



**CONNECTICUT STATE DEPARTMENT OF
EDUCATION**

*Guidelines for In-School
and Out-of-School Suspensions*

October 1, 2008

Preface

This guidance document has been written to assist school districts in implementing Section 10-233c of the Connecticut General Statutes. The law will go into effect on July 1, 2009, however it requires that I issue guidelines by October 1, 2008, to aid districts in making the determination about whether suspensions should be in-school or out-of-school. By providing this information now, school boards and building administrators will have time to prepare for and adjust to the changes required by the law and to reassess the effectiveness of their current suspension policies.

Section 10-233c aims to lower the number of students who are suspended from school by setting new standards for sending students home for violating school or district rules. The law is not meant to take away a district's prerogative or need to remove students from school, but rather to urge administrators to think carefully about their decisions, and to find ways to keep students connected to school by placing them in programs designed to keep them learning, while still holding them accountable for improper behavior.

The vast majority of school administrators in Connecticut are already doing an excellent job in managing their districts' suspension policies, and many districts currently have quality in-school suspension programs. Section 10-233c strives to make these best practices universal in all of our schools. This guidance is meant to help all districts realize this goal.

The document is organized into three sections and five appendices.

Section 1 provides an overview of the law, its relationship to other state and federal laws, and an analysis of Connecticut's current data on suspensions.

Section 2 is meant for administrators who must actually carry out the law on a day-to-day basis. It provides legal considerations and tools for thinking through the complexities of suspension, and it offers norms and examples of how the law can be applied.

Section 3 offers suggestions to school boards as they plan for implementation of the new law. It provides a framework for boards to use when revising their current suspension policies, and guidance for their administrators to use in setting up in-school suspension programs that comply with the law.

Appendices A-E contain the following supplementary materials:

- A. a guide to use when making out-of-school suspension decisions;
- B. case examples (scenarios) applying the decision guide;
- C. data on the number of students by grade and subgroup who are suspended annually in Connecticut;
- D. a review of federal and state special education laws and procedural protections for students with disabilities; and
- E. recommendations for developing effective in-school suspension programs.

When reviewing these materials, please note that the Department will focus on them in the workshops and technical assistance seminars that will be offered to school districts between now and March 2009. During this period, additional comments will be considered. State Department of Education staff members will use these upcoming months to perfect and refine what is written here, and to draw upon the suggestions from educators and policy makers to ensure the guidance is clear and supportive.

Ultimately, the decisions about in-school and out-of-school suspensions depend on context and the circumstances surrounding each student's breach of the rules. There are, in short, no simple steps to follow when disciplining students, and there is nothing here that precludes districts from sending students home. Applied wisely and appropriately, out-of-school suspensions are an essential and necessary part of school management. What we are seeking here is balance, reflection and commitment to doing what is right for each student, keeping in mind that, in most instances, retaining students in school is the surest way to promote academic growth and personal development.

If this guidance document helps districts make good choices and encourages more students to come to school ready to learn, then it will have fulfilled its purpose.

Mark K. McQuillan
Commissioner of Education
October 1, 2008

Section 1 Overview and Data Findings

Public Act 07-66 amended Section 10-233c of the Connecticut General Statutes, which addresses the suspension of students, by adding the following provision effective July 1, 2008:

“Suspensions pursuant to this section shall be in-school suspensions, unless during the hearing held pursuant to subsection (a) of this section, the administration determines that the pupil being suspended poses such a danger to persons or property or such a disruption of the educational process that the pupil shall be excluded from school during the period of suspension.” In addition, the “in-school suspension” definition found in Section 10-233a(c) was amended to allow up to a 10-day exclusion from regular classroom activity.

