LEADERSHIP PUBLIC SCHOOLS
SUSPENSION - EXPULSION PROCEDURES AND PARENT/STUDENT DUE PROCESS RIGHTS

Introduction

Leadership Public Schools ("LPS") believes that one of the major functions of education is the preparation of youth for responsible citizenship. LPS shall foster a learning environment that reinforces self-discipline and the acceptance of personal responsibility. In addition, LPS shall work with students and families to provide a safe school environment that provides students with the opportunity to have a quality education.

In order to maintain an environment that will prepare LPS students for responsible citizenship, LPS has developed and adopted the policies and procedures set forth in this document. This document is designed to guide LPS schools and personnel in dealing with student discipline issues, while providing students and parents with a clear set of expectations regarding student behavior and an understanding of the consequences of misconduct.

These policies and procedures will be periodically reviewed and the lists of offenses for which students are subject to suspension or involuntarily transferred will be modified as necessary.

These policies and procedures will be enforced fairly, uniformly, and consistently without regard to race, creed, color, sex, or any other prohibited classification.

Student Due Process

The LPS Board of Trustees shall provide for the fair and equitable treatment of students facing suspension and expulsion by affording them their due process rights under the law. The Superintendent or designee shall comply with procedures for notices and appeals as specified in administrative regulation.

Suspension

Definition: Suspension is the temporary removal of a student from class instruction for adjustment or disciplinary reasons. It can include an in-school suspension at the discretion of the school, assuming adequate space and supervision. A suspension does not mean any of the following:

1. Reassignment to another class at the same school where the student will receive continuing instruction for the school.
2. Referral to an advisor assigned that role by the Principal.

While on suspension from school, the student is not to loiter on or about any school grounds at any
time, nor to attend any LPS voluntary activity at any time, no matter where such activity may be taking place. Violation may result in further disciplinary action.

Except in cases where suspension for a first offense is warranted in accordance with law, each school site shall consider suspension from school only when other means have not been successful or where the student's presence would constitute a danger to persons or property or seriously disrupt the educational process.

**Authority to Suspend:**

1. A teacher may suspend a student only from his/her classroom for the day of the suspension plus the following school day. The teacher issuing the classroom suspension must contact the parents of the student and schedule a parent conference to explain the reason for the suspension.

2. The Principal or his/her designee may suspend a student from class, classes or the school campus for a period not to exceed five school days.

3. The CEO or his/her designee may extend a student's suspension pending final decision by the LPS Disciplinary Review Committee or Hearing Officer (as authorized by the LPS Board of Trustees) on a recommendation for expulsion (involuntarily transferred). This Committee may consist of the Director of Student Services, his/her designee(s), other LPS administrators, and other LPS school personnel (Counselors, Deans, etc.).

4. A Special Education student being considered for Expulsion may be suspended for ten (10) consecutive days pending the outcome of the Manifestation Determination IEP procedure in accordance with the Individuals With Disability Act (IDEA). (See section: Suspension and Expulsion of students with disabilities).

A pupil may not be suspended or expelled for any of the acts enumerated unless the act is related to school activity or school attendance occurring within a school under the jurisdiction of the CEO or principal or occurring within any other school district. A pupil may be suspended or expelled for acts that are enumerated in the section and related to school activity or attendance that occur at any time, including, but not limited to any of the following:

1. While on school grounds.
2. While going to or coming from school.
3. During the lunch period whether on or off the campus.
4. During, or while going to or coming from, a school sponsored activity.

A pupil may also be suspended or expelled for engaging in any activity, on or off campus, that interferes with, disrupts, or adversely affects the school environment, school operations, or an educational function, including but not limited to, conduct that may reasonably be considered to: (a) be a threat or an attempted intimidation of a staff member; or (b) endanger the health or safety of students, staff, or school property; or (c) can be shown to cause a substantial disruption to school operations. (See Electronic Acts).
Grounds for Suspension and Expulsion

The following information is designed to provide uniformity within LPS in matters of student misconduct requiring disciplinary action.

The following offenses constitute grounds for suspension and expulsion and may require police notification:

• **Physical Injury:** Caused, attempted to cause, or threatened to cause physical injury to another person or willfully used force or violence upon the person of another, except in self-defense. Notification to police at the discretion of school officials.

