



POLICY 5.80

4E I recommend that the Board approve the repeal-adoption of the proposed revised Policy 5.80, entitled "General Disciplinary Policy for Criminal Acts."

[Contact: Cheryl Alligood, PX 46888]

Repeal-Adoption

CONSENT ITEM

- The proposed policy was approved for repeal-development at the July 23, 2014 Board meeting.
- This policy is proposed for repeal as general disciplinary for criminal acts have been incorporated into Policy 5.1817 (Student Expulsion).

POLICY 5.80

GENERAL DISCIPLINARY POLICY FOR CRIMINAL ACTS

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3 ~~1. Student Control and Jurisdiction.— Each student enrolled in the Palm Beach~~
4 ~~County School District shall be subject to the policies of the School Board and~~
5 ~~the administrative direction of the Principal, other members of the administrative~~
6 ~~or instructional staff, or bus driver to whom such responsibility has been~~
7 ~~assigned. The School District exercises this responsibility:~~

8 ~~a. During the time the student is en route to and from school on the school~~
9 ~~bus or other school provided transportation;~~

10 ~~b. During the time the student is attending school;~~

11 ~~c. During the time the student is physically present at a school activity, or~~
12 ~~physically on the property or in a facility which is owned by or operated~~
13 ~~under the jurisdiction of the School Board.~~

14 ~~2. Student Supervision.— Students shall be properly supervised at all times.~~
15 ~~Responsibility for supervision is assigned as follows:~~

16 ~~a. The Principal shall assure that all students are properly supervised while~~
17 ~~at school and during any school sponsored activity, and shall assign~~
18 ~~specific responsibility to members of the instructional staff and to the bus~~
19 ~~drivers as necessary in order to maintain proper order and control.~~

20 ~~b. The bus driver shall have such authority and responsibility as is indicated~~
21 ~~by school board policy or delegated by the school principal, in order to~~
22 ~~maintain proper order and control at all times while students are being~~
23 ~~transported to and from school.~~

24 ~~c. Each member of the instructional or administrative staff shall have such~~
25 ~~authority and responsibility as has been assigned by the School Board or~~
26 ~~the school principal, in order to maintain proper order and control in the~~
27 ~~classroom and other places for which he/she has been assigned~~
28 ~~responsibility for students.~~

29 ~~3. Definitions.~~

~~(a) Firearm— Any weapon (including a starter gun or antique~~
~~firearm) which is designed to, or may readily be~~
~~converted to expel a projectile by the action of an~~
~~explosive; the frame or receiver of any such~~

~~weapon; any destructive device, or any machine gun.~~

- ~~(b) Weapon— Any knife, metallic knuckles, sling shot, billie club, tear gas gun, chemical weapon device, sword, sword cane, electric weapon or device, destructive device, a razor blade, box cutter, or any object (i.e., air gun, BB gun, replica gun, etc.) used to threaten or injure another person.~~
- ~~(c) Battery— The actual, intentional touching of a person against that person's will.~~
- ~~(d) Assault— An intentional threat by word or act to do violence to a person, coupled with an apparent ability to do so, and doing some act which creates a well founded fear in the person being threatened that such violence is imminent.~~
- ~~(e) Affray— Two (2) or more persons fighting in a public place.~~
- ~~(f) Trespass— When any student on suspension or expulsion enters a campus or when a student enters or remains on a campus without a legitimate purpose.~~
- ~~(g) Hate Crime— A committed or attempted criminal act by any person or group of persons against a person or the property of another person or group, which in any way constitutes an expression of hatred toward the victim because of his/her personal characteristics. Personal characteristics include race/color, religion, or ethnicity/ancestry/national origin, sexual orientation.~~
- ~~(h) Stalking— To engage in a pattern of conduct formed by a series of acts calculated to cause substantial emotional distress in a student or staff member, which have no legitimate school-related purpose,~~

