



**POLICY 5.189**

- 5-F** I recommend that the Board approve development of the proposed repeal of Policy 5.189, entitled “Discipline of Students Eligible for Services Under the Individuals with Disabilities Education Act ("IDEA").”

[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 5.189**

**~~DISCIPLINE OF STUDENTS ELIGIBLE FOR SERVICES UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT ("IDEA")~~**

~~1. Statutes and Rules~~

~~a. The discipline of all students with disabilities ("ESE") is governed by federal statutes and regulations under the Individuals with Disabilities Education Act ("IDEA") as well as Florida Statutes and State Board of Education Rules.~~

~~b. If the district has prior knowledge that a student may be eligible for special education and related services, but has not yet determined such eligibility, that student may assert all or any of the protections stated within this policy.~~

~~2. Expulsion~~

~~a. Expulsion is the removal of the right and obligation of a student to attend a public school under conditions set by the board, for a period not to exceed the remainder of the term or school year and one additional year of attendance.~~

~~b. Expulsion can not be considered for students eligible for services under the IDEA because it would constitute a cessation of educational services for that period of time.~~

~~3. Exclusion~~

~~a. An ESE exclusion is the removal of the right and obligation of a student to attend a public school under conditions set by the board, and for a period not to exceed the remainder of the term or school year and one additional year of attendance, provided however, that appropriate educational services developed through an Individual Education Plan ("IEP") will continue to be provided through some alternative means.~~

~~b. The educational services must allow the student to appropriately advance in meeting the IEP goals and objectives, and to appropriately progress in the general education curriculum, if appropriate.~~

~~4. Disciplinary Action for Drugs and Weapons~~

~~a. A student with a disability may be placed in an Interim Alternative Educational Setting ("IAES") by a principal/designee for up to forty five (45) calendar days without parental consent for:~~

~~i. Possession of dangerous weapons in school or at school functions; or~~

33           ii. ~~Possession, use, sale or solicitation of a controlled substance while at~~  
34           ~~school or at a school function.~~

35           b. ~~A dangerous weapon is defined as a weapon, device, instrument, material or~~  
36           ~~substance, animate or inanimate, that is used for, or is readily capable of,~~  
37           ~~causing death or serious bodily injury, except that such item does not include~~  
38           ~~a pocket knife with a blade of less than two and one-half inches (2-½") in~~  
39           ~~length.~~

40   5. ~~Interim Alternative Services ("IAES") Placement~~

41           a. ~~Placement in an IAES may occur whether the behavior is or is not a~~  
42           ~~manifestation of the student's disability.~~

43           b. ~~Placement in an IAES may occur at the request of the principal.~~

44           c. ~~An IEP meeting must be scheduled within the first ten (10) days of placement.~~  
45           ~~The student's custodial parent/guardian must be invited to participate as a~~  
46           ~~member of the IEP Team. The custodial parent/guardian must be provided a~~  
47           ~~copy of their procedural safeguards.~~

48           d. ~~A manifestation determination must be made at the IEP meeting.~~

49           e. ~~A Functional Behavioral Assessment ("FBA") must be initiated within ten (10)~~  
50           ~~days of placement. Staff from both the student's current and previous schools~~  
51           ~~will participate in the FBA.~~

52           f. ~~A Behavior Intervention Plan ("BIP") must be developed immediately upon~~  
53           ~~completion of the FBA.~~

54           g. ~~Educational services to be determined within ten (10) days of placement must:~~

55           i. ~~Enable student to appropriately progress in the general curriculum;~~

56           ii. ~~Enable the student to appropriately advance towards IEP goals;~~

57   6. ~~Suspension~~

58           a. ~~Suspension is the temporary removal of a student from all classes of~~  
59           ~~instruction on public school grounds and all other school-sponsored activities,~~  
60           ~~for a period not to exceed ten (10) cumulative school days per year.~~

61           b. ~~A principal/designee may remove a student eligible for services under the~~  
62           ~~IDEA for up to ten (10) cumulative school days per calendar year for a~~  
63           ~~disciplinary infraction.~~

64           c. ~~Educational services do not need to be provided during the ten (10) days.~~

