



**POLICY 5.1891**

- 5-G** I recommend that the Board approve development of the proposed repeal of Policy 5.1891, entitled “Discipline of Students Eligible for Services Under Section 504 of the Rehabilitation Act of 1973 (“Section 504”) and Americans with Disabilities Act (“ADA”).”

[Contact: Laura Pincus, PX 48750.]

**Repeal-Development**

**CONSENT ITEM**

- This rule is being replaced by updated and modified Policy 5.1812 – Student Conduct Code for Elementary Students and Policy 5.1813 – Student Conduct Code for Secondary Students.

• POLICY 5.1891

1 ~~DISCIPLINE OF STUDENTS ELIGIBLE FOR SERVICES UNDER SECTION 504 OF~~  
2 ~~THE REHABILITATION ACT OF 1973 ("SECTION 504") AND AMERICANS WITH~~  
3 ~~DISABILITIES ACT ("ADA")~~  
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6 ~~1. This Policy for discipline of students eligible for services under Section 504 is~~  
7 ~~designed to comply with State Board of Education Rule 6A-6.0331(8), the Section~~  
8 ~~504 Regulations at 34 C.F.R. Part 104, and 29 U.S.C. 794 ("Section 504"). The~~  
9 ~~phrase "eligible for services under Section 504" refers to students with active~~  
10 ~~Section 504 accommodation plans.~~

11 ~~2. Definitions.-- The words suspension and expulsion of students with active Section~~  
12 ~~504 accommodation plans shall have the following meanings through this policy:~~

13 ~~a. Suspension.-- Pursuant to Fla. Stat. § 1003.01(5)(a) [and Policy 5.1815],~~  
14 ~~suspension, also referred to as out-of-school suspension, is defined as the~~  
15 ~~temporary removal of a student from all classes of instruction on public school~~  
16 ~~grounds and all other school-sponsored activities, except as authorized by the~~  
17 ~~principal/designee, for a period not to exceed ten (10) (cumulative) school~~  
18 ~~days and remanding of the student to the custody of the student's custodial~~  
19 ~~parent with specific homework assignments for the student to complete.~~

20 ~~b. Expulsion.-- As defined in Fla. Stat. § 1003.01(6), and Policy 5.1817,~~  
21 ~~expulsion is the removal of the right and obligation of a student to attend a~~  
22 ~~public school under conditions set by the Board, and for a period of time not to~~  
23 ~~exceed the remainder of the term or school year and one (1) additional year of~~  
24 ~~attendance. Expulsions may be imposed with or without continuing~~  
25 ~~educational services (subject to Section (4)(f) below) and shall be reported~~  
26 ~~accordingly.~~

27 ~~c. Re-evaluation.-- Students with active Section 504 accommodation plans who~~  
28 ~~are recommended for suspension in excess of ten (10) days, or expulsion,~~  
29 ~~must have a re-evaluation prior to a significant change in placement, as~~  
30 ~~required by 34 C.F.R. § 104.35(d).~~

31 ~~3. Suspension of Students under Section 504/ADA.-- Students with active Section~~  
32 ~~504 accommodation plans are expected to follow the rules of the student conduct~~  
33 ~~code. Students who are eligible for services under Section 504/ADA may be~~  
34 ~~suspended for infractions as defined for all students pursuant to Policies 5.1812 or~~  
35 ~~5.1813 [and Policy 5.1815], with the following limitations:~~

36 ~~a. Suspension for Ten (10) Cumulative Days or Less.-- Student suspension~~

37 procedures [in Policy 5.1815] will be followed for students who are eligible for  
38 services under Section 504/ADA and recommended for suspension for ten  
39 (10) cumulative days or less.