~~with the series of acts being carried out over a period of time.~~

~~(i) — Aggravated Stalking— To willfully, maliciously, and repeatedly follow or harass a student or staff member, and to make a credible threat with the intent to place that person in reasonable fear of death or bodily injury.~~

~~(j) Gang Related— Criminal activity in conformance with Florida State Statutes, Section 874.03, which defines:~~

- ~~1. — Criminal Street Gang~~
- ~~2. — Criminal Street Gang Member~~
- ~~3. — Pattern of Criminal Street Gang Activity.~~

~~Florida State Statutes 1996.~~

~~* (k) Suspension— Also referred to as out-of-school suspension, is the temporary removal of a student from all classes of instruction on public school grounds and all other school-sponsored activities, except as authorized by the Principal or the Principal's designee for a period not to exceed ten (10) school days.~~

~~* (l) Expulsion— Is the removal of the right and obligation of a student to attend a public school under conditions set by the School Board, and for a period of time not to exceed the remainder of the term or school year and one (1) additional year of attendance.~~

~~(m) — Extreme Cases— Criminal acts including, but not limited to, homicide, manslaughter, arson, robbery, sexual battery, aggravated battery, sexual assault, aggravated assault, burglary, etc.~~

~~(n) School Board— The Board constituted in accordance with the provisions of Section 4(b) of Article IX of the State~~

~~Constitution. The School Board is composed of seven elected members and shall be responsible for the operation, control, and supervision of all free public schools in the District.~~

~~(o) School District— A District is created and exists pursuant to Section 4, Article IX of the State Constitution and is a part of the state system of public education and shall consist of all schools, courses, agencies and services under the control of the "School Board".~~

~~(p) Florida State Statutes 232.26(2)(a) and (b)— "...Any pupil who is subject to discipline or expulsion for unlawful possession or use of any substance controlled under Chapter 893 may be entitled to a waiver of the discipline or expulsion:~~

~~(1) If he divulges information leading to the arrest and conviction of the person who supplied such controlled substance to him, or if he voluntarily discloses his unlawful possession of such controlled substance prior to his arrest. Any information divulged which leads to such arrest and conviction is not admissible in evidence in a subsequent criminal trial against the pupil divulging such information.~~

~~(2) If the pupil commits himself, or is referred by the court in lieu of sentence, to a state-licensed drug abuse program and successfully completes the program..."~~

30 ~~4. Criminal Acts Within the Jurisdiction of the School Board.— The School~~
31 ~~Board of Palm Beach County recognizes that school safety is a paramount~~
32 ~~concern and fundamental necessity in providing a proper learning environment.~~
33 ~~School Board jurisdiction must be a sanctuary from disruptive and unlawful~~
34 ~~activity. Therefore, it is the intent of the School Board of Palm Beach County to~~
35 ~~establish a section of its policy on discipline to clearly state that "criminal acts~~
36 ~~within School District jurisdiction" will not be tolerated. All acts of criminal~~
37 ~~misconduct will be subject to criminal investigation with arrest when warranted.~~

38 ~~a. Each Principal shall place a sign in a location or locations, clearly visible~~
39 ~~to students, within the school which contains the following text:~~

40 ~~Anyone who commits a criminal act within School District jurisdiction,~~
41 ~~including assault, battery, firearm or weapon possession will be~~
42 ~~suspended and the School Board will assist in vigorously prosecuting the~~
43 ~~offender.~~

44 ~~b. Criminal misconduct within School District jurisdiction by any student will~~
45 ~~result in the following actions:~~

- 46 ~~1. Notify police;~~
- 47 ~~2. Investigation;~~
- 48 ~~3. Notify parent(s) or guardian(s);~~
- 49 ~~4. Hearing with administrators and parties concerned.~~

50
51 ~~c. A student charged with a crime may be suspended immediately without~~
52 ~~the necessity for prior consideration of alternative disciplinary measures.~~
53 ~~However, prior to the suspension action, the student shall be given:~~

- 54 ~~1. Oral or written notice of the charges against him;~~
- 55 ~~2. An explanation of the charges, if requested; and~~
- 56 ~~3. An opportunity to present his side of the story.~~