• **Weapons, Explosives, Dangerous Objects:** Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object, unless, in the case of possession of any object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal. Notification to police required.

• **Controlled Substances/Alcohol:** Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind. Notification to police required.

• **Substances in Lieu of Controlled Substances:** Unlawfully offered, arranged, or negotiated to sell any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and then either sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant. Notification to police at the discretion of school officials.

• **Robbery or Extortion:** Committed or attempted to commit robbery or extortion. Notification to police at the discretion of school officials.

• **Damage to Property:** Caused or attempted to cause damage to school property or private property. Notification to police at the discretion of school officials.

• **Theft of Property:** Stole or attempted to steal school property or private property. Notification to police at the discretion of school officials.

• **Tobacco:** Possessed or used tobacco, or any product containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit use or possession by a pupil of his or her own prescription products with the consent of a school official.
• **Obscenity/Profanity:** Committed an obscene act or engaged in habitual profanity or vulgarity.

• **Drug Paraphernalia:** Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code. Notification to police at the discretion of school officials.

• **Disruption/Defiance:** Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, or other school personnel engaged in the performance of their duties. Notification to police at the discretion of school officials.

• **Received Stolen Property:** Knowingly received stolen school property or private property. Notification to police at the discretion of school officials.

• **Imitation Firearm:** Possessed an imitation firearm. *Definition of Imitation Firearm:* a replica of a firearm that is so substantially similar in physical properties to an existing firearm to lead a reasonable person to conclude that the replica is a firearm. Notification to police at the discretion of school officials.

• **Sexual Assault/Sexual Battery:** Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code. Notification to police required.

  *Definition of Sexual Assault:* includes rape, various types of sexual abuse, and lewd and lascivious conduct. (Penal Code 261, 266c, 286, 288, 288a, 289.)

  *Definition of Sexual Battery:* the touching of an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse (Penal Code 243.4).

• **Harassment of Witness:** Harassed, threatened, or intimidated a pupil who is a complaining witness or witness in a school disciplinary proceeding for the purpose of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both. Notification to police at the discretion of school officials.

• **Bullying:** Engaged in an act of bullying, including, but not limited to, bullying committed by means of an electronic act, as defined in subdivisions (f) and (g) of Section 32261, directed specifically toward a pupil or school personnel (EC 48900(r)) SEIS code 54

• **Sexual Harassment:** Committed sexual harassment.

  *Definition of Sexual Harassment:* an act which, upon review of a reasonable person of the same gender as the victim, is determined to be sufficiently severe or pervasive so as to cause negative impact on one's academic performance or to create an intimidating, hostile or offensive educational environment.

  *Limitation:* Sexual harassment must be unwelcomed by the recipient in order to constitute a violation. Notification to police at the discretion of school officials.
• **Hate Violence**: Caused, attempted to cause, threatened to cause, or participated in an act of hate violence.

*Definition of Hate Violence*: the use of force or threat of force to intimidate a person in the exercise of a constitutional or statutory right, or damage or destruction of property for the purpose of intimidating or interfering with a person because of that individual's "race, color, religion, ancestry, national origin, disability, gender, or sexual orientation." Notification to police at the discretion of school officials.

• **Intentional Harassment**: Created a hostile educational environment.

*Definition of Intentional Harassment*: engaging in harassment, threats or intimidation, directed against a student or group of students, that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting a classroom, creating substantial disorder, and invading the rights of the students or group of students by creating an intimidating or hostile educational environment.

• **Terrorist Threats Against School Officials and/or Property**: Committed a terroristic threat against school officials, school property or both.

*Definition of Terroristic Threat*: includes any statement, whether written or oral, by a person who willfully threatens to commit a crime which will result in death, great bodily injury to another person, or property damage in excess of one thousand dollars ($1,000.00), with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for: his or her own safety, his or her immediate family's safety, the protection of school property, and/or the personal property of the person threatened or of his or her immediate family. Notification to police at the discretion of school officials.

• **Hazing**: Engaged in hazing activities or any act that causes or is likely to cause personal humiliation or disgrace.

• **Vandalism/Malicious Mischief**: Defaced, damaged or destroyed any school property including, books, supplies of all kinds, equipment, buildings and grounds.

