

## **Administrative Procedures Regarding Pupil Discipline and Suspension**

### **I. Introduction**

**Purpose:** The Pupil Discipline and Suspension Procedures are in all respects congruent with Chapter 19 of the Hawaii Administrative Rules and are administered by the Lanikai Elementary PCS Principal in order to promote learning and protect the safety and wellbeing of all students.

Staff shall enforce Chapter 19 disciplinary rules and procedures and Lanikai School rules and procedures fairly and consistently among all students. The school shall consider out-of-school suspension or expulsion from school only when other means of correction fail to bring about proper conduct or where the student's presence would constitute a danger to persons or property or seriously disrupt the educational process.

**Distribution:** A copy of the Chapter 19 handbook will be provided by the DOE to each member of the Lanikai School staff and to each Lanikai School family. Both Chapter 19 and this document are also available upon request at the school office.

**Definition of Discipline:** Discipline includes, but is not limited to, advising and counseling students, conferring with parents/guardians, detention during and after school hours, community service on or off campus, in-school suspension, crisis suspension, and expulsion. Guidelines for discipline regarding bullying and harassment have been drawn up for grades 1-3 and 4-6 and a separate administrative policy and procedure has been established for bullying and harassment.

Corporal punishment shall not be used as a disciplinary measure with any student. Corporal punishment includes the willful infliction of, or willfully causing the infliction of, physical pain on a student. For purposes of the policy, corporal punishment does not include an employee's use of reasonable force necessary to protect the employee, students, staff or other persons or to prevent damage to school property.

**Students with Disabilities:** A student identified by the school as an individual with disabilities or for whom the school has a basis of knowledge of a suspected disability pursuant to the Individuals with Disabilities in Education Act (IDEA) or who is qualified for services under Section 504 of the Rehabilitation Act of 1973 is subject to the same grounds for suspension and expulsion and is accorded the same due process procedures applicable to regular education students except when federal and state law mandates additional or different procedures. The school will follow Section 504, the IDEA, the Americans with Disabilities Act of 1990 (ADA) and all applicable federal and state laws when imposing any form of discipline on a student identified as an individual with disabilities or for whom the School has a basis of knowledge of a suspected disability or who is otherwise qualified for such services or protections in according due process to such students.

## II. Suspension

### **Definition**

Suspension is the temporary removal of a pupil from class instruction for adjustment or disciplinary reasons. Suspension does not mean any of the following:

- Reassignment to another education program or class at the school where the pupil will receive continuing instruction for pupils of the same grade level;
- Referral to a certificated employee designated by the school to advise pupils;
- Removal from the class without sending the pupil to the principal or designee.

While suspended, the pupil may not loiter on or about any school grounds at any time, nor attend or participate in any school activity at any time, no matter where such activity is taking place. Violation may result in further disciplinary action.

### **Authority**

The Principal or designee may suspend a student from class, classes, or the school for a period not to exceed ten days. If the total number of days of crisis suspension within a single semester exceeds ten days, due process procedures of §8-19-9 (Chapter 19) shall apply with the understanding that the role of the District Superintendent shall be taken by the Chairman of the Board of Lanikai Elementary Public Charter School. The student's suspension may be extended by the Board Chair, pending a recommendation of the full Board for expulsion. The Board may suspend a special education student being considered for expulsion in accordance with the laws relating to expulsion of special education students. In all cases, Principal and Board members shall consider the nature and severity of the offense, the impact of the offense on others, and the age of the offender as well as whether the offender is a repeat offender.

### **Grounds**

A pupil may be suspended or expelled for acts that are enumerated in §8-19-6 when they are related to school activity or attendance or when they occur

- While on school grounds
- While going to or coming from school
- During the lunch period, whether on or off the school campus
- During, going to or coming from a school sponsored activity

Students may be immediately suspended or expelled if found to be in possession of a dangerous weapon, intoxicating liquor, or an illicit drug. Prohibited student conduct and associated penalties are enumerated in Chapter 19. Offences are divided into four categories, A through D, from most to least serious. Category D is comprised of rules set by each individual school. Lanikai School Rules (guidelines mentioned above, playground rules, etc.) will be provided to each student and to each parent/guardian.

### **Procedures Required to Suspend for Student Conduct Enumerated in Chapter 19**

#### **Step One**

The Principal or designee shall investigate the incident and determine whether or not it merits suspension.

*Searches:* In order to investigate an incident, a student's attire<sup>1</sup> personal property, school property, including books, desks and school lockers, may be searched by a Principal or designee who has reasonable suspicion that a student has violated or is violating the law or the rules of the school. Illegally possessed items shall be confiscated and turned over to the police.

