

**WWJDC Student Discipline Policy and Procedures**

**Student Discipline Policies**

The primary goal of discipline in WWJDC is to provide and maintain a safe, just, affirmative, and appropriately challenging environment that promotes learning and positive personal growth. Disciplinary measures will be aimed toward assisting each student in the development of self-control, social responsibility, and the acceptance of appropriate consequences for his or her actions. The principal/director will utilize the progressive discipline procedures and options specified in the WWJDC' Student Behavior Handbook.

WWJDC School Governing Board shall establish student discipline policies and shall file them with the department.  The Governing Board shall involve parents, school personnel and students in the development of these policies, and public hearings shall be held during the formulation of these policies. (HB-43 Black Education Act)

Parental involvement in matters of school discipline is encouraged. Parents will be advised of disciplinary measures taken in order to elicit their understanding and support. A record of disciplinary actions taken by the principal/director will be kept at the school.

WWJDC School discipline policy shall establish rules of conduct governing areas of student and school activity, detail specific prohibited acts and activities and enumerate possible disciplinary sanctions, which sanctions may include in-school suspension, school service, suspension, or expulsion.  Corporal punishment is prohibited. (HB-43 Black Education Act)

Corporal punishment, which is defined as any disciplinary action taken by school personnel with the intention of producing physical pain, will not be used as a disciplinary measure in WWJDC.

WWJDC School Personnel shall successfully complete an online or in-person antiracism, racial awareness and sensitivity training or professional development approved by the Governing Board that addresses race, racism and racialized aggression and demonstrates how to create and foster an equitable and culturally responsive learning environment for racial minority students. (HB-43 Black Education Act)

WWJDC School discipline policy prohibits racialized aggression involving student or school personnel.  To report racially charged incidents or racialized aggression please contact the statewide hotline by calling or texting 1-800-717-4238, [completing a form online](https://docs.google.com/forms/d/e/1FAIpQLSfgmSj-MrOsVvodBQ_HlhZDRYAsqNPN9W9GyKcrm-DA6d-0eg/viewform), or by email at hotline.bea@gmail.com. (HB-43 Black Education Act)

No WWJDC School employee who in good faith reports any known or suspected violation of the school discipline policy or in good faith attempts to enforce the policy shall be held liable for any civil damages as a result of such report or of the employee's efforts to enforce any part of the policy. (HB-43 Black Education Act)

WWJDC School discipline policy shall allow students to carry and self-administer asthma medication and emergency anaphylaxis medication that has been legally prescribed to the student by a licensed health care provider under the following conditions:

(1) the health care provider has instructed the student in the correct and responsible use of the medication.

(2) the student has demonstrated to the health care provider and the school nurse or other school official the skill level necessary to use the medication and any device that is necessary to administer the medication as prescribed.

(3) the health care provider formulates a written treatment plan for managing asthma or anaphylaxis episodes of the student and for medication use by the student during school hours or school-sponsored activities, including transit to or from school or school-sponsored activities.

(4) the student's parent has completed and submitted to the school any written documentation required by the school or the school district, including the treatment plan required in Paragraph (3) of this subsection and other documents related to liability. (HB-43 Black Education Act)

The parent of a student who is allowed to carry and self-administer asthma medication and emergency anaphylaxis medication may provide the school with backup medication that shall be kept in a location to which the student has immediate access in the event of an asthma or anaphylaxis emergency. (HB-43 Black Education Act)

Authorized WWJDC School personnel who in good faith provide a person with backup medication as provided in this section shall not be held liable for civil damages as a result of providing the medication. (HB-43 Black Education Act)

**Student Discipline Procedures**

**Student Interrogations**

School authorities have a responsibility to cooperate with law enforcement agencies and/or child abuse investigators who are seeking to interview students at the school site. Individual students should not be interrogated on campus without the knowledge of the principal/director.

There is no requirement to notify the parents of the student prior to the questioning if their suspected child abuse; however, school authorities must immediately make a good faith effort to notify the parents or legal guardians of a student if the student has been removed from campus by law enforcement authorities.