40 ~~b. **Any Suspension Beyond Ten (10) Cumulative Days.** No student who is~~  
41 ~~eligible for services under Section 504/ADA shall be suspended beyond ten~~  
42 ~~(10) cumulative days per school year, **except** through the following procedure.~~  
43 ~~It is the responsibility of the principal/designee to monitor all serial/cumulative~~  
44 ~~suspensions. **NOTE:** If a student with an active Section 504 accommodation~~  
45 ~~plan has been referred for ESE testing prior to or during the Section 504~~  
46 ~~manifestation determination, the student is then protected under the IDEA for~~  
47 ~~discipline provisions. Therefore, the manifestation team must treat the student~~  
48 ~~as an ESE student.~~

49 ~~i. The principal/designee shall notify the 504 Multi-Disciplinary Team~~  
50 ~~immediately when a student who is eligible for services under Section~~  
51 ~~504/ADA violates the student conduct code and will be considered for~~  
52 ~~suspension for more than ten (10) cumulative days per school year.~~

53 ~~ii. Within twenty-four (24) hours of the recommendation for the extended~~  
54 ~~suspension, the principal/designee shall provide written notice to the~~  
55 ~~custodial parent/guardian and the student of the proposed suspension,~~  
56 ~~alleged misconduct, and time and date of the scheduled 504 Multi-~~  
57 ~~Disciplinary Team meeting. Notification of purpose, participants and~~  
58 ~~location of the meeting will be included.~~

59 ~~iii. The custodial parent/guardian shall also be notified that the 504 Multi-~~  
60 ~~Disciplinary Team will also serve as a 504 plan team and may change the~~  
61 ~~student's Section 504 plan. The custodial parent/guardian shall be given~~  
62 ~~a copy of the Section 504/ADA Procedural Safeguards.~~

63 ~~iv. The notice and copy of Section 504/ADA Procedural Safeguards shall be~~  
64 ~~delivered by registered or certified mail (return receipt requested) or~~  
65 ~~personally delivered by the principal/ designee at least twenty-four (24)~~  
66 ~~hours prior to the meeting. A signed receipt of delivery must be obtained.~~

67 ~~v. Before the student can be removed from the campus for the suspension~~  
68 ~~recommendation, the principal/designee will arrange a 504 Multi-~~  
69 ~~Disciplinary Team review of the incident that was the basis for the~~  
70 ~~recommendation for suspension.~~

71 ~~vi. Members of the committee must include the following personnel:~~

72 ~~A. A school psychologist as the person knowledgeable of the evaluation~~  
73 ~~procedures pursuant to the disability.~~

- 74 ~~B. If the disability of record is a medical disability, the school nurse~~  
75 ~~should be present to consult with the psychologist.~~
- 76 ~~C. A teacher, counselor, or appropriate person knowledgeable of the~~  
77 ~~student.~~
- 78 ~~D. An administrator (not the recommending administrator) as the person~~  
79 ~~who is knowledgeable of the suspension/expulsion process.~~
- 80 ~~vii. The 504 Multi-Disciplinary Team will review the case and determine~~  
81 ~~whether the student's conduct was or was not a manifestation<sup>1</sup> of the~~  
82 ~~disability for which the student has a Section 504 plan. However, if the~~  
83 ~~student is currently a user of illegal drugs or alcohol, the District is not~~  
84 ~~obligated to hold a manifestation determination hearing for an offense of~~  
85 ~~possession or use of illegal drugs or alcohol; such student may be~~  
86 ~~disciplined in the same manner as other students for use or possession of~~  
87 ~~illegal drugs or alcohol under Policies 5.1812 or 5.1813 [and Policy~~  
88 ~~5.1815] and will receive the same due process and substance-abuse~~  
89 ~~assistance as other students under those Policies.~~
- 90 ~~viii. A review of the student's present program and case history will be~~  
91 ~~completed prior to making this determination. Information from~~  
92 ~~appropriate staff will be reviewed and taken into consideration.~~
- 93 ~~ix. A consensus of the members of the team shall determine whether the~~  
94 ~~student's conduct was or was not a manifestation of the disability.~~
- 95 ~~x. PBSD 1469, The ADA/504 Record Form, shall be used to document the~~  
96 ~~committee's findings and recommendations. PBSD 1051, Conference~~  
97 ~~Form, may be used if the committee chooses.~~
- 98 ~~xi. If the 504 Multi-Disciplinary Team determines that the student's behavior~~  
99 ~~is not a manifestation, then the student may be suspended from school in~~  
100 ~~the same manner students not on an active Section 504 accommodation~~  
101 ~~plan are suspended.~~
- 102 ~~xii. If it is determined that the student's behavior is a manifestation of the~~  
103 ~~student's disability, federal law does not permit a school district to cease~~  
104 ~~all educational services.~~
- 105 ~~xiii. The student may be excluded with services (as with students eligible for~~  
106 ~~services under the Individuals With Educational Disabilities Act ("IDEA")).~~  
107 ~~The 504 Multi-Disciplinary Team must review the Section 504 plan and~~  
108 ~~make modifications with the intent to reduce inappropriate behaviors.~~