The effective date of this statute was delayed until July 1, 2009, pursuant to Section 10-233c of the 2008 Supplement to the General Statutes, as amended by Public Act 08-160. Section 10-233c now provides that:

- Effective July 1, 2009, all suspensions from school shall be in-school suspensions unless the administration determines that the pupil being suspended poses such a danger to persons or property or such a serious disruption to the educational process that the suspension should be out-of-school.
- Effective July 1, 2009, an in-school suspension may be served in the school that the pupil attends or in any other school building under the jurisdiction of the local or regional board of education.
- The Commissioner of Education is required to issue guidelines on or before October 1, 2008, to aid local and regional boards of education in making the determination as to whether a suspension of a pupil shall be either an in-school or out-of-school suspension.

The primary goals of these guidelines are to:

1. Provide local and regional boards of education and school administrators with a decision-making process to assist in determining whether a student suspension should be served either in-school or out-of-school.
2. Encourage school administrators to examine state and local discipline data, analyze their current discipline patterns and to explore alternatives to out-of-school suspension, especially in the category of policy violations.
3. Assist school administrators in developing in-school suspension programs that reconnect students to the learning community and remediate behavioral concerns.

To meet these goals, this guidance is divided into three sections:

1. A brief overview of the legislative changes and analysis of current disciplinary data.
2. An analysis and discussion of the important factors to consider when determining in-school and out-of-school suspension.
3. Guidance to local and regional boards of education for reviewing and developing policy.

In addition, appendices are provided that include a sample decision guide and implementation scenarios to assist in the decision-making process, additional data illustrated in graph format,

recommendations for providing effective in-school suspension programs and additional information regarding the application of discipline for students with disabilities.

School Discipline Data

During the 2006-07 school year, 251,843 school days were lost to out-of-school suspensions. Moreover, Connecticut data show that students of color, males and students with disabilities are suspended at significantly higher rates than the general school population. When removed from school and left unsupervised, students lose valuable instructional time, resulting in lower academic achievement and an increased risk of dropping out.

Since the late 1990s, disciplinary offenses have been reported to the State Department of Education by school districts via the ED166 Disciplinary Offense Data Collection System. Data collection requirements have remained consistent in 2005-06, 2006-07 and 2007-08. It is important to note when interpreting the data, that each school district collects its own data and that it is unaudited.

An analysis of the 2006-07 discipline data provides answers to four important questions:

1. Who were the students receiving discipline sanctions, and can we predict which students are more likely to be disciplined?
2. What disciplinary infractions occurred most often, and were there patterns in terms of in-school and out-of-school suspensions based on the infractions?
3. What trends can be identified between the 2005-06 and the 2006-07 school years in terms of the volume of incidents and incident types?
4. What patterns or trends can be identified at the District Reference Group (DRG) or district level?

Students Receiving Discipline Sanctions

An analysis of discipline rates based on the latest data available (2006-07) shows that males are significantly more likely to be disciplined than females (43,172 male students received at least one sanction, compared to 21,265 females). Males received sanctions at more than twice the rate of females. Special education students were also disciplined at significantly higher rates than the special education prevalence rate. A total of 12,650 students with disabilities received at least one sanction, which equates to 19.6 percent of the total number of students receiving sanctions statewide, compared with the special education prevalence rate, which is 11.5 percent of the total.

Another variable showing significant disproportionality in the suspension rate is race/ethnicity. While black students make up 14.1 percent of the total school population, 30.6 percent of the total number of students receiving at least one discipline sanction in the 2006-07 school year were identified as black. In addition, 41.3 percent of the total number of students receiving at least one sanction were identified as white, as compared with their prevalence rate of 65.3 percent. Hispanic students made up 26.3 percent of the total count of students receiving at least one sanction, compared with their statewide prevalence rate of 16.5 percent. The remaining racial/ethnic groups, Asian American and Native American, made up less than 5 percent of the student population when combined, and 1.7 percent of this group received at least one discipline sanction.

Two additional variables provide important information about which students are more likely to receive a reported discipline event: grade level and score on the state assessment of student achievement. Data from every year beginning in 2003-04 show a steady increase in number of

incidents by school year from prekindergarten through fifth grade, then a sharper incline culminating in a peak in ninth grade. Discipline incidents begin to decrease in Grades 10 through 12, as shown in Graph 1, provided in Appendix C.

