQUIRES SUSPENSION OR EXPULSION**

- 1. A student shall be suspended or expelled from school for participation in any serious violation affecting another student or a staff member, or any serious violation when it occurs in a school building, in or on school property; or in conjunction with any school sponsored activity including:
  - a. The sale, control, delivery, transfer or distribution of a drug or controlled substance, as defined in Utah Code § 58-37-2, an imitation controlled substance, as defined in Utah Code § 58-37b-2, or drug paraphernalia as defined in Utah Code § 58-37a-3;
  - b. Commission of an act involving the use of force or the threatened use of force which if committed by an adult would be a felony or class A misdemeanor.

*Utah Code § 53A-11-904(2) (2010)*  
*Utah Code § 76-5-102 (2003)*  
*Utah Code § 76-5-102.3 (1992)*

**C. CONDUCT WHICH REQUIRES 1-YEAR EXPULSION**

- 1. A student shall be expelled from school for not less than one year, subject to the 45-day review process for mandatory year expulsions set forth below, if the student participates in any serious violation affecting another student or a staff member, or any serious violation when it occurs in a school building, in or on school property; or in conjunction with any school sponsored activity including one of the following violations:
  - a. possession, control or actual or threatened use of a real weapon, explosive, or flammable device or material;
  - b. the actual or threatened use of a look-alike or pretend weapon with intent to intimidate another person or to disrupt normal school activities.

*Utah Code § 53A-11-904(2)(b) (2010)*

**D. EXPULSION FOR CONDUCT OFF SCHOOL PROPERTY**

A student may be expelled as provided in this policy for conduct off school premises that threatens harm or does harm to the school, school property, a person associated with the school, or property of a person associated with the school.

**III. REMEDIAL MEASURES AND DISCIPLINARY SANCTIONS**

Following a determination that a student has committed a violation, the student may be subject to one of the following remedial measures or disciplinary sanctions, as is determined to be appropriate for the violation or as is required by the terms of this policy or other District policies.

**A. REMEDIAL MEASURES**

1. Continued school attendance subject to the terms of a remedial discipline plan prepared to correct the violation. This remedial measure is available only where the violation is for willful disobedience, defiance of authority, or disruptive behavior when such conduct is not of such a violent or extreme nature that immediate removal from school is required.
2. Continued school and class attendance accompanied by the student's parent or guardian for a designated period of time. This remedial measure is available only with the consent of the student's teacher or teachers and the agreement of the student's parent or guardian. The parent or guardian must agree to attend all of the student's classes for each day of the suspension. If the parent or guardian fails to attend class with the student, the student shall then be subject to suspension or other discipline in accordance with this policy.
3. In-school suspension. Attendance in a designated in-school suspension program. Students shall be instructed in the essential elements of the courses in which they are enrolled at the time of removal.
4. Home-based instruction. Instruction at home, provided that combined days of suspension and assignment to home-based instruction shall not exceed ten (10) school days in a semester.
5. Voluntary transfer. Voluntary transfer to another school, campus, community-based alternative school or other special program within the district, subject to the admission criteria of such alternative programs.

6. Withholding grade reports, diplomas and transcripts. If the district determines that school or district property has been lost or willfully cut, defaced or otherwise injured by a student, the district may withhold the issuance of official written grade reports, diplomas and transcripts of the student responsible for the damage or loss until the student or student's parent or guardian has paid for the damages.
  - a. If the student and the student's parent or guardian are unable to pay for the damages or if it is determined by the school in consultation with the student's parents or guardian that the student's interests would not be served if the parents or guardian were to pay for the damages, then the district shall provide a program of voluntary work for the student in lieu of the payment. In that case, the district shall release the official grades, diploma and transcripts of the student upon completion of the voluntary work.
  - b. If the Department of Human Services or a licensed child-placing agency has been granted custody of the student, that student's records, if requested by the Department or agency, may not be withheld from the Department or agency for non-payment of damages under this section.
  - c. No penalty may be assessed for damages which may be reasonably attributed to normal wear and tear.