*Note*: Parents can be held financially liable for damages up to $10,000 and shall also be liable for the amount of any reward not exceeding $10,000 pursuant to Section 53069.5 of the Government Code. Notification to police at the discretion of school officials.

• **Electronic Acts**

A pupil may be suspended or expelled for engaging in any “Electronic Act” or activity, on or off campus, that interferes with, disrupts, or adversely affects the school environment, school operations, or an educational function, including but not limited to, conduct that may reasonably be considered to: (a) be a threat or an attempted intimidation of a staff member; or (b) endanger the health or safety of students, staff, or school property; or (c) can be shown to cause a substantial disruption to school operations.
As used in this section, an "electronic act" means the transmission of communication, including, but not limited to, a message, text, video, sound, or image by means of an electronic device, including, but not limited to, a telephone, wireless telephone or other wireless communication device, computer, or pager.

If a student is expelled for one of the above reasons, the school should provide this information to the district of residence.

**Procedures in Cases Requiring Suspension**

**Step One:** The school site administrator or teacher investigates the incident and determines whether or not it merits suspension.

**Searches:** In order to investigate an incident, or where there is reasonable suspicion, a student’s attire, personal property, vehicle or school property, including books, desks, and school lockers, may be searched by a principal/principal designee who has reasonable suspicion that a student possesses illegal items or illegally obtained items. These may include illegal substances, drug paraphernalia, weapons or other objects or substances that may be injurious to the student or others. *Illegally possessed items shall be confiscated and turned over to the police.*

**Step Two:** The school site administrator determines the appropriate length of the suspension (up to five school days). *Note:* A teacher may suspend a student only from his/her classroom for the day of the suspension plus the following school day. In the case of a teacher initiated classroom suspension, the teacher will make contact with the student’s parent to explain the reason for the suspension.

**Step Three:** Unless a student poses a danger to the life, safety, or health of students or school personnel, a suspension will be preceded by an informal conference between the principal and student, in which the student shall be informed of the reason for the suspension, the evidence against him, and be given the opportunity to present his or her defense. *At the time of suspension, a school employee will make a reasonable effort to contact the student's parents in person or by telephone.*

**Step Four:** School site administrator fills out a Notice of Suspension Form. The parent will be given written notice of the suspension using this form. A copy of this form is also sent to the LPS home office and placed in the student’s cumulative file at the school site.

**Step Five:** School site administrator determines whether the offense warrants a police report. State law requires that LPS report certain offenses to law enforcement authorities. If so, the police are called as soon as possible. In addition to the offenses listed under "Grounds for Suspension and Expulsion" that require a police report, school personnel are required, by law, to file a report to the police or a legal agency as follows:

- Prior to suspending a student from school for an assault upon any person with a deadly weapon or by force likely to produce great bodily injury.
• A non-accidentally inflicted physical injury upon a minor student by another student, which requires medical attention beyond the level of school-applied first aid.
• Actual or suspected sexual abuse or physical abuse of any minor child. A report must be made to a child protection agency.
• An attack or assault on, or the menacing of, any school employee by a student.
• A directly communicated threat by a student or any person to inflict unlawful injury upon the person or property of a school employee to keep the employee from fulfilling any official duty or for having fulfilled any official duty.
• Possession of any controlled substance, drug paraphernalia, alcoholic beverages or intoxicants, including glue containing toluene. Possession of such materials is illegal, and upon confiscation, cannot be retained by school personnel.
• Acts of school misconduct in violation of court imposed conditions on probation.
• Truancy of any student under court ordered mandatory attendance.

**Step Six:** The school site administrator informs teachers of each student who has engaged in, or been suspected to have been engaged in, any misconduct for which the student can be suspended other than for use and possession of tobacco products. The information must be maintained in confidence, and only transmitted to teachers and supervisory personnel.

**Appeals Process:**

A student or the student's parents/guardians may appeal those disciplinary actions imposed upon a student for his/her school related offenses.

Appeals must be made first in writing at the school level, and should be directed to the principal. The principal or principal's designee will attempt to resolve the appeal with a written response within ten (10) school days.

After appeal at the school level, if further appeal is desired, the appeal should be made to LPS and should be directed to the CEO or the CEO’s designee for resolution with a written response within fifteen (15) school days.