If a commissioned law enforcement officer must place a student under arrest, the parents or legal guardians of the student should be notified immediately and have the opportunity to meet the student at the school. The student must be made aware of his/her legal rights by the law enforcement before the student may be removed from the campus for either further questioning or to be held at a detention facility.

In either case, WWJDC will seek to address the situation by seeking positive support for the student and family. This would be accomplished by connecting the student and family to appropriate supports and services that have the potential to mitigate the barriers that the student and family have that led to law enforcement involvement.

**Student Dress**

The Governing Council expects student dress and grooming to reflect high standards of personal conduct so that each student's attire promotes a positive, safe, and healthy atmosphere within the school. Student dress may not present a health or safety hazard, violate municipal or state law or present a potential for disruption to the instructional program. Attire or accessories which advertise, display, or promote any drug, including alcohol or tobacco, sexual activity, violence, disrespect, racism and/or bigotry towards any group are not acceptable.

Unacceptable clothing and accessories include, but are not limited to, gang-related attire, excessively tight or revealing clothes, short shorts, and bare midriff, low-cut and/or off the shoulder blouses, spiked jewelry, chains, and belts with more than 2 inches excess. "Sagging", or the wearing of pants below the waist and/or in a manner that allows underwear or bare skin to show, and "bagging", or the wearing of excessively baggy pants with low hanging crotches are prohibited. Students shall be allowed to wear traditional hairstyles and religious head coverings. As a matter of common courtesy and respect, hats/caps are not to be worn while inside buildings except when related to specific instructional, safety, religious or medical reasons (see “Hats and Caps” section below)

WWJDC may customize its individual dress codes to address the needs and standards of their communities and neighborhoods through use of a process which ensures input from students, parents, faculty, and staff of the school and other interested community members. Students and their parents/guardians have the responsibility to be aware of the school specific dress codes and to conform to those requirements. The responsibility to interpret and enforce the policy rests with the principal/director of WWJDC.

This policy should be reviewed periodically with parents, teachers, and student group representatives to enlist their support and encourage pride and good taste.

**Student Dress: Hats and Caps**

The Governing Council expects student dress and grooming to reflect high standards of personal conduct so that each student's attire promotes a positive, safe, and healthy atmosphere within the school. With increasing awareness of the prolonged health concerns of prolonged or excessive exposure to direct ultraviolet radiation of sunlight, students are encouraged to wear hats and caps while participating in activities out of doors. Outdoor activities include recess, athletic and sports activities, music rehearsals, and other extracurricular activities.

As with all student dress, the wearing of hats or caps may not present a health or safety hazard, violate municipal or state law or present a potential for disruption to the instructional program. Hats and caps will not advertise, display, or promote any drug, including alcohol or tobacco, sexual activity, violence, disrespect, racism and/or bigotry towards any group. Hats and caps that are deemed gang-related attire are prohibited. As a matter of common courtesy and respect, hats/caps are not to be worn while inside buildings except when related to specific instructional, safety, religious or medical reasons.

**Student Smoking and/or Tobacco Use**

The use of tobacco or tobacco products on WWJDC property is prohibited for students, faculty, and staff.

**Long-Term Suspension of Student**

All efforts will be made to prevent long-term suspensions by doing whatever it takes to address the barriers that our students may face. The school will leverage internal, and community supports to work collaboratively with students and families to avoid long-term suspension whenever possible. However, WWJDC will maintain a long-term suspension of student policy in the unlikelihood that there is no alternative.

All students have due process procedures available to them under the Governing Council's Student and Family Handbook. Any student for whom WWJDC is requesting long-term suspension has the right to a suspension hearing held before a selected independent hearing officer, or other party determined to be suitable by both the school and the parent/guardian. Students or their parents may waive the right to a hearing by signing a waiver. WWJDC principal/director may not encourage the signing of waivers by saying or implying that hearing officers are likely to impose more severe discipline than the WWJDC Director.

A long-term suspension is defined as the removal of a student from school and all school- related activities for more than ten (10) days and up to the balance of the semester.