*Utah Code § 53A-11-806 (2008)*

#### **IV. DUE PROCESS FOR CHANGE OF PLACEMENT OF STUDENTS WITH DISABILITIES**

Where the student is receiving special education services or accommodations on the basis of disability under IDEA (*Individuals with Disabilities Act*), 504 (*refers to Section 504 of the Rehabilitation Act and the Americans with Disabilities Act, which specifies that no one with a disability can be excluded from participating in federally funded programs or activities, including elementary, secondary or postsecondary schooling.*) or ADA (*Americans with Disabilities Act*), procedures outlined in the Millard School District Special Education Policy Manual and Utah State Board of Education Special Education rules shall be followed, including prior written notice to parents or guardians regarding their procedural due process rights, before any long-term disciplinary action or change of placement takes place.

**A. REQUIRED SERVICES**

1. 504 and ADA Students
  - a. When a determination is made that the conduct of a 504 or ADA student is not a manifestation of the student's disability, the student shall be subject to the same disciplinary consequences as regular education students, up to and including expulsion from school without educational services. (See OSEP (Office of Special Education Programs) memorandum of April 26, 1995)
  
2. IDEA
  - a. A school need not provide services during periods of removal to a student with a disability under IDEA who has been removed from his or her current placement for 10 school days or less in that school year, if services are not provided to a student without disabilities who has been similarly removed.
  
  - b. If a student with a disability under IDEA has been removed from his or her current placement for more than 10 school days in the same school year, for the remainder of the removals, the school shall provide services to the extent necessary to enable the student to progress in the general curriculum and appropriately advance toward achieving the goals set out in the student's IEP (Individualized Education Program). School personnel, in consultation with the student's special education teacher, determine the extent to which services are necessary to enable the student to appropriately progress in the general curriculum and advance toward achieving the goals set out in the student's IEP.

**B. CHANGE OF PLACEMENT FOR WEAPONS OR DRUGS**

A student's IEP Team may order a change in placement of a student with a disability to an appropriate interim alternative educational setting for the same amount of time that a student without a disability would be subject to discipline, but for not more that forty-five (45) days, if:

1. The student carries a weapon to school or to a school function; or
  
2. The student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function;

**C. CHANGE PLACEMENT DUE TO STUDENT'S SERIOUS MISCONDUCT**

School officials may request an expedited due process hearing in order to change the placement of a student with a disability to an appropriate interim alternative educational setting, recommended by the student's IEP Team, for not more than forty-five (45) days. A hearing officer may order such a change, if he/she;

1. Determines that school officials have demonstrated by substantial evidence that maintaining the current placement of a student is substantially likely to result in injury to the student or others;
2. Considers the appropriateness of the student's current placement;
3. Considers whether school officials have made reasonable efforts to minimize the risk of harm in the student's current placement, including the use of supplementary aids and services; and
4. Determines that the interim alternative educational setting being recommended by school officials (1) has been selected so as to enable the student to continue to progress in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the student's current IEP, that will enable the student to meet the goals set out in that IEP; and (2) includes services and modifications designed to address the behavior at issue so that it does not recur.

**D. PARENTAL NOTICE**

As soon as a decision is made by school officials to remove a student with a disability from his/her current placement for more than ten (10) school days, the student's parents must be notified of that decision and of all procedural safeguards outlined by law and district policy.

**E. IEP MEETINGS FOR MANIFESTATION DETERMINATION**

1. Immediately, if possible, but in no case later than ten (10) school days after the date on which the decision is made to remove the student from the current placement, a review must be conducted of the relationship between the student's disability and the behavior subject to the disciplinary action.
2. The manifestation review must be conducted by the student's IEP team and other qualified school personnel.
3. In conducting the manifestation review, the IEP team may determine that the behavior of the student was not a manifestation of student's disability only if the IEP team:

