



## CARDINAL McCLOSKEY COMMUNITY CHARTER SCHOOL

### **Disciplinary Policy For Students With Disabilities**

In addition to the discipline procedures applicable to all students, Cardinal McCloskey Community School (“CMCCS”) will implement the following disciplinary policy procedures with respect to students with disabilities. These procedures, implemented in compliance with Chapter 34 of the Code of Federal Regulations (“CFR”), may also be applicable where, prior to the behavior which is the subject of the disciplinary action, the school district and/or CMCCS had reason to believe the student has a disability. (See 34 CFR § 300.534). Where CMCCS regards the student as having a disability, it may request the student disciplined in accordance with these provisions. CMCCS will comply with Chapter 34 of the CFR and the following procedures, except that in the event that the following procedures are inconsistent with federal law and regulations, such federal law and regulations will govern.

If a student with a disability is being considered for a suspension or removal, the following due process protections will be provided to the student and to the student’s parents/guardians in addition to those set forth in the regular education discipline policy. CMCCS must provide alternative education to the student during the suspension as set forth below, including any special services required by the Individualized Education Program (IEP) prepared by the student’s Committee on Special Education (CSE). The final determination on a suspension or removal of a student, following due process, will be made by the Principal.

CMCCS will maintain written records of all suspensions and expulsions of students with disabilities including the name of the student, a description of the behavior engaged in, the disciplinary action taken, and a record of the number of days a student has been suspended or removed for disciplinary reasons.

Students for whom the IEP includes a Behavior Intervention Plan (BIP) will be disciplined in accordance with the BIP. If the BIP appears not to be effective or if there is a concern for the health and safety of the student or others if the BIP is followed with respect to the infraction, the matter will be immediately referred to the student’s CSE for consideration of a change in the BIP guidelines.

If a student identified as having a disability is suspended during the course of the school year for total of eight days, such student will immediately be referred to the student’s CSE for reconsideration of the student’s educational placement. Such a student will not be suspended for a total of more than ten days during the school year without the specific involvement of the CSE prior to the eleventh day of suspension, because such suspensions may be considered to be a change in placement. In considering the placement of students referred because of disciplinary problems, the CSE is expected to follow its ordinary policies with respect to parental notification and involvement.

CMCCS will work with the district to ensure that the CSE meets within 7 days of notification of any of the following: (1) the commission of an infraction by a student with a disability who has previously been suspended for the maximum allowable number of days; (2) the commission of any infraction resulting from the student's disability; or (3) the commission of any infraction by a disabled student, regardless of whether the student has previously been suspended during the school year if, had such infraction been committed by a non-disabled student, the Principal would seek to impose a suspension in excess of five days.

Also, CMCCS will ensure that when the suspension or removal of a student with a disability will constitute a disciplinary change of placement, the CSE will be immediately notified so that the CSE can meet its required obligations to: (1) convene a CSE meeting within 10 school days to make a manifestation determination; (2) convene a CSE meeting within 10 business days to develop a plan to conduct a functional behavioral assessment or review an existing functional behavioral assessment or behavioral intervention plan; (3) provide the student's parent with a copy of their procedural due process rights; and (4) work closely with the CSE in determining education services or the interim alternative educational setting consistent with the FAPE requirements.

### **Provision of Services During Removal**

Those students removed for a period fewer than ten days will receive alternative instruction in a like manner to general education students.

During any subsequent removal that, combined with previous removals equals ten or more school days during the school year, but does not constitute a change in placement, services must be provided to the extent determined necessary to enable the child to appropriately progress in the general curriculum and in achieving the goals of his or her IEP. In these cases, school personnel, in consultation with the child's Special Education teacher, will make the service determination. During any removal for drug or weapon offenses (pursuant to 34 CFR § 300.530(g)) services will be provided to the extent necessary to enable the child to appropriately progress in the general curriculum and in achieving the goals of his or her IEP. These service determinations will be made by the CSE. The school will place students in interim alternative educational settings as appropriate and mandated by 34 CFR § 300.530(in consultation with the CSE).

During any subsequent removal that does constitute a change in placement, but where the behavior is not a manifestation of the disability, the services must be provided to the extent necessary to enable the student to appropriately progress in the general curriculum and in achieving the goals of his or her IEP. The CSE of the student's district of residence will make the service determination.

### **CSE Meetings**

Meetings of the CSE to either develop a behavioral assessment plan or, if the child has one, to review such plan, and review the implementation of the IEP by the school, are required when: (1) the child is first removed from his or her current placement for more than ten school days in a school year; and (2) when commencing a removal which constitutes a change in placement. The student's Special Education teacher (or coordinator) and the general classroom teacher will attend all meetings regarding the student initiated by the CSE.

Subsequently, if other removals occur which do not constitute a change in placement, CMCCS will work with the CSE to review the child's assessment plan and its implementation to determine if modifications are necessary. If one or more members of the CSE believe that modifications are needed, then the CSE is expected to meet to modify the plan and/or its implementation.

### **Due Process**

If discipline which would constitute a change in placement is contemplated for any student, the following steps will be taken: (1) not later than the date on which the decision to take such action is made, the parents/guardians of the student with a disability will be notified of that decision and provided the procedural safeguards notice described in 34 CFR § 300.504; and (2) immediately, if possible, but in no case later than ten school days after the date on which such decision is made, the CSE and other qualified personnel will meet and review the relationship between the child's disability and the behavior subject to the disciplinary action.

If, upon review, it is determined that the child's behavior was not a manifestation of his or her disability, then the child may be disciplined in the same manner as a child without a disability, except as provided in 34 CFR § 300.530(b) and (d), which relates to the provision of services to students with disabilities during periods of removal.

Parents/guardians may request a CSE hearing to challenge the manifestation determination. Except as provided below, the child will remain in his or her current educational placement pending the determination of the hearing.

If a parent requests a hearing from the CSE or an appeal to challenge the interim alternative educational setting or the manifestation determination resulting from a disciplinary action relating to weapons or drugs, the child will remain in any interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in the disciplinary action, whichever occurs first, unless the parent and the charter school agree otherwise.

ADOPTED: 8/6/19