

## **DISCIPLINE OF SPECIAL NEEDS STUDENTS PART 1: APPLYING THE SCHOOL CONDUCT CODE**

### **What Is a Conduct Code?**

Every school principal has, first and foremost, in his or her mind the safety of the students and staff in the building. By enforcing certain behavior expectations and consequences for violations of those expectations, a principal carries out the responsibility of keeping students and staff safe and available for the learning that takes place. A student conduct code describes various types of undesirable student behavior and what disciplinary action is allowed by school personnel in the event a student violates the behavior expectations of the school district as outlined in the conduct code. The printed code acts as a kind of notice to students and their parents as to what behavior is expected of students in order to maintain a safe and productive learning environment. It also serves as notice to parents and students as to what action the school district may take when a violation occurs.

### **Grounds for Student Discipline**

Colorado's School Attendance Law states that the following are grounds for voluntarily suspending or expelling a student from the public school during the school year: (1) continued willful disobedience or open, persistent defiance of proper authority; (2) willful destruction or defacing of school property; (3) behavior on or off school property which is detrimental to the welfare or safety of other pupils or school personnel, including behavior that creates a threat of physical harm; (4) habitual disruptiveness (a "habitually disruptive student" is one who has been suspended three times during the school year for causing substantial disruption in the classroom, on school grounds, on school vehicles or at school events). Expulsion is mandatory for the following conduct: (1) carrying, bringing, using or possessing a dangerous weapon without the authorization of the school or the school district; (2) the sale of a drug or controlled substance as defined in Colorado law; (3) the commission of an act which, if committed by an adult, would be robbery or assault under Colorado law.

Every school district in Colorado has a written Student Conduct Code that is to be provided to each student attending school in the district. Jefferson County School District R- I is no exception. The school district updates the conduct code annually based upon changes in the law or district policy.

In addition to those areas mentioned above, the Jefferson County Student Conduct Code addresses drug and alcohol use by students, ethnic intimidation, sexual harassment, tobacco use by students, gang activity, student absences and truancy. Student suspension or expulsion may be warranted for violation of school district policy in each of these areas as well.

### **Does the Student Conduct Code Apply to Special Needs Students?**

The Student Conduct Code is indeed applicable to special needs students, whether the student is eligible for services under the Individuals with Disabilities Education Act (IDEA) and has an Individual Education Plan (IEP) or is eligible for services under Section 504 of the Rehabilitation Act of 11)73 and has a 504 plan, **unless the student's IEP, Section 504 Plan or behavior plan states otherwise**. Special needs students may be **suspended** for conduct in violation of the student conduct code for the same length of time that a student without a disability may be suspended, provided the suspension is for no more than ten consecutive days or ten cumulative days over a single school year. A suspension of more than ten consecutive days or ten cumulative days in a given school year is considered a change of placement under both the IDEA and Section 504 and requires certain procedural safeguards to be implemented. These safeguards will be the subject of Part III in this series on discipline.

It is within the discretion of the principal to determine whether to suspend a student for such actions as willful disobedience or defiance of authority, willful destruction of property, behavior that is detrimental to the welfare or safety of others, assault or disorderly conduct, possession of drugs or being under the influence of drugs, failure to attend classes, smoking on school property, lying or giving false information, and similar actions as covered under Board of Education Policy JKDA/JKEA in the 1998 edition of "Jefferson County Public Schools Conduct Code and Related Policies," pp. 50-52.

Suspension followed by mandatory expulsion is required when a student carries, brings, uses or possesses a dangerous weapon without prior authorization of the school or school district. Examples of "dangerous weapon" are: firearms, whether loaded or unloaded; a pellet or BB gun; a fixed blade knife with a blade longer than three inches or a spring loaded knife or pocket knife with a blade longer than three and one-half inches; a slingshot; any object, substance or materials intended for use to inflict death or serious bodily injury. Additional actions giving rise to mandatory suspension and expulsion are: commission of an act that, if committed by an adult, would be robbery or first or second degree assault, including sexual assault as defined by Colorado law; sale, purchase or distribution of drugs or controlled substances as defined by state law, including anabolic steroids and prescription medications; or being declared a habitually disruptive student (a student who has been suspended three times during the course of the school year for causing substantial disruption in the classroom, on school grounds, in school vehicles or at school activities or events due to willful behavior on the part of the student). Although the principal may suspend a student, he or she can only recommend that a student be expelled. The decision to expel is made by a committee that reports to the Jefferson County School Board.

Every parent should be familiar with these provisions of the district conduct code. Students are given a copy of the code to review with their parents. Parents who have not seen an official copy of the student conduct code should contact the principal's office and request one. All parents and their student have due process rights to appeal both suspension and expulsion. Special education students who are served under IDEA may be expelled (removed) from a school building, but may not be terminated entirely from educational programming.

### **Systematic Exclusion**

A student who exhibits chronic misbehaviors and who has not responded to other methods of behavior management and is therefore at risk of repeated suspensions from school

may be offered a “systematic exclusion contract.” Under a systematic exclusion agreement, the student has the right to continue attending school—however, if the student commits any of the acts identified in the agreement, the student will be required to leave school immediately and return to his or her home for the remainder of the school day. The student may return the following school day. A systematic exclusion agreement is a voluntary behavior management tool and it must be agreed upon by school district personnel and the parent, with a full explanation of the expectations given to the student and the student’s parents. The student is usually required to sign the agreement as an acknowledgment of the contract terms and consequences. The systematic exclusion agreement must be recommended to the area assistant superintendent and approved by him or her before implementation.

Unfortunately, systematic exclusion contracts may actually provide an incentive for misconduct rather than a deterrent. If a student does not wish to be in school, he or she need only to “act up” in order to be sent home for the remainder of the school day. When habitual truancy is an issue for the student, the effect of such a contract is negligible. Issues of safety, transportation and supervision also may make exclusion contracts unworkable. For many students with special needs such contracts may be inappropriate as a behavior management tool.

## **Summary**

Parents should be familiar with the official Jefferson County School District Conduct Code and should review the behavior expectations of students under this code with their student as appropriate. The official student conduct code is applicable to all students. Students with special needs may be suspended for the same types of behaviors as their peers who do not have special needs. The frequency and duration of suspensions may be different under the laws applicable to special needs students. Suspensions longer than ten days or multiple suspensions accumulating to more than ten days trigger change of placement procedures for students with special needs who are served under IDEA or Section 504. Students served under IDEA may not be terminated from all educational services although they may be physically expelled from a building.

The systematic exclusion contract is one method of addressing misconduct in the school setting without resorting to repeated suspensions. The use of such an agreement with a special needs student is something that a team of individuals knowledgeable about the student should determine on an individual basis with full participation by the student’s family. Concerns such as student safety, transportation and supervision must be addressed in any systematic exclusion contract.