After appeal at the LPS administrative level, if further review is desired, the appeal may be forwarded to the LPS Disciplinary Review Committee or Hearing Officer for resolution with a written response within 20 school days. If any appeal is denied, the parent may place a written rebuttal to the action in the student's file.

**Expulsions (Involuntary Transfers)**

*Definition:* Expulsion is the involuntary removal of a student from all schools and programs of LPS for an extended period of time for acts of specified misconduct. Except for single acts of a grave nature,
Expulsion is used only when there is a history of misconduct, when other forms of discipline, including suspension, have failed to bring about proper conduct, or when the student's presence causes a continuing danger to other students.

In the event that a student is recommended for Expulsion from LPS, he or she is entitled to a hearing, advance written notice of the rights and responsibilities set forth in the LPS Suspension and Expulsion Policies and Procedures. Written notice of these due process rights shall be provided at least 10 days in advance of the date set for the hearing.

Expulsion proceedings for a currently identified Special Education student require additional due process procedures. LPS will follow all due process procedures for Special Education students included in this document and in accordance with the Individuals with Disabilities Education Improvement Act (IDEA).

While under Expulsion from Leadership Public Schools, a student may not enroll in another California school district without the permission of the district of residence or the receiving district. The district of residence shall be notified upon the decision to expel a student from Leadership Public Schools. In some cases, the district of residence will be invited to attend the expulsion hearing.

The LPS Disciplinary Review Committee or Hearing Officer, upon reaching the decision to recommend expulsion, may suspend the enforcement of the Expulsion order for a period of not more than one calendar year and may, as a condition of the suspension of enforcement, assign the pupil to a school, class, or program that is deemed appropriate for the rehabilitation of the pupil. The rehabilitation program to which the pupil is assigned may provide for the involvement of the pupil's parent or guardian in his or her child's education in ways that are specified in the rehabilitation program. A parent or guardian's refusal to participate in the rehabilitation program shall not be considered in the LPS Disciplinary Review Committee or Hearing Officer’s determination as to whether the pupil has satisfactorily completed the rehabilitation program.

**Expulsion Offenses include:**
**Category I - Mandatory Expulsion**
Under the mandatory provisions, a student who has committed one or more of the following acts **must be recommended for Expulsion** and the LPS Board of Trustees Sub-Committee **must Expel** the student.

- Possessing, selling or otherwise furnishing a firearm when an LPS employee verified firearm possession;
- Brandishing a knife at another person (note that simply possessing a knife does not result in a mandatory involuntary transfer although an involuntary transfer is not precluded).
- Unlawfully selling a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code; or
- Committing or attempting to commit a sexual assault or committing sexual battery.
• Causing serious physical injury to another person, except in self-defense;

A Mandatory Expulsion should be reported to the school district of residence and this communication should be documented in writing. A copy of the letter sent to the district or a written memo to the file regarding conversations with the district on this matter are acceptable.

**Category II - Mandatory Recommendation for Expulsion**

Under the mandatory provision, a student who has committed one of the following acts of misconduct must be **recommended for Expulsion** unless particular circumstances render it inappropriate.

- Causing serious physical injury to another person, except in self-defense;
- Possession of any knife, explosive, or other dangerous object of no reasonable use to the student;
- Unlawful possession of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except for the first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis;
- Robbery or extortion; or
- Assault or battery upon a school employee.

**Note:** The LPS Disciplinary Review Committee or Hearing Officer’s decision to expel a student for violations included in Categories I and II must be based on a finding of one or both of the following:

1. Other means of correction are not feasible or have repeatedly failed to bring about the proper conduct.
2. Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

**Procedures in Cases Requiring the Extension of Suspension and/or Expulsion**

**Step One:** School site administrator investigates an incident and determines whether the offense results in a recommendation for Expulsion. If so, the administrator follows the procedures to suspend the student outlined above.

**Step Two:** A meeting is held within five school days of the student's suspension to extend the suspension. The student and his/her parent or guardians are invited to attend this meeting with the Director of Student Services of LPS or his/her designee. School site administrators or teachers may also be present.