65 ~~d. However, for any suspension or exclusion beyond ten (10) days, a~~  
66 ~~manifestation hearing must be conducted and the student must be provided a~~  
67 ~~Free Appropriate Public Education ("FAPE"), an opportunity to work towards~~  
68 ~~IEP goals, and the ability to progress appropriately in the general curriculum.~~

69 ~~e. Prior to consideration of suspension, the school must have made and~~  
70 ~~documented reasonable attempts to use less restrictive alternatives and/or~~  
71 ~~interventions to decrease the inappropriate behavior.~~

72 ~~f. If a student is removed from the educational setting for more than ten (10)~~  
73 ~~cumulative days per school year, an IEP Team must meet to determine if the~~  
74 ~~student's behavior is a manifestation of his/her disability. The student's~~  
75 ~~custodial parent/guardian must be invited to participate as a member of this~~  
76 ~~IEP Team. The custodial parent/guardian must be provided with a copy of~~  
77 ~~procedural safeguards.~~

78 ~~g. If the student's behavior is a manifestation of the student's disability, the~~  
79 ~~student may not be suspended or excluded for more than ten (10) cumulative~~  
80 ~~days per school year. The student's IEP must be reviewed and, if necessary,~~  
81 ~~revised to address the student's behavior.~~

82 ~~h. A school cannot make a parent conference mandatory prior to the ESE~~  
83 ~~student being returned to campus after suspension. A conference may be~~  
84 ~~suggested, but the student maintains the right of access to education under~~  
85 ~~the IDEA after ten (10) cumulative days per school year, even if the parent~~  
86 ~~does not attend the conference.~~

87 ~~i. The IEP team must meet no later than the tenth (10<sup>th</sup>) day of the cumulative~~  
88 ~~suspension to:~~

89 ~~i. Determine if the student's behavior is a manifestation of the student's~~  
90 ~~disability.~~

91 ~~ii. Initiate a FBA or review the student's current FBA and behavior~~  
92 ~~intervention plan.~~

93 ~~iii. If the behavior is a manifestation of the disability, review the student's~~  
94 ~~IEP.~~

95 ~~iv. If the behavior is not a manifestation of the disability, the IEP team may~~  
96 ~~consider a change in services or a change in placement at another~~  
97 ~~location.~~

98 ~~7. Bus Suspension.~~

99 ~~Suspension of ESE students from the bus must be counted as part of the~~

100 ~~cumulative ten (10) days if transportation is needed for the student to access FAPE~~  
101 ~~and an alternative means of arriving to school is not provided.~~

102 ~~8.—In-School Suspension~~

103 ~~a.—In-school suspension is the temporary removal of a student from the student's~~  
104 ~~regular school program and placement in an alternative program, such as that~~  
105 ~~provided in § 230.2316, Fla. Stat., under supervision of district personnel, not~~  
106 ~~to exceed ten (10) school days.~~

107 ~~b.—A student's IEP must continue to be delivered while assigned to in-school~~  
108 ~~suspension.~~

109 ~~c.—Repeated removals of a student from the regular/ESE classroom to an in-~~  
110 ~~school suspension are prohibited.~~

111 STATUTORY AUTHORITY: Fla. Stat. §§ 20 U.S.C. § 1415 [ and §§ 230.22(2);  
112 230.23(22); 230.23005(6)

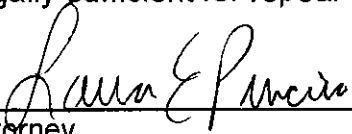
113 LAWS IMPLEMENTED: Fla. Stat. §§ 20 U.S.C. § 1415 [ and §§ 230.23(4)(m)

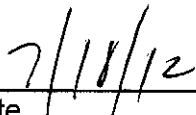
114 STATE BOARD RULE IMPLEMENTED: 6A-6.0331(6)

115 HISTORY: 1/20/82 (as Policy 5.19); 01/14/2002 To Be Repealed: \_\_\_/\_\_\_2012

Legal Signoff:

The Legal Department has reviewed the proposed repeal of Policy 5.189 and finds it legally sufficient for repeal-development by the Board.

  
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Attorney

  
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Date