A student with an identified disability may not be suspended in excess of ten school days, cumulative, without an IEP review to determine whether the student's IEP is appropriate and whether the behavior(s) in question is a manifestation of the student's disability. (See “Discipline Procedures for Students with Disabilities”)

The burden of proving that the student violated a provision of the Student and Family Handbook to the degree a student must be suspended is the responsibility of school authorities.

**Procedure for Long-Term Suspension through the Hearing Process**

1. Parent and student must be advised of all the charges both orally and in writing a minimum of five (5) days prior to the scheduled hearing. The written notice should be on the form "Notice of Discipline and/or Anticipated Temporary or Long-Term Suspension".
2. Hearings will be scheduled through the Director. Hearings must be scheduled within ten (10) working days of the notice of discipline being sent to the parents.
3. If the hearing will require the services of an interpreter, including sign language, WWJDC will work with parents to arrange such services in a timely manner.
4. WWJDC must present copies of the following information to the hearing officer during the hearing.
* The copy of the "Notice of Discipline and/or Anticipated Long-Term Suspension."
* Report of current grades, current attendance, and class progress reports.
* Written witness reports, incident reports, and school police reports (if applicable).
* Current IEP Committee report for special education students, inclusive of IEP documents related to the requested action.
* Student Assistance Team review reports and/or 504 plan reviews, if applicable.
* Copies of all reports will become part of the official hearing record. Failure to provide these documents may result in student reinstatement.
* Hearings will be scheduled through the principal/director. Hearings must be scheduled within ten (10) working days of the notice of discipline being sent to the parents (documentation of this is required).
* Copy of arrangement notice that services of an interpreter will be required for the hearing.

**Procedures for Long-Term Suspension When Parents Waive the Right to Hearing**

1. The principal or designee must advise parents and student of the charges orally and in writing.
2. The WWJDC principal/director must advise parents of their right to a hearing. They must explain the hearing procedure and they may not state or imply that requesting a hearing will increase the likelihood of a more severe penalty.
3. The WWJDC principal/director must explain to the parents that the student will not be allowed to attend WWJDC and/or an APS' school while he/she is suspended.
4. The WWJDC principal/director must advise parents of students with an identified disability of the availability of alternative continuation services during the term of the suspension.
5. Parents must sign the request to waive the due process hearing.
6. The WWJDC principal/director must advise parents and the student regarding possible education alternatives during the term of the suspension.
7. The WWJDC principal/director must attach documentation of parent contacts and intervention to the copy of the "Notice of Discipline and/or Anticipated Long-Term Suspension" form.
8. WWJDC must maintain reports on all long-term suspensions on the discipline summary report each 20-day reporting period.

**Student Expulsion**

All efforts will be made to prevent expulsion by doing whatever it takes to address the barriers that our students may face. However, WWJDC will maintain an expulsion of student policy in the unlikelihood that there is no alternative.

An expulsion is a disciplinary exclusion (suspension) from WWJDC that is at least two semesters in length. It may be longer or even permanent.

Generally, WWJDC wishes to limit exclusion from school to no longer than the end of the current semester. In some cases, there is a need to implement an expulsion as an extreme last resort for disciplining students who exhibit unacceptable behaviors such as drug possession, drug sales, acts of extreme violence, vandalism, weapons possession, weapons use, and other felonies.

To recommend expulsion, WWJDC must follow the same due process procedures outlined for long-term suspension. In addition, the principal/director must be prepared to justify to the hearing officer the request for the most severe disciplinary action possible. The following special requirements will apply when the hearing officer elects to uphold the school's recommendation for expulsion.

1. Unlike long-term suspension actions, the due process hearing for an "expulsion" cannot be waived. Even if the student and parents do not appear, the school must present its case to the hearing officer.
2. The principal/director or designee will review for affirmation all cases in which the hearing officer decides upon expulsion prior to final imposition of the discipline.
3. Any student who has been expelled may petition for re-entry to WWJDC after one calendar year from the date of expulsion. Students desiring re-entry should submit a request in writing to the principal/director requesting a reconsideration hearing.