At this meeting the offense and repercussions are discussed. An extension of the suspension may be granted only if the Director or his/her designee has determined that the presence of the student at the school or in an alternative school placement would cause a danger to persons or property or a threat of disrupting the instructional process. If the student has committed an offense that requires a mandatory Expulsion recommendation, this is discussed and understood by all parties.
Step Three: A letter from LPS is sent to the student and parent or guardian regarding the Expulsion hearing. This letter notifies the student and parent or guardian when and where the Expulsion hearing will take place and the rights of the student with respect to the hearing as provided in the LPS Suspension and Expulsion Procedures and Parent’s Rights.

The Expulsion hearing must occur within thirty days of the offense, unless the student and parent or guardians request a postponement.

Step Four: The school site administrator files papers that are available for review by the student and his/her parent or guardian. These papers may include, but are not limited to, the following: A record of student attendance and grades; a record of previous infractions, a statement of the facts surrounding the case made by a site administrator; a statement of the facts surrounding the case made by a witness.

Step Five: The student and his/her advocate, may prepare their presentation to the LPS Disciplinary Review Committee or Hearing Officer and, if necessary, subpoena witnesses. The student's advocate is any person (attorney or non-attorney) of the student's choice who is willing and able to represent the student at the Expulsion hearing.

Step Six: An Expulsion hearing is held. The hearing will follow the procedures identified in the Suspension and Expulsion Procedures and Parent Right for LPS Students. This hearing cannot be held within less than ten days from when the letter in Step Three is provided in order to give the student and his/her advocate time to prepare for the hearing unless the student and family/guardian waive their rights to ten days' notice.

The LPS Disciplinary Review Committee or Hearing Officer will conduct the Expulsion hearing. A record of the hearing will be made and, if necessary, a translator will be present at the hearing.

Step Seven: The LPS Disciplinary Review Committee or Hearing Officer shall determine whether to recommend the Expulsion of the pupil to the LPS Superintendent.

If the LPS Disciplinary Review Committee or Hearing Officer recommends expulsion, findings of facts in support of the recommendation shall be prepared and submitted to the LPS Superintendent. All findings and recommendations shall be based solely on the evidence introduced at the hearing.

The decision of the LPS Disciplinary Review Committee or Hearing Officer to recommend expulsion, shall be based on substantial evidence relevant to the charges introduced at the Expulsion hearing or hearings. If the LPS Disciplinary Review Committee or Hearing Officer decides not to recommend the expulsion, the expulsion proceedings shall be terminated and the pupil immediately shall be reinstated and permitted to return to school. The decision not to recommend expulsion shall be final.

Step Eight: Within ten days after the Expulsion Hearing, the final decision to expel will be made by the LPS Superintendent and the decision communicated to the parents.
Leadership Public Schools will provide the expelled student with all the assistance necessary to enroll in his/her local school district.

**Step Nine:** The decision to expel a student may be appealed to the Board of Trustees of Leadership Public Schools or their designee (Superintendent’s Board Panel). Any appeal must be made in writing, within 15 days of the decision to expel.

**Step Ten:** The parents or guardians of an expelled student will be invited to submit their appeal in person at a meeting with the Superintendent’s Board Panel. A representative of the Disciplinary Review Committee will attend the meeting to present the case.

**Step Eleven:** Within three school days after the hearing, the Superintendent’s Board Panel will determine the disposition of the appeal and communicate the decision to the parents in writing.

**SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES)**

A student identified as an individual with disabilities pursuant to the Individuals with Disabilities Education Act (IDEA) is subject to the same grounds for suspension and expulsion which apply to students without disabilities.

**Procedures for Students Not Yet Eligible for Special Education Services**

A student who has not been officially identified as a student with disabilities pursuant to IDEA and who has engaged in behavior that violated the LPS Student Code of Conduct, may assert any of the protections under IDEA only if the district had knowledge that the student is disabled before the behavior that precipitated the disciplinary action occurred. (20 USC 1415(k)(5); 34 CFR 300.534)

Leadership Public Schools shall be deemed to have knowledge that the student has a disability if one of the following conditions exists: (20 USC 1415(k)(5); 34 CFR 300.534):

1. The parent/guardian has expressed concern to LPS supervisory or administrative personnel in writing, or to a teacher of the student, that the student is in need of special education or related services.

2. The parent/guardian has requested an evaluation of the student for special education pursuant to 34 CFR 300.300-300.311. (cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

3. The teacher of the student or other district personnel has expressed specific concerns directly to the district’s director of special education or to other supervisory district personnel about a pattern of behavior demonstrated by the student.