Academic achievement is also correlated with discipline rates. Generally, higher scores on the subtests of the Connecticut Mastery Test (CMT) and the Connecticut Academic Proficiency Test (CAPT) are associated with lower rates of discipline. Conversely, lower achievement scores are correlated with higher rates of discipline, as shown in Graph 2, provided in Appendix C.

Patterns in Disciplinary Infractions

Disciplinary infractions are organized by the Disciplinary Offense Data Collection System into 10 behavior categories: violent crimes against people; sexually related behavior; damage to property; weapons; theft; drugs; personally threatening behavior; physical or verbal confrontation; fighting/battery; and school policy violations. School policy violations comprise the majority of all incidents reported and typically include behaviors such as insubordination, disrespect, classroom disruptions, academic violations, threats, attendance, trespassing and violations of school policies or rules. A list of incidents and the resulting sanction [in-school suspension (ISS), out-of-school suspension (OSS), other sanction or expelled], reported by behavior categories, is provided below.

Behavior Category	Examples	2006-07 Incidents	ISS	OSS	Other Sanction	Expelled
Violent crimes	stabblings, poisoning, bomb threats	448	124	272	12	40
Sexual behavior	sexual contact, rape, indecent behavior	1,235	336	813	67	19
Property damage	painting, defacing property, fire	1,860	462	1,146	213	39
Weapons	sharp objects, firearms, explosives	1,964	222	1,303	37	402
Theft	breaking and entering, theft	2,267	641	1,496	83	47
Drugs	drugs, alcohol, tobacco	4,115	975	2,507	297	336
Threatening	hazing, intimidating, threats	8,249	2,110	5,304	736	99
Confrontation	confrontation without injury	14,587	4,134	8,799	1,578	76
Fighting/battery	confrontation with injury	16,212	2,944	12,244	811	213
Policy violations	attendance, disrespect, disruption	126,423	56,086	52,135	18,113	89

Overall, during the 2006-07 school year 177,360 incidents were reported in the 10 behavior categories. Types of sanctions reported for these incidents include expulsion; out-of-school suspension, in-school suspension; bus suspension; counseling/community service/out-placement; academic/conference/detention/no sanction; and “missing/other.” For all incidents reported, out-of-school suspension was implemented in 48.5 percent of the cases, and in-school suspension

was implemented in 38.4 percent. The remaining two discipline sanctions added together accounted for 13.1 percent of all discipline sanctions reported. Generally, the ratio of out-of-school vs. in-school suspensions was higher for more serious categories and lower for lesser infractions. For example, in the category “violent crimes against persons,” students received an out-of-school suspension 60.7 percent of the time and in-school suspension 27.7 percent of the time (expulsions occurred in 8.9 percent of the cases). In the category “fighting/battery,” out-of-school suspensions were implemented in 75.5 percent of the incidents, in-school suspensions accounted for 18.2 percent, and expulsions occurred in 1.3 percent of the cases.

The largest discipline behavior category, “school policy violations,” shows a markedly different pattern. Out-of-school and in-school suspensions are split almost evenly (41.2 percent vs. 44.4 percent), and all other sanctions account for less than 1 percent each, with the exception of “academic/conference/detention/no sanction,” which comprises 13.6 percent. The most frequent policy violation incidents resulting in out-of-school suspension were, in rank order: insubordination/disrespect; disorderly conduct; skipping class; obscene language/profanity; and failure to attend detention/in-school suspension. Most of the incidents in the school policy violation category will not meet the criteria for implementing an out-of-school suspension as defined in the amended CGS Section 10-233c. A sample “Out-of-School Suspension Decision Guide” is provided in Appendix A of this document to guide school administrators through a decision-making process that considers the relevant criteria.