**Student Searches**

To ensure the safety of WWJDC staff and students, school personnel may conduct searches of students. Before any searches occur, the principal/director will make reasonable efforts to contact the parent and have them present before a search occurs. WWJDC acknowledges both state and federal constitutional rights which are applicable to personal searches of students, searches of their possessions (e.g., pocket contents, backpacks, handbags, etc.) and vehicle searches. WWJDC officials need only have individualized reasonable suspicion that a particular search will reveal evidence that a crime or breach of the disciplinary code is being committed by the student or that a safety or security issue may exist. Individualized reasonable suspicion is established when the observation of specific and describable behavior or information from a credible informant leads one to reasonably believe that a particular student is engaging in or has engaged in prohibited conduct. The reasonableness of the search will depend upon:

* The value and reliability of information used as justification for the search.
* The prevalence and seriousness of the problem to which the search is directed.
* The urgency requiring an immediate search.

Even if individualized reasonable suspicion exists, the scope of the search must be such that the measures used are reasonably related to the purpose of the search and not excessively intrusive.

**Types of Searches**

Physical Searches - Search of a student's person or property may be conducted only where there is individualized reasonable suspicion that the student being searched has committed a crime or a breach of the disciplinary code. Searches may be conducted by a certified school employee, school security officer, or campus security aide.

* Minimally Intrusive Searches - Searches such as emptying of pockets, searches of student backpacks and purses, removal of hats, socks and shoes may be conducted by any certified school employee, school security officer, campus security aide, or school bus driver.
* More Intrusive Searches - Searches such as pat downs and frisks may only be conducted by an authorized person of the same sex as the student being searched.
* Most Intrusive Searches - A strip search shall be conducted only upon individualized reasonable suspicion of a safety concern and shall be conducted by WWJDC administrator of the same sex as the student and in the presence of another authorized person of the same sex. Strip searches of students shall be conducted only in life-threatening situations or in situations that pose a possible danger to the school population. Administration should only conduct more intrusive or most intrusive searches when they have reason to believe that a student may be in possession of a firearm, a weapon, or a dangerous drug.

WWJDC Principal Designee who conducts a student strip search will report the search to the principal/director. Principal will, at least monthly, report the number of most intrusive searches to the Governing Council President.

Student desks, school lockers, storage spaces and school computers are not the private property of a student but the property of WWJDC and may be opened and subject to inspection without student consent.

**Discipline of Students with Disabilities**

The Manifestation Determination Review form is used for conducting a manifestation determination review before a disciplinary change of placement.

In the disciplinary context, the Functional Behavioral Assessment form is used to conduct a functional behavioral assessment (FBA) when the student’s misconduct is a manifestation of the child’s disability; or as appropriate, when the misconduct is not a manifestation of the child’s disability.

In the disciplinary context, the Behavior Intervention Plan form is used to develop a behavior intervention plan (BIP) when the student’s misconduct is a manifestation of the child’s disability; or if appropriate, when the misconduct is not a manifestation of the child’s disability.

**Authority of District/Charter School Personnel**

(See 34 CFR §300.530)

**Case-by-Case Determination**

District/Charter School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change of placement, made in accordance with the following requirements related to discipline, is appropriate for a child with a disability who violates a school code of student conduct.

**General Discipline**

To the extent that they also take such action for children without disabilities, district personnel may, for not more than ten (10) school days in a row, remove a child with a disability who violates a code of student conduct from his/her current placement to an appropriate interim alternative educational setting, another setting, or suspension.

District personnel may also impose additional removals of the child of not more than ten (10) school days in a row in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change of placement. Please refer to the “Change of Placement Because of Disciplinary Removals” section of this procedural directive for more information.

Once a child with a disability has been removed from his/her current placement for a total of ten (10) school days in the same school year, WWJDC School shall, during any subsequent days of removal in that school year, provide services to the extent required below in this procedural directive.

**Additional Authority**

If the behavior that violated the student code of conduct was not a manifestation of the child’s disability and the disciplinary change of placement would exceed ten (10) school days in a row, district/charter school personnel may apply the disciplinary procedures to that child with a disability in the same manner and for the same duration as it would to children without disabilities, except that the school must provide services to that child as described in the “Services” section of this procedural directive. The child’s IEP Team shall determine the interim alternative educational setting for such services.