109 ~~4. Expulsion of Students under Section 504/ADA~~

- 110 a. ~~Students eligible for services under Section 504/ADA may be recommended~~  
111 ~~for expulsion as defined for all students.~~
- 112 b. ~~The principal/designee shall notify the 504 Multi-Disciplinary Team~~  
113 ~~immediately when a student with a Section 504 plan is being recommended~~  
114 ~~for expulsion.~~
- 115 c. ~~In addition to procedures under Policy 5.1817, within twenty-four (24) hours of~~  
116 ~~the recommendation for expulsion, the principal/designee shall provide written~~  
117 ~~notice to the custodial parent/guardian and the student of the proposed~~  
118 ~~expulsion and the date and time of the scheduled 504 Multi-Disciplinary Team~~  
119 ~~meeting to determine manifestation of disability. However, if the student is~~  
120 ~~currently a user of illegal drugs or alcohol, the District is not obligated to hold a~~  
121 ~~manifestation determination hearing for an offense of possession or use of~~  
122 ~~illegal drugs or alcohol; such student may be disciplined in the same manner~~  
123 ~~as other students for use or possession of illegal drugs or alcohol under~~  
124 ~~Policies 5.1812 or 5.1813 and Policy 5.1817 and will receive the same due~~  
125 ~~process and substance-abuse assistance as other students under those~~  
126 ~~Policies.~~
- 127 d. ~~The notice, procedural safeguards, and a copy of this Policy shall be delivered~~  
128 ~~by certified mail (return receipt requested) or the principal/designee shall~~  
129 ~~personally deliver it and obtain a signed receipt.~~
- 130 e. ~~If it is determined that the misconduct is not a manifestation of the student's~~  
131 ~~disability, the student **may be expelled** in the same manner as students not~~  
132 ~~on an active Section 504 accommodation plan. In such a situation, Section~~  
133 ~~504 of the Rehabilitation Act would permit all educational services to cease.~~
- 134 f. ~~If it is determined that the student's misconduct is a manifestation of the~~  
135 ~~student's disability, federal law does not permit a school district to cease all~~  
136 ~~educational services. The student may be excluded with services (as with a~~  
137 ~~student eligible for services under the IDEA).~~

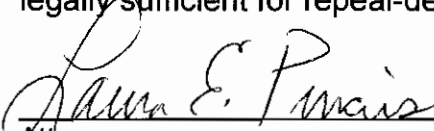
138 ~~1 [Footnote to (3)(b)(vii):] Manifestation of the Disability: A manifestation of the disability~~  
139 ~~is the exhibition of behaviors which are considered to be a component of the individual~~  
140 ~~student's disability.~~

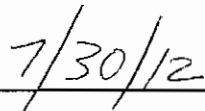
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142 STATUTORY AUTHORITY: Fla. Stat. §§ 1001.41(2); 1001.42(22); 1001.43(1), (6)  
143 LAWS IMPLEMENTED: Fla. Stat. §§ 1001.43(1), (6); 1003.01(5), (6); 1003.53  
144 STATE BOARD RULE SUPPLEMENTED: 6A-6.0331(8)  
145 HISTORY: 01/14/2002; 11/01/2004 To Be Repealed: \_\_\_/\_\_\_ 2012

Legal Signoff:

The Legal Department has reviewed the proposed repeal of Policy 5.1891 and finds it legally sufficient for repeal-development by the Board.

  
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Attorney

  
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Date