Trends in Incident Categories

Because of changes in the data collection system, meaningful longitudinal comparisons of incident categories can be made only between the 2005-06 and the 2006-07 school years. The number of reported incidents increased by more than 24,000 incidents during this time, an increase of approximately 15.9 percentage points. The incident rate for most behavior categories, including 2005-06 property damage, theft, drugs and alcohol, sexual behavior, threatening, fighting/battery and weapons, remained fairly consistent during the two year period. The behavior category “violent crimes against people” showed the most troubling increase in the number of incidents (65.9 percent more reported incidents). The category “physical or verbal confrontation,” which includes altercations without injury, showed an increase of 47.0 percent. Finally, “school policy violations” showed an increase of 18.4 percent.

Patterns in District Reference Groups

As noted above, in-school and out-of-school suspensions are the discipline sanctions most reported by schools and in fact, they are used in 87 percent of all cases requiring a discipline report. However, school districts vary widely in their use of suspensions, from districts reporting no use of either in-school or out-of-school suspensions to several districts reporting out-of-school suspension rates in excess of 50 incidents per 100 students. Variations were also noted on the DRG level. In the 2006-07 school year, 19 districts reported out-of-school suspension rates in excess of 25 incidents per 100 students. Of these, nine were classified as charter schools or connected with regional educational service centers (RESC schools). The remaining 10 districts were predominately large urban districts (six in DRG I and two in DRG H), with one district in DRG E and one district in DRG F. In contrast, approximately one half of districts reported out-of-school suspension rates of less than 5 incidents per 100 students.

School districts are encouraged to view state and local discipline data at <http://www.csde.state.ct.us/public/cedar/cedar/discipline/index.htm> to identify trends in their use of in-school and out-of-school suspension.

Section 2

Determining In-School or Out-of-School Suspension

In accordance with Section 10-233c of the Connecticut General Statutes, the conduct of a pupil that leads to suspension by the school administration is due to the following:

- violation of a publicized policy; or
- serious disruption of the educational process; or
- endangerment to persons or property.

When the conduct of the pupil occurs on school grounds or at a school-sponsored activity, then one or more of the above elements must be established for disciplinary action.

If the conduct occurs off school grounds, then both of the following elements are necessary to lead to disciplinary action:

- violation of a publicized policy; and
- serious disruption of the educational process.

Similarly, if the conduct of the pupil occurs while the pupil is awaiting or receiving transportation to and from school, the following elements are required:

- violation of publicized policy; or
- endangerment to persons or property.

Highlights of Amendments to the Laws

Public Act 08-160 amended Section 10-233c of the 2008 Supplement to the General Statutes to provide the following:

- On or after July 1, 2009, suspensions shall be in-school suspensions unless during the hearing the school administrator determines that the pupil being suspended poses such a danger to persons or property or such a disruption of the educational process that the suspensions should be out-of-school.
- On or after July 1, 2009, an in-school suspension may be served in the school that the pupil attends or in any other school building under the jurisdiction of the local or regional board of education.
- On or before October 1, 2008, the Commissioner of Education is required to issue guidelines to aid local and regional boards of education in making the determination as to whether a suspension of a pupil shall be either an in-school or out-of-school suspension.

The provisions of the law now require the school administrator to determine whether the pupil subject to disciplinary action may be maintained in the public school environment in a manner that is safe for all persons or property or whether the pupil's conduct is so disruptive that the orderly provision of educational services may not be maintained. The discretion given to school administrators must be exercised keenly. The school administrator will have the authority to exercise that discretion in a reasonable manner after considering a number of factors that shall be delineated later in these guidelines.

Violation of a Publicized Policy

Effective July 1, 2009, the determination of a violation of a publicized policy exclusively without an additional determination of either serious disruption or endangerment requires the implementation of an in-school suspension. It is conceivable that many publicized policies will list prohibited conduct in a manner that commingles dangerous and disruptive acts. For example, possession, use or distribution of drugs, alcohol or tobacco; or fighting/altercation may be listed as a violation of policy. In the case of fighting/altercation, the conduct may be determined to be a policy violation when no injuries are sustained by either pupil or it may be determined to be dangerous conduct if a pupil sustains bodily injury.