- a. First considers, in terms of behavior subject to disciplinary action, all relevant information, including:
    - i. Evaluation and diagnostic results, including the results or other relevant information supplied by the parents of the student;
    - ii. Observations of the student; and
    - iii. The student's IEP and placement; and
  - b. Then determines that:
    - i. In relationship to the behavior subject to disciplinary action, the student's IEP and placement were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the student's IEP and placement;
    - ii. The student's disability did not impair the ability of the student to understand the impact and consequences of the behavior subject to disciplinary action; and
    - iii. The student's disability did not impair the ability of the student to control the behavior subject to disciplinary action.
4. If the IEP team determines that any of the standards above were not met, the behavior must be considered a manifestation of the student's disability.
  5. Determination that Behavior was not Manifestation of Disability.
    - a. If the result of the manifestation review is a determination that the behavior of a student with a disability was not a manifestation of the student's disability, the relevant disciplinary procedures applicable to students without disabilities may be applied to the student in the same manner in which they would be applied to students without disabilities, except that a free appropriate public education must still be made available to the student if the student is suspended or expelled from school.



## **F. IEP MEETINGS FOR FUNCTIONAL BEHAVIORAL ASSESSMENTS**

### 1. Post-Discipline Functional Behavioral Assessments -

If school officials have not conducted a functional behavioral assessment and implemented a behavioral intervention plan for the student before the behavior that results in a removal from school for longer than ten (10) school days or a change of placement to an interim alternative educational setting, school officials shall convene an IEP meeting to develop an assessment plan and appropriate behavioral interventions to address that behavior.

### 2. Pre-Discipline Behavioral Intervention Plans

If the student already has a behavioral Intervention plan, the IEP team shall review the plan and modify it, as necessary, to address the behavior.

## **G. PLACEMENT DURING APPEALS AND STAY PUT**

1. If a parent requests a due process hearing to challenge the interim alternative educational setting or the manifestation determination, the student must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the forty-five (45) day period, whichever occurs first, unless the parent and school officials agree otherwise.

2. If a student is placed in an interim alternative educational setting and school personnel propose to change the student's placement after expiration of the interim alternative placement, during the pendency of any proceeding to challenge the proposed change in placement the student must remain in the current placement (the student's placement prior to the interim alternative education setting), unless school officials succeed in getting an order through an expedited hearing as described in Section 14.1.3.

## **V. PROCEDURES FOR SUSPENSION OR EXPULSION OF STUDENTS**

When a student engages in conduct for which suspension or expulsion is possible or required under Section II, the following procedures shall occur:

1. Notwithstanding any other provision of this policy, if the suspension involves a student who brought a real, look alike, or pretend weapon, explosive or noxious or flammable material to school, then the student must be expelled for at least one year, unless the District Superintendent determines, on a case-by-case basis, that a lesser penalty would be more appropriate. A disabled student who brought a firearm to school should be dealt with as outlined in

Section II D. For purposes of this policy, the term “firearm”, “explosive”, and “noxious or flammable material” include but are not limited to: guns, starter pistols, cap guns, bombs, bullets and ammunition, gasoline or other flammable liquids, mace, pepper spray, matches, and lighters.

2. If the conduct described does not require mandatory suspension or expulsion, the principal or vice-principal, at his/her discretion, may suspend the student for up to ten (10) school days, and in addition, may recommend that the Superintendent suspend the student for up to an entire school year, or its equivalent imposed over consecutive portions of two school years.
3. If the conduct described requires mandatory suspension or expulsion, the principal or vice-principal shall suspend the student for four (4) to ten (10) school days, and in addition, may recommend that the Superintendent suspend the student for up to an entire school year, or its equivalent imposed over consecutive portions of two school years.
4. If a student faces temporary suspension for a period of ten (10) days or less, the principal or vice-principal shall, whenever possible, immediately give the student oral or written notice of the charges against him/her and if he/she denies them, an explanation of the evidence the authorities have, and an opportunity for the student to present his/her side of the story prior to suspension.
5. If a student is suspended for a period of time less than or equal to ten (10) school days, the principal or vice-principal shall immediately provide notice to the student’s parent or guardian. Notice shall, if possible, be given by telephone. If reasonable efforts to contact the parent or guardian by telephone are unsuccessful, then written notice shall be sent to the parent or guardian. The notice, whether verbal or written, shall include the following. Out-of-school suspension will not occur until parents are notified.
  - a. That the student has been suspended,
  - b. The grounds for the suspension,
  - c. The period of time for which the student is suspended, and
  - d. The date, time and place for the parent or guardian to meet with the principal or vice-principal to review the suspension. This meeting shall be scheduled to occur as soon as is practicable, but in all cases, prior to the end of the tenth day of the suspension.