**Services**

When WWJDC School provides services to a child without a disability who has been removed from his/her current placement for ten (10) school days or less in that school year, WWJDC School also shall provide services to a child with a disability. These services may be provided in an interim alternative educational setting.

However, when WWJDC School does not provide services to a child without a disability who has been removed from his/her current placement for ten (10) school days or less in that school year, WWJDC School shall not be required to provide services to a child with a disability.

A child with a disability who is removed from the child’s current placement for more than ten (10) school days and the behavior is not a manifestation of the child’s disability or who is removed under special circumstances shall:

* Continue to receive educational services (FAPE), so as to enable the child to continue to participate in the general education curriculum, although in another setting (that may be an interim alternative educational setting), and to progress toward meeting the goals set out in the child’s IEP; and
* Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, which are designed to address the behavior violation so that it does not happen again.

Please refer to the “Manifestation Determination” and “Special Circumstances” section of this procedural directive for additional information.

After a child with a disability has been removed from his/her current placement for ten (10) school days in that same school year, and if the current removal is for ten (10) school days in a row or less and if the removal is not a change of placement, than school personnel, in consultation with at least one of the child’s teachers, shall determine the extent to which services are needed to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child’s IEP.

If the removal is a change of placement, the child’s IEP Team shall determine the appropriate services to enable the child to continue to participate in the general education curriculum, although in another setting (that may be an interim alternative educational setting), and to progress toward meeting the goals set out in the child’s IEP. Please refer to the “Change of Placement Because of Disciplinary Removals” section of this procedural directive for additional information.

**Manifestation Determination**

Within ten (10) school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct (except for a removal that is for ten (10) school days in a row or less and not a change of placement), WWJDC School, the parent, and other relevant

members of the IEP Team (as determined by the parent and district) shall review all relevant information in the student’s file, including the child’s IEP, any teacher observations, and any relevant information provided by the parent to determine:

* If the conduct in question was caused by, or had a direct and substantial relationship to, the child’s disability; or
* If the conduct in question was the direct result of the district’s failure to implement the child’s IEP.

If WWJDC School, the parent, and other relevant members of the child’s IEP Team determine that either of those conditions was met, the conduct shall be determined to be a manifestation of the child’s disability.

If WWJDC School, the parent, and other relevant members of the child’s IEP Team determine that the conduct in question was the direct result of the district’s failure to implement the IEP, WWJDC School shall take immediate action to remedy those deficiencies.

**Determination that Behavior was a Manifestation of the Child's Disability**

If WWJDC School, the parent, and other relevant members of the child’s IEP Team determine that the conduct in questions was a manifestation of the child’s disability, the IEP Team shall either:

* Conduct a functional behavioral assessment, unless WWJ Dorn Charter School had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or
* If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior.

Except as described below in the “Special Circumstances” section of this procedural directive, WWJDC School shall return the child to the placement from which the child was removed, unless the parent and WWJDC School agree to a change of placement as part of the modification of the behavioral intervention plan.

**Special Circumstances**

Whether or not the behavior was a manifestation of the child’s disability, district personnel may remove a student to an interim alternative educational setting (determined by the child’s IEP Team) for not more than forty-five (45) school days, if the child:

* Carries a weapon to school or has a weapon at school, on school premises, or at a school function under the jurisdiction of the New Mexico Public Education Department or WWJDC School.
* Knowingly has 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 New Mexico Public Education Department or WWJDC School; or
* Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the New Mexico Public Education Department or WWJDC School.

**Change of Placement Because of Disciplinary Removals**

A removal of a child with a disability from the child’s current educational placement is a change of placement if:

1. The removal is for more than 10 school days in a row: or
2. The child has been subjected to a series of removals that constitute a pattern because:
* The series of removals total more than 10 school days in a school year.
* The child’s behavior is substantially similar to the child’s behavior in previous incidents that resulted in the series of removals; and
* Of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another. (34 CFR §300.536)

Whether a pattern of removals constitutes a change of placement shall be determined on a case-by-case basis by WWJDC School and, if challenged, shall be subject to review through due process and judicial proceedings.