In conclusion, an in-school suspension must be given when the school administration weighs the evidence of prohibited conduct determining that the elements of serious disruption or endangerment are lacking. However, if the elements pose such a serious disruption or such a danger after weighing the conduct, then an out-of-school suspension may be appropriate.

Serious Disruption of the Educational Process

A serious disruption occurring on school grounds or at a school-sponsored activity could be any activity that causes a serious disorder, confusion, interruption or impediment to the operation of a class, study hall, library, assembly, program or other gathering involving pupils or staff. For example, a serious disruption may be determined when a pupil is removed from class for insubordination/disrespect and then refuses to attend the in-school suspension program when so placed.

Separate disruptive acts by a pupil may not be serious in nature. However, recurring or cumulative disruptive acts by the same pupil may rise to the level of requiring the application of additional weight. After deliberation, a determination of a serious disruption by the administration may be found. The following factors should be considered when applying additional weight:

- frequency of the same offense;
- number of different offenses; and
- intensity of any or all offenses.

Recurring or cumulative disruptive acts may be considered to be such a serious disruption after in-school suspensions have been applied and other appropriate documented interventions by staff have been unsuccessful. In such cases, an out-of-school suspension is necessary. It is expected that this application would be used sparingly.

For conduct that occurs off school grounds, Section 10-233c(a) states that when making a determination as to whether conduct is seriously disruptive, the administration may consider, but such consideration shall not be limited to, the following:

- whether the incident occurred within close proximity of a school;
- whether other students were involved or whether there was any gang involvement;
- whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in Section 29-35 and whether any injuries occurred; and
- whether the conduct involved the use of alcohol.

Finally, the administration must determine that the conduct has some tangible nexus to the operation of the school.

Endangerment to Persons or Property

A definition or description of endangerment on school grounds or at a school – sponsored activity could address any activity that exposes a pupil or property to damage or injury, peril, risk, hazard or any harmful situation.

Certain prohibited conduct described in the discipline policy could present such a danger that out-of-school suspension would be warranted. For example, fighting resulting in serious injuries, possession of weapons or controlled substances, sexual harassment, bullying or damage to personal property could be considered endangering activities. As the law allows conduct, off school grounds that endangers persons or property may be considered a disruption to the educational process provided the school administration determines that the conduct has some tangible nexus to the operation of the school.

First-Time Suspension

Public Act 07-122 amended Section 10-233c to permit the school administration to shorten or waive the suspension period of a pupil who is suspended for the first time and who never has been expelled pursuant to Section 10-233d. The shortening of the length or waiver of the suspension program depends on the pupil's successful completion of an administration-specified program and meeting any other conditions required by the administration. By law, the parents or guardians of the pupil shall not be required to pay for participation in any administration-specified program.

Reassignment of a Pupil Pursuant to Section 10-233f(b)

An alternative to choosing suspension is the reassignment of a pupil. Pursuant to Section 10-233f(b), the local or regional board of education may reassign a pupil to a regular classroom program in a different school in the district. Under this provision of law, the reassignment shall not constitute a suspension pursuant to Section 10-233c. Obviously, such a pupil may be eligible to receive transportation services under the transportation policy.

In-School Suspension Law and Impact on Children with Disabilities

The change in the in-school suspension law will require districts to pay particular attention to the settings utilized and services provided to children with disabilities during in-school suspension. The Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act (Section 504) each contain a set of procedural protections to be applied when children with disabilities are subject to school disciplinary activity. Districts should review what is currently required under both IDEA and Section 504 when discipline becomes an issue for a child with a disability. These provisions can be found in the IDEA regulations at 34 CFR Sections 300.530 to 300.537, inclusive, and in the Section 504 regulations at 34 CFR Sections 104.33 and 104.35. Additional information regarding the suspension of students with disabilities is provided in Appendix D.

Special Note

Connecticut State Regulations, Section 10-76d-7(c), requires each school district to promptly refer to the Planning and Placement Team (PPT) all children who have been suspended repeatedly or whose behavior, attendance or progress in school is considered unsatisfactory or at a marginal level of acceptance. For children who experience multiple in-school suspensions, a referral must be made to the PPT to consider whether evaluations should be conducted to determine the child's eligibility for special education.