If the principal or vice-principal has recommended that the Superintendent suspend the student for a period longer than ten (10) school days, that fact shall be included in the notice to the parent or guardian. The student shall also be requested to attend the meeting.

6. At the meeting with the student, the parent or guardian, the principal or vice-principal, and the student shall be informed of the charges and evidence against him/her. If the student denies the charges, he/she shall be given an opportunity to tell his/her side of the story. If the parent or guardian and/or the student fails or refuses to attend the meeting at the scheduled date, time and place, and reasonable efforts to contact them are unsuccessful, the principal or vice-principal shall mail notification to the parent or guardian describing the charges against the student and the evidence against him/her.
7. Upon the conclusion of the meeting or upon a determination that the parent or guardian has not appeared for the meeting, the principal or vice-principal shall take one of the following actions:
  - a. If the reported conduct provides for discretionary suspension or expulsion:
    - i. Take no further disciplinary action to extend the suspension beyond the previously stated period of suspension.
    - ii. Increase the time of suspension up to a total of ten (10) school days.
    - iii. Increase the time of suspension up to a total of ten (10) school days, with a recommendation to the Superintendent that the student be suspended for a period of time greater than ten school days up to an entire school year or its equivalent imposed over consecutive portions of two school years.
    - iv. Rescind the suspension already imposed and return the student to classes, or impose disciplinary measures not including suspension or expulsion.
  - b. If the student is expelled for willful disobedience, defiance of authority, disruptive behavior or the use of foul, profane, vulgar or abusive language which are not so violent or extreme that immediate removal is required, then good faith efforts shall be made to implement a remediation plan that would allow the student to return to school.

- c. If the reported conduct requires mandatory suspension or expulsion:
  - i. Increase the time of suspension up to a total of ten (10) school days, with a recommendation to the Superintendent that the student be suspended for a period of time up to an entire school year or its equivalent imposed over consecutive portions of two school years.
  - ii. Rescind the suspension already imposed and return the student to classes.
  
- 8. If the principal or vice-principal recommends suspension for a period greater than ten (10) school days, he/she shall notify the Superintendent of that recommendation as soon as possible. The Superintendent shall then schedule a hearing to be held with the student's parent or guardian, the student and the Superintendent. The hearing shall be scheduled to take place prior to the tenth day of the student's suspension when possible. The following procedures shall be utilized:
  - a. The Superintendent shall provide written notice of the date, time, and place of the hearing to the student and his/her parent or guardian. The notice shall include a statement of the charges against the student, that suspension has been recommended beyond the ten school day suspension imposed by the principal or vice-principal, and the period of time for which suspension has been recommended.
  - b. The Superintendent or the Superintendent's designee shall preside at and conduct the hearing at the appointed time and place. The District and the student may each be represented by a person of their choice. Each side may present witnesses, cross examine witnesses, and make legal arguments relevant to the issues.
  - c. At the conclusion of the hearing, the Superintendent or the Superintendent's designee may make a final determination of the matter or may take the matter under advisement. If the Superintendent and/or the Superintendent's designee takes the matter under advisement, he/she shall make a final determination not more than three (3) days after the hearing is concluded. The determination shall then be placed in writing and mailed to the student and his/her parent or guardian.