57
58 ~~d. If, as a result of the above due process, a student is found to have~~
59 ~~committed a criminal act specified in this policy, then this policy shall~~
60 ~~apply,* and the following results will occur:~~

Group ~~-To possess, display or use any firearm; or~~
A ~~-To possess with intent to sell or distribute any drug or~~
~~controlled substance including alcohol.~~

1. ~~Mandatory ten (10) days suspension;~~
2. ~~Recommendation to the Superintendent of Schools for~~
~~an additional thirty (30) days suspension;~~
3. ~~Recommendation for expulsion to the Superintendent of~~
~~Schools for presentation to the School Board.~~

61 ~~* Nothing in this policy shall be deemed to affect the protected rights of an~~
62 ~~Exceptional Student Education (ESE) student to Free Appropriate Public~~
63 ~~Education (FAPE). The School District of Palm Beach County recognizes that an~~

64 ~~expulsion or suspension from school in excess of ten (10) days is a "change in~~
65 ~~placement" for a disabled student that cannot be made without following the~~
66 ~~procedures of the Individuals with Disabilities Education Act (IDEA). Exclusion of~~
67 ~~a disabled student for more than ten (10) days cumulatively in a school year may~~
68 ~~be considered a change in placement.~~

69 ~~However, IDEA provides that in extreme circumstances, a School District may go~~
70 ~~to the court to obtain a temporary restraining order to exclude a dangerous or~~
71 ~~disruptive student from school.~~

Group ~~-To possess, display or use any weapon; or~~

B

~~-Battery; or~~

~~-To intimidate, threaten to use physical force or use physical force to cause another person to withhold testimony from any official investigation or official proceeding.~~

~~1. Mandatory ten (10) days suspension.~~

~~2. In Extreme Cases:~~

~~a. Recommendation to the Superintendent of Schools for an additional thirty (30) days suspension;~~

~~b. Recommendation for expulsion to the Superintendent of Schools for presentation to the School Board.~~

Group ~~-To possess or use any drug (lawful use of prescription drugs not addressed in this section) or controlled substance including alcohol, [subject to Section 232.26(2)(a) and (b) see Section 3. Definitions (16)]; or~~
C ~~-To trespass within School Board jurisdiction.~~

~~1. Mandatory ten (10) days suspension.~~

Group ~~-Assault; or~~

D

~~-To incite or to participate in any activity that is disruptive to the general peace and welfare of the school center, school bus or a school sponsored activity.~~

~~1. Mandatory minimum five (5) days suspension up to ten (10) days suspension.~~

~~2. In extreme cases:~~

~~a. Ten (10) days suspension;~~

~~b. Recommendation to the Superintendent of Schools for an additional thirty (30) days suspension.~~

~~c. Recommendation for expulsion to the Superintendent of Schools for presentation to the School Board.~~

Group E ~~—To commit an affray or to deface, steal, or to temporarily or permanently deprive the owner of the use of real property or personal property belonging to a student, School Board employee, volunteer, chaperon or the School Board.~~

~~1. Mandatory minimum one day suspension up to five (5) days suspension.~~

Group F ~~—Hate Crimes shall be grounds to increase disciplinary sanctions.~~

Group G ~~—Gang related crimes shall be grounds to increase disciplinary sanctions.~~

72 ~~5. Felony Suspension (Criminal Acts Committed off School Property)~~

73 ~~a. Suspension proceedings may be initiated against any student enrolled as~~
74 ~~a student who is formally charged with a felony, or with a delinquent act~~
75 ~~which would be a felony if committed by an adult. The felony charge must~~
76 ~~be filed by a proper prosecuting attorney for an incident which allegedly~~
77 ~~occurred on property other than public school property, which is shown to~~
78 ~~have an adverse impact on the educational program, discipline, or~~
79 ~~welfare in the school in which the student is enrolled. A decision to felony~~
80 ~~suspend shall not affect the delivery of educational services to the student,~~
81 ~~and the student shall be immediately enrolled in a daytime alternative~~
82 ~~education program, or an evening alternative program, where appropriate.~~