Weighing the Evidence: A Look at Mitigating Factors

Decisions regarding the proper application of discipline are complex and must take into account both the context in which the problematic behavior occurs, and the many individual, social and environmental factors that may play a role when determining a course of action. In all cases, administrators should be mindful of why keeping a student in school is so important.

Below are factors that should routinely be incorporated into decisions about out-of-school suspension:

- age, grade level and developmental stage of the student;
- severity of the infraction or disruption, the student's disciplinary history and any patterns or identified behavioral antecedents;
- student's intent and expressed reasons for engaging in the problem behavior;
- special learning, behavioral or emotional needs of the student and whether these needs have been addressed through referral to a Child Study Team Planning and Placement Team or other appropriate group;
- student's prior response to disciplinary interventions;
- student's academic progress and relative risk of lost instruction, disengagement from school and dropping out;
- degree of involvement and the level of parent support in efforts to improve the student's behavior in school; and
- interpretation of culture and communication factors.

Each of the factors above has been incorporated into the "Out-of-School Suspension Decision Guide" provided in Appendix A. This guide is not a rubric, but rather a decision-making tool to be used when considering whether an out-of-school suspension is warranted. While each of the factors should be considered when making the decision, in some cases only one or two factors will be important enough to influence the outcome.

For example, the age, grade level and developmental stage of the student may be an important mitigating factor in cases involving very young students who may not have the developmental maturity to be effective social problem solvers. In other cases, culture and communication factors must be considered when interpreting behavior, especially in cases involving complex and ambiguous social situations that can be interpreted differently depending upon one's own racial, ethnic, language and cultural identity. In still other instances, related factors such as a history of collaborative partnerships with parents, prior attempts to decrease inappropriate or dangerous behaviors and any special learning, emotional and behavioral needs must also be considered.

Removing a student from school, in most cases, has a genuinely negative effect on school engagement. Removal encourages alienation from the school community and sends the message, especially to struggling students, that they are not valued. In contrast, effective in-school suspension programs emphasize academic progress, student re-engagement and the development of effective social problem-solving skills. Both Connecticut and national data give ample evidence that students who struggle academically are those who are most frequently placed out of school.

Section 3

Review of Disciplinary Policy by Local and Regional Boards of Education

The new provisions of the law have created both opportunities and challenges for Connecticut school boards. The amended statute requires that boards of education review and develop disciplinary policies that address such questions as these:

1. Is in-school suspension addressed as a component of the district's discipline policy?
2. Does the discipline policy meet the test of student behavior as posing "such a danger to persons or property or such a disruption of the educational process" that out-of-school suspension is warranted?

The goal of the amendments to the law is to keep as many students as possible in school and in a positive learning environment. The challenge to boards of education is to maintain policies consistent with the law that serve to use out-of-school suspension as sparingly as possible as part of the discipline process while maintaining a positive learning environment for all students.

Settings for In-School Suspension

It is hoped that the new requirement will result in the maintenance of an environment where student learning is effective. Thus, the board of education may address the district policy to consider the following:

- staffing of the in-school suspension setting, including academic credentials and qualifications of instructional and administrative personnel;
- grouping of students by grade level and academic needs;
- physical location of the in-school suspension setting;
- instructional content and assignment of classroom work; and
- teaching social skills, positive behavior and improved decision making.

The statute does not address the qualification levels required in what could be considered an instructional environment. The balance between qualified instructional staff, especially in the higher grades, and the need to maintain order through the utilization of paraprofessionals or other personnel should be considered. The statute permits usage of other school buildings under the jurisdiction of the local or regional board of education, but this raises a number of considerations for boards, including staff communication and student transportation.