9. If the conduct provides for discretionary suspension or expulsion, the determination shall be one of the following:
  - a. No further disciplinary action beyond the ten (10) school day suspension imposed by the principal or vice-principal.
  - b. Increase the time of suspension for a period up to an entire school year or its equivalent imposed over consecutive portions of two school years.
  - c. Rescind the suspension already imposed and return the student to classes or impose disciplinary measures not including suspension or expulsion.
10. If the conduct requires mandatory suspension or expulsion, then the determination shall be one of the following:
  - a. Increase the time of suspension for a period up to an entire school year or its equivalent imposed, as necessary, over consecutive portions of two school years.
  - b. Rescind the suspension already imposed and return the student to classes.

## **VI. ANNUAL REVIEW**

The Superintendent or the Superintendent's designee shall review the expulsion of any student expelled for the remainder of the school year at least annually and report to the Board his/her conclusions.

## **VII. EDUCATIONAL SERVICES**

1. Responsibility of Parent or Guardian for Suspended or Expelled Student:
  - a. If a student is suspended for more than ten (10) school days, the parent or guardian is responsible for undertaking an alternative educational plan which will insure that the student's education continues during the period of suspension or expulsion.
  - b. The District will provide information to the parent or guardian to determine how the parent's or guardian's responsibility for educational services might be satisfied.
  - c. The District will maintain a record of all suspended students. For each student under the age of 16, the District will contact the student's parent or guardian at least once each month to determine the student's educational progress. If the District determines that the student is not making satisfactory progress, it may enlist the cooperation of the Division of Family Services, the Juvenile Court, or other appropriate state agencies.

2. Continuing Education:

The Board or its designee shall provide for the continuing education of a student removed to an alternative education program which may include any or all of the following programs:

- a. In-school Suspension: Students shall be instructed in the essential elements of the courses in which they are enrolled at the time of removal.
- b. Transfer to a different campus.
- c. Home-based Instruction, provided that combined days of suspension and assignment to home-based instruction shall not exceed ten (10) days in a semester.

**VIII. BOARD REVIEW FOR STUDENT APPEALS**

1. A student may appeal the determination of the Superintendent to the Board of Education by filing a written notice of appeal with the Superintendent within ten (10) days of the date the decision of the Superintendent is mailed to the student. No further hearing will be held. The Board will review the evidence submitted to the Superintendent and the written determination of the Superintendent. The Board may request additional information if it deems necessary. The Board may affirm the Superintendent's decision or modify the Superintendent's decision. The Board's written decision will be issued within thirty days of receipt of the students' written notice of appeal.
2. Board evaluation of expulsion recommendation. If the superintendent recommends expulsion for an indefinite or definite period of time, then the superintendent will transmit that recommendation to the Board of Education along with the record of evidence submitted to the superintendent. The Board may review the recommendation based on this record or may at its sole discretion accept further evidence. Following its review, the Board may accept, modify, or reject the recommendation, or impose other disciplinary sanctions. This decision is final.

*Utah Code § 53A-11-905(3) (2007)*

3. 45-day review of mandatory one-year expulsions. Where a student has been expelled for one year because of a violation involving a weapon, explosive, or flammable material, a hearing shall be held within 45 days of the imposition of the expulsion. This hearing shall be held before the superintendent or the superintendent's designee, and shall be attended by the student and a parent or guardian of the student. At this hearing, the superintendent shall determine:
  - a. what conditions must be met by the student and the student's parent or guardian for the student to return to school;

- b. whether the student should be placed on probation in a regular or alternative school setting, and if so what conditions must be met by the student to assure the safety of students and staff at the school the student is placed in; and
- c. if it would be in the best interest of both the school district and the student to modify the expulsion term to less than a year, giving highest priority to providing a safe school environment for all students.
- d. If the superintendent or his or her designee determines that the student should return to school prior to the expiration of the one-year expulsion term conditioned on compliance with the conditions established by the superintendent, then the superintendent shall submit that recommendation to the Board of Education. If the Board of Education approves the return, the student may return to school pursuant to the conditions established.

*Utah Code § 53A-11-904(2)(b) (2010)*

- i. A student may be denied admission to a public school on the basis of having been expelled from that or any other school during the preceding 12 months.