Leadership Public Schools would be deemed to not have knowledge that a student is disabled if the
parent/guardian has not allowed the student to be evaluated for special education services or has refused services. In addition, LPS would be deemed to not have knowledge if LPS conducted an evaluation pursuant to 34 CFR 300.300-300.311 and determined that the student was not an individual with a disability. When LPS is deemed to not have knowledge of the disability, the student shall be disciplined in accordance with procedures established for students without disabilities who engage in comparable behavior. (20 USC 1415(k)(5); 34 CFR 300.534)

**Suspension of a Student With Disabilities:**

The Superintendent or designee may suspend a student with a disability for up to 10 consecutive school days for a single incident of misconduct, and for up to 20 school days in a school year, as long as the suspension(s) does not constitute a change in placement pursuant to 34 CFR 300.536. (Education Code 48903; 34 CFR 300.530)

The principal or designee shall monitor the number of days, including portions of days, in which a student with a valid individualized education program (IEP) has been suspended during the school year.

**Manifestation Determination**

The following procedural safeguards shall apply when a student with disabilities is suspended for more than 10 consecutive school days, when a series of removals of a student constitutes a pattern, or when a change of placement of a student is contemplated due to a violation of the LPS Student code of conduct:

1. **Notice:** On the date the decision to take disciplinary action is made, the parents/guardians of the student shall be notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR 300.504. (20 USC 1415(k)(1)(H); 34 CFR 300.530)  
   (cf. 5145.6 - Parental Notifications)  
   (cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

2. **Manifestation Determination Review:** Immediately if possible, but in no case later than 10 school days after the date the decision to take disciplinary action is made, a manifestation determination review shall be made of the relationship between the student’s disability and the behavior subject to the disciplinary action. (20 USC 1415(k)(1)(E); 34 CFR 300.530)

   At the manifestation determination review, LPS School Officials, the student’s parent/guardian, and relevant members of the IEP team (as determined by LPS and parent/guardian) shall review all relevant information in the student’s file, including the student’s IEP, any teacher observations, and any relevant information provided by the parents/guardians, to determine whether the conduct in question was either of the following: (20 USC 1415(k)(1)(E); 34 CFR 300.530)

   a. Caused by or had a direct and substantial relationship to the student’s disability

   b. A direct result of the district’s failure to implement the student’s IEP, in which case the district shall take immediate steps to remedy those deficiencies. AR 5144.2(d)

If the manifestation review team determines that a condition in either #a or #b above was met, the
conduct shall then be determined to be a manifestation of the student's disability. (20 USC 1415(k)(1)(E); 34 CFR 300.530)

3. Determination that Behavior is a Manifestation of the Student’s Disability: When the conduct has been determined to be a manifestation of the student’s disability, the IEP team shall conduct a functional behavioral assessment, unless a functional behavioral assessment had been conducted before the occurrence of the behavior that resulted in the change of placement, and shall implement a behavioral intervention plan for the student. If a behavior intervention plan has already been developed, the IEP team shall review the behavioral intervention plan and modify it as necessary to address the behavior. (20 USC 1415(k)(1)(F); 34 CFR 300.530)

The student shall be returned to the placement from which he/she was removed, unless the parent/guardian and district agree to a change of placement as part of the modification of the behavioral intervention plan. (20 USC 1415(k)(1)(F); 34 CFR 300.530)
(cf. 6159.4 - Behavioral Interventions for Special Education Students)

4. Determination that Behavior is Not a Manifestation of the Student's Disability: If the manifestation determination review team determines that the student’s behavior was not a manifestation of his/her disability, the student may be disciplined in accordance with the procedures for students without disabilities. (20 USC 1415(k)(1)(D); 34 CFR 300.530)

QUESTIONING AND APPREHENSION

Law enforcement officers have the right to interview and question students on school premises. When such an interview is requested, the principal or designee shall ascertain the officer's identity, official capacity, and the authority under which he/she acts. If the officer needs to interview or question the student immediately, the principal or designee shall accommodate the process in a way that causes the least possible disruption to the school, gives the student appropriate privacy, and models exemplary cooperation with community law enforcement authorities.

At the law officer's discretion and with the student's approval, the principal or designee may be present during the interview.