### **Step Two**

At the time of the suspension, a school employee shall contact the parent/guardian by telephone or in person to inform him/her of the suspension and the reasons.

- Unless a student poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, a suspension will be preceded by an informal conference between the Principal or designee and the student and parents or guardian of the student. At this time, the student shall be orally informed of the reason for the suspension and the evidence, and shall be given the opportunity to present informal proof of his/her side of the story.
- If the student poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, the informal conference will be held within two school days, unless the parent or guardian waives this right or is physically unable to attend for any reason, including, but not limited to, hospitalization or detention in a correctional facility.

If a student is suspended without the informal conference, both the student and the parent/guardian will be notified of a student's right to return to school for the purpose of a conference.

### **Step Three**

The Principal determines the appropriate length of the suspension (up to five days). When suspensions do not include a recommendation for expulsion, they shall not exceed five consecutive school days per suspension.

### **Step Four**

The Principal fills out a Notice of Suspension, a copy of which will be provided to the student's parent/guardian. A copy of this form is also placed in the student's cumulative file at the school. The Notice of Suspension shall state the fact of suspension, its duration and the specific offense committed by the student. In addition, the notice may state the date and time when the student may return to school. The notice shall also state that if desired by the parent/guardian, a prompt meeting or hearing will be held at which the suspension may be discussed and at which the student may be present and afforded an opportunity to present informal proof of his/her side of the case. Additionally, if the School officials wish to ask the parent/guardian to confer regarding matters pertinent to the suspension, the notice may request the parent/guardian to respond to such requests without delay.

### **Step Five**

The Principal determines whether the offense warrants a police report and will report certain offenses to law enforcement authorities in accordance with Chapter 19.

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<sup>1</sup> This does not include removing clothing to permit visual inspection of the under clothing, breasts, buttocks or genitalia of the pupil.

When the Principal releases a pupil to a peace officer for the purpose of removing the minor from the school premises, the Principal shall take immediate steps to notify the parent, guardian or responsible relative of the minor regarding the release of the minor to the officer and regarding the place to which the minor is reportedly being taken, unless the minor has been taken into custody as a victim of suspected child abuse.

### **Step Six**

The Principal may require the student and his/her parent/guardian to sign a contract that states the conditions that the student is expected to meet while at the school. Copies of the signed contract are kept by the school and given to the parent/guardian.

### **Special Education Student Suspensions**

When suspensions involve special education students, a manifestation determination meeting shall be held no later than the 10<sup>th</sup> suspension day (whether consecutive or cumulative for the school year). The Principal shall notify the student's special education teacher when the student's cumulative days of suspension for that school year reaches eight. That special education teacher shall promptly notify the supervisor of SPED services for the Windward District of the need for the manifestation determination meeting. The manifestation determination meeting shall include the DOE representative, the parent, the Principal, and relevant members of the student's IEP Team (as determined by the parent and the DOE representative).

The student shall be treated as a general education student for disciplinary purposes, except to the extent that educational services must continue, if at the manifestation determination meeting the following are both determined in the negative, after reviewing all relevant information in the student's file, including the student's IEP, any teacher observations and any relevant information provided by the parents:

- 1) the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability; or
- 2) the conduct in question was the direct result of the school's failure to implement the IEP.

If it is determined at the manifestation determination meeting that 1) or 2) is answered in the affirmative, the conduct is deemed a manifestation of the disability. If the conduct is deemed a manifestation of the disability, the IEP Team must conduct a functional behavioral assessment, create a plan and implement it, or if the plan is preexisting, review it and modify it as necessary to address the behavior.

In the case of a manifestation of a disability, the student will be returned to the placement from which he/she was removed, unless the Principal, the Windward District representative, and parent agree to a change of placement as part of the modification of the behavioral intervention plan. For special education students, a new manifestation determination meeting is required for all proposed suspensions exceeding ten cumulative days in one school year.

The special education student may be removed from school to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability if the student:

- 1) carries a weapon to or possesses a weapon at school, on school premises or to or at a school function under the jurisdiction of the School;
- 2) knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of the School; or 3) has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the School

### **Appeal Process**

A student or the student's parent/guardian may appeal those disciplinary actions, other than expulsion, 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 within two days of the school sending the Notice of Suspension to the parent/guardian and the student. The Principal will attempt to resolve the appeal with a written response within two additional school days of receiving the written appeal. After appeal at the school level, if further appeal is desired, the student or his/her parent/guardian should appeal in writing to the Lanikai School Governing Board within **five** days of the date of the school-level written response and should direct it to the chairman of the board for final resolution within 15 school days. If any appeal is denied, the student, his/her parent/guardian may place a written rebuttal to the action in the student's cumulative file.