*Utah Code § 53A-11-904(3) (2010)*

## **IX. STUDENT STATUS AFTER SUSPENSION**

- 1. A suspended student shall immediately leave the school building and school grounds following a determination by the parent or guardian of the student and the school of the best way to transfer custody of the student to the parent or guardian.
- 2. A suspension may not extend beyond ten (10) school days unless the student and his/her parent or guardian have been given a reasonable opportunity to appear before the Superintendent for a hearing and respond to the allegations and proposed disciplinary action.

## **X. RECORDS**

The School District shall maintain a record of all suspended or expelled students, and a notation of the recorded suspension or expulsion shall be attached to the individual student's transcript.

## **XI. COST OF EDUCATIONAL SERVICES DURING SUSPENSION**

Costs of educational services during the period of suspension, which are not provided by the School District, are the responsibility of the student's parent or guardian.

**XII. APPROPRIATE USE OF REASONABLE AND NECESSARY PHYSICAL RESTRAINT OR FORCE IN THE ENFORCEMENT OF THIS POLICY**

The use of reasonable and necessary physical restraint or force in dealing with disruptive students or situations occurring within the context of this policy is only appropriate consistent with Federal and State Law, and School District Policy.

**XIII. PERSISTENTLY DANGEROUS SCHOOLS – R277-483**

**1. Definitions**

A Persistently Dangerous School is any K-12 school which has expelled at least 3% of the student body over three consecutive school years for:

- a. Violent criminal offense that occurred on school property or at a school sponsored activity; or
- b. Federal gun-free school violations.

**2. Violent Criminal Offenses**

A Violent Criminal Offense includes actual or attempted criminal homicide, rape, aggravated sexual assault, aggravated sexual abuse of a child, aggravated assault, and robbery. To qualify for the purpose of this policy the offense shall be reported to appropriate law enforcement officers who will charge the individual/s accordingly.

**3. Parent/Guardian Notification**

If a school is designated by the State Board of Education as persistently dangerous, the local school board will notify parents of all students attending the school of available transfer schools. Notification will be given in a reasonable manner by no later than August 15 of the school year of designation.

Parents or guardians who have been notified that their child's school has been given a persistently dangerous school status, and who desire that their child be transferred, have thirty calendar days of the notification letter to notify the Millard School District Board in writing of their desire for this transfer and indicate to which school they prefer he/she to be transferred to. Students shall be assigned to a non-dangerous school within 30 days of written parent request for transfer.

- a. Parents of students moving into a persistently dangerous school community following the window shall be notified immediately of the school's persistently dangerous status and shall have 30 calendar days following registration to request transfer from the local board and indicate school preference. The local board shall have 30 calendar days to assign a school. Parents shall make a decision within 10 days following notification to accept the school



assignment as offered by the local board or have their children remain in the resident school.

- b. Students attending alternative schools that have been designated as persistently dangerous shall be offered choices consistent with district policies for alternative school placement. If a local board determines that the only appropriate placement for a student is an alternative school, the local board shall offer homebound/hospitalized services, under R277-419, or other home or non-school based programs as an option to the alternative school.
- c. Students who have been disciplined for any of the violations identified in this rule forfeit the right to transfer from a persistently dangerous school.
- d. Students shall be eligible to participate in all extracurricular activities immediately in their new schools of residence if they transfer consistent with this rule.
- e. The student will return to his/her resident school upon the lifting of the persistently dangerous designation. The student will return to the resident school no later than the beginning of the next school year.

**4. Parents/Guardians of Student Victims of School Safety Offenses –**

- a. Students who are victims of a violent criminal offense, and their parents(s)/guardian(s), shall receive notice of available non-dangerous schools in the district as soon as reasonably possible after the school's or district's official notification of the incident by law enforcement.
- b. The local board shall make available a school within 15 days for parental notification or arrange for homebound/hospitalized educational services, within 15 days of parental notification. The transfer shall not result in loss of credit or reduction in grade of the victimized student as long as the parent and student cooperate fully in the transfer process.
- c. The district has no responsibility for the transportation of students who transfer to another school under section #4 of this policy. *(File Code: 6090 #4, XIII – Persistently Dangerous Schools)*