- 83 ~~If the student is not subsequently adjudicated delinquent or found guilty of~~
84 ~~the felony charge, the suspension shall be terminated immediately.~~
- 85 ~~b. If the student is found guilty of a felony, the Principal may recommend~~
86 ~~expulsion. If the student is recommended for expulsion the timeframe is~~
87 ~~one year from date of felony incident in accordance with expulsion policy~~
- 88 ~~c. b. The Principal shall conduct an administrative hearing for the purpose of~~
89 ~~determining whether or not the student should be suspended pending~~
90 ~~court determination of his or her guilt or innocence, or the dismissal of the~~
91 ~~charge is made by a court of competent jurisdiction.~~
- 92 ~~d. c. Upon receiving proper notice that a student has been formally charged~~
93 ~~with a felony, the principal shall immediately notify the parent or guardian~~
94 ~~of the student, in writing, of the specific charges against the student and of~~
95 ~~the right to a hearing prior to disciplinary action being instituted.~~
- 96 ~~e. d. Such notice shall stipulate a date for hearing which shall not be less~~
97 ~~than two (2) school days nor more than five (5) school days from~~
98 ~~postmarked date, or delivery, or the notice and shall also advised the~~
99 ~~parent/guardian of the conditions under which a waiver of suspension may~~
100 ~~be granted.~~
- 101 ~~f. e. The hearing shall be conducted by the principal/designee, area~~
102 ~~superintendent/designee and may be attended by the student, the~~
103 ~~parent/guardian, the student's representative or counsel, and any~~
104 ~~witnesses requested by the student or the principal.~~
- 105 ~~g. f. In conducting the hearing, the principal or designee shall not be bound~~
106 ~~by rules or evidence or any other courtroom procedure and no transcript of~~
107 ~~testimony shall be required.~~
- 108 ~~h. g. Following the hearing, the principal shall provide the student and parent~~
109 ~~with a decision, in writing, as to whether or not suspension will be made.~~
110 ~~In arriving at this decision, the principal shall consider the conditions under~~
111 ~~which a waiver of suspension may be granted and may grant such a~~
112 ~~waiver when he or she determines such action to be in the best interests~~
113 ~~of the school and the student.~~
- 114 ~~i. h. Any student subject to felony suspension as a result of the possession~~
115 ~~or use of any controlled substance under chapter 893 of Florida Statutes~~
116 ~~shall be entitled to a waiver of the discipline:~~
- 117 ~~1. If the pupil divulges information leading to the arrest and conviction~~
118 ~~of the person who supplied such controlled substance to him or her,~~
119 ~~or if the student voluntarily discloses his or her unlawful possession~~
120 ~~of such controlled substance prior to his or her arrest.~~

121 ~~2. If the pupil commits himself or herself, or is referred by the court in~~
122 ~~lieu of sentence, to a state-licensed drug abuse program and~~
123 ~~successfully completes the program.~~

124 ~~i. The principal shall have authority to modify the decision to~~
125 ~~either grant or deny a waiver, at any time prior to~~
126 ~~adjudication of the student's guilt by a court, provided that~~
127 ~~any such modification adverse to the student shall be made~~
128 ~~only following another hearing conducted in accordance with~~
129 ~~this policy.~~

130 ~~j. At the end of the expulsion timeframe student placement will be~~
131 ~~determined by District staff.~~

STATUTORY AUTHORITY: 230.22(1)(2), 230.23(6)(c) and (d), (8), 232.26, 232.256 Florida Statutes

LAWS IMPLEMENTED: 71-826, Laws of Florida

HISTORY: 10/05/94; 5/21/97; / / 14.

Legal Signoff:

The Legal Department has reviewed proposed Policy 5.80 and finds it legally sufficient for repeal-adoption by the Board.

Attorney 

Date 7/30/14