If the law officer finds it necessary to remove the student from school, the principal or designee shall first ascertain the reason for such action. Upon releasing the student, the principal or designee shall immediately attempt to inform the student’s parent/guardian.

Personnel responsible for releasing a student from school custody shall exercise extreme diligence to prevent such release to any unauthorized or unidentified person.

Subpoenas

Although subpoenas may legally be served at school, the Board believes that serving officials should be
strongly urged to serve subpoenas at the home of the student whenever possible. In these situations, steps should be taken to ensure a minimum of embarrassment or loss of class time for the student.

SEARCH AND SEIZURE

As necessary to protect the health, safety and welfare of students and staff, school officials may search students, their property and/or LPS property under their control, and may seize illegal, unsafe and prohibited items. The Board of Trustees requires that discretion, good judgment and common sense be exercised in all cases of search and seizure.

Individual Searches

School officials may search individual students, their property and LPS property under their control, when there is a reasonable suspicion that the search will uncover evidence that the student is violating the law, Board policy, administrative regulation, or other LPS rules or the school’s code of conduct.

Employees shall not conduct strip searches or body cavity searches of any student.

Searches of individual students shall be conducted in the presence of at least two LPS employees.

The principal or designee shall notify the parent/guardian of a student subjected to an individualized search as soon as possible after the search.

Student Lockers/Desks

The principal or designee may conduct a general inspection of school properties that are within the control of students, such as lockers and desks, on a regular, announced basis, with students standing by their assigned lockers or desks. Any items contained in a locker or desk shall be considered to be the property of the student to whom the locker or desk was assigned.

Because lockers and desks are under the joint control of the student and LPS, school officials shall have the right and ability to open and inspect any school locker or desk without student permission or prior notice when they have reasonable suspicion that the search will uncover evidence of illegal possessions or activities or when odors, smoke, fire and/or other threats to health, welfare or safety emanate from the locker or desk.

FREEDOM OF SPEECH/EXPRESSION

The LPS Board of Trustees believes that free inquiry and exchange of ideas are essential parts of a democratic education. The Board respects students' rights to express ideas and opinions, take stands on issues, and support causes, even when such speech is controversial or unpopular.

On-Campus Expression
Students shall have the right to exercise freedom of speech and of the press including, but not limited to, the use of bulletin boards; the distribution of printed materials or petitions; the wearing of buttons, badges, and other insignia; and the right of expression in official publications.

Students are prohibited from making any expressions or distributing or posting any materials that are obscene, libelous, or slanderous. Students also are prohibited from making any expressions that so incites students as to create a clear and present danger of the commission of unlawful acts on school premises, the violation of school rules, or substantial disruption of the school's orderly operation. (cf. 5145.7 - Sexual Harassment) (cf. 5145.9 - Hate-Motivated Behavior)

The use of "fighting words" or epithets is prohibited in those instances where the speech is abusive and insulting, rather than a communication of ideas, and the speech is used in an abusive manner in a situation that presents an actual danger that it will cause a breach of the peace. Any violations of this policy could lead to suspension and expulsion proceedings.

The Superintendent or designee shall not discipline any high school student solely on the basis of speech or other communication that would be constitutionally protected when engaged in outside of school, but may impose discipline for harassment, threats, or intimidation unless constitutionally protected.

**Off-Campus Expression**

A student shall be subject to discipline for off-campus expression, including expression on off-campus Internet web sites, when such expression poses a threat to the safety of other students, staff, or school property, or substantially disrupts the educational program.

The Superintendent or designee shall document the impact the expression had or could be expected to have on the school program.

**“ELECTRONIC ACT”**

As used in this section, an "electronic act" means the transmission of a communication, including, but not limited to, a message, text, video, sound, or image by means of an electronic device, including, but not limited to, a telephone, wireless telephone or other wireless communication device, computer, or pager.

A pupil may also be suspended or expelled for engaging in any “Electronic Act” or activity, on or off campus, that interferes with, disrupts, or adversely affects the school environment, school operations, or an educational function, including but not limited to, conduct that may reasonably be considered to: (a) be a threat or an attempted intimidation of a staff member; or (b) endanger the health or safety of students, staff, or school property; or (c) can be shown to cause a substantial disruption to school operations.