**Notification of a Change of Placement**

On the date WWJDC School makes the decision to make a removal that is a change of placement of a child because of a violation of a code of student conduct, WWJDC School shall notify the parent of that decision, and provide the parent with a procedural safeguards notice.

**Determination of Setting**

The IEP Team determines the interim alternative educational setting for removals that are changes of placement, and removals in the “Additional Authority” and “Special Circumstances” section of this procedural directive. (34 CFR § 300.531)

**Appeals of Discipline Decisions**

The parent may file a due process complaint to request a due process hearing if the parent disagrees

with:

* Any decision regarding an IEP placement made under these discipline provisions; or
* The manifestation determination described above.

WWJDC School may file a due process complaint to request a due process hearing if it believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

**Placement during Appeals**

When, as described above, the parent or the district files a due process complaint related to disciplinary matters, the child shall (unless the parent and WWJ Dorn Charter School agree otherwise) remain in the interim alternative educational setting pending the decision of the hearing officer, or until the expiration of the period of removal as provided for and described in “Authority of School Personnel” section of this procedural directive, whichever occurs first. (34 CFR §300.533)

**Protections for Children Not Yet Eligible for Special Education and Related Services**

If the child has not been determined eligible for special education and related services and violates a code of student conduct, but WWJDC School had knowledge (as determined below) before the behavior that brought about the disciplinary action occurred, that the child was a child with a disability, then the child may assert any of the protections described in this procedural directive. (34 CFR §300.534)

**Basis of Knowledge for Disciplinary Matters**

WWJDC School shall be deemed to have knowledge that the child is a child with a disability if, before the behavior that brought about the disciplinary action occurred:

* The parent expressed concern in writing to supervisory or administrative personnel of WWJDC School, or to the child’s teacher that the child is in need of special education and related services.
* The parent requested an evaluation related to eligibility for special education and related services under Part B of IDEA; or
* The child’s teacher or other WWJ Dorn Charter School personnel expressed specific concerns about a pattern of behavior demonstrated by the child directly to WWJ Dorn Charter School’s director of Special Education or to other supervisory personnel of WWJ Dorn Charter School.

**Exception**

WWJDC School shall not be deemed to have such knowledge if:

* The parent has not allowed an evaluation of the child or has refused special education services; or
* The child has been evaluated and determined to not be a child with a disability under Part B of IDEA.

**Conditions that apply if there is no Basis of Knowledge**

If prior to taking disciplinary measures against the child, WWJDC School does not have knowledge that the child is a child with a disability, as described in the “Basis of Knowledge for Disciplinary Matters” and “Exception” subsections of this procedural directive, the child may be subjected to the disciplinary measures that are applied to children without disabilities who engage in comparable behaviors.

However, if a request is made for an evaluation of the child during the period in which the child is subjected to disciplinary measures, the evaluation shall be conducted in an expedited manner.

Until the evaluation is completed, the child remains in the educational placement determined by school authorities, which may include suspension or expulsion without educational services.

If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by WWJDC School, and information provided by the parent, WWJDC School shall provide special education and related services in accordance with Part B of IDEA, including the disciplinary requirements described in this procedural directive.

**Referral to and Action by Law Enforcement and Judicial Authorities**

Part B of IDEA and this procedural directive shall not:

* Prohibit WWJ Dorn Charter School from reporting a crime committed by a child with a disability to appropriate authorities; or
* Prevent state and local law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a child with a disability. (34 CFR §300.535)

**Transmittal of Records**

If WWJ Dorn Charter School reports a crime committed by a child with a disability, WWJDC School shall seek consent from the parents to transmit copies of the child’s special education and disciplinary records.

If consent is granted, shall transmit copies of the child’s special education and disciplinary records for consideration by the authorities to whom the agency reports the crime.

**References**

Legal Cross Ref.:

For more information about the legal references below, refer to the following site:

• Code of Federal Regulations (CFR)External link

• 34 CFR § 300.531

• 34 CFR § 300.532

• 34 CFR §300.533

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