Disruption of the Educational Process

A "disruption of the educational process" sufficient to warrant out-of-school suspension should be considered within the context of the student behavior resulting in serious disorder, confusion, interruption or impediment to the operation of a class, study hall, library, assembly, program or other gathering involving pupils or staff and:

1. Individual student factors: Will the student's educational process be positively served by in-school suspension or would another disciplinary measure within the scope of district policy be more appropriate?
2. Impact on other students: What is the impact on other students in the regular program or in the in-school suspension classroom?
3. Teacher and building administration: Will the disciplined student's presence in the in-school suspension program be consistent with the maintenance of appropriate

- levels of discipline in the school and maintenance of a positive learning environment for all students?
4. Involvement of parents or guardians: Can parents or guardians be actively involved in maintaining a safe and positive learning environment for all students?
 5. Matching the discipline sanction with the infraction: Is the sanction imposed appropriate for the violation, and is it calculated to reduce repetition of the same behavior?

These and other questions should help guide the revision and development of current and new board policies.

Appendix A

Out-of-School Suspension Decision Guide [SAMPLE]

Directions: Please use this reference guide to inform the decision for an out-of-school suspension. The student must meet either *Criterion 1* or *Criterion 2* in order to apply out-of-school suspension. Examine the list of mitigating factors that are applicable to each criteria, because they may have a role in determining a course of action.

CRITERION 1 – Endangerment to Persons/Property

Student poses such a danger to persons or property that exposes a pupil or property to damage or injury, peril, risk, hazard or any harmful situation, (e.g., violent crimes, weapons possession and drug distribution) that out-of-school suspension is warranted.

CRITERION 2 – Serious Disruption

Student poses such a serious disruption to the educational process that causes a serious disorder, confusion, interruption or impediment to the operation of a class, study hall, library, assembly, program or other gathering involving pupils or staff members that out-of-school suspension is warranted.

Questions to consider:

1. Does the behavior markedly interrupt or severely impede the day-to-day operation of a school?
2. Is there a pattern of frequent or recurring incidents versus a single incident?

Mitigating Factors to Weigh in the Determination

1. Intensity of any or all offenses
2. Age, grade level and developmental stage of the student
3. Learning/behavioral support provided to the student (e.g., through special education, Section 504, etc.)
4. Student's discipline history and likelihood of repetition
5. Student's intent and expressed reasons for the behavior
6. Student's academic progress and relative risk of lost instruction
7. Interpretation of culture and communication factors
8. History of school and family collaboration in supporting positive behaviors

Note: For conduct that occurs off school grounds, also review questions on page 8 of the Guidance document.

Appendix B

Implementation of Guidance: Scenarios

To assist the reader with implementing the new legislation pertaining to in-school suspensions, the following case examples are provided to illustrate some of the considerations in making the determination between out-of-school and in-school suspensions. While these examples are not exhaustive, they are intended to identify some of the common elements emerging in more difficult and/or complex cases that schools may confront.

Disorderly Conduct

Scenario:

Martin is an African-American student receiving special education services due to delays in emotional development with an Individualized Education Program (IEP) for full inclusion in ninth grade. While working on a project at his desk, he is talking loudly to himself. After several prompts, the teacher comes over and stands next to Martin's desk and tells him to stop. He forcefully pushes away from his desk and says in a loud voice, "Get away from me." To lessen any further provocation, the teacher then leans in closely to whisper, "You need to be quiet, you're disturbing others." He pushes further away and rises to his feet, shouting, "I already said 'Leave me alone!'" The teacher tries to guide Martin to the back of the room with her body, not making contact at any time. Martin pushes past her saying, "I have to get my pencil," bumping her aside with his body as he passes. At this very moment, the principal was looking in because of the noise and immediately intervenes. The teacher is asked to meet with the principal to discuss the suspension of Martin. The teacher describes the circumstances and points out that Martin does have some issues with impulsivity and was actually trying to retrieve his pencil from his desk so that he could be moved to the back of the room.

Summary of rationale:

Due to mitigating factors, an out-of-school suspension was ruled out. The focal behavior of physical contact was of low intensity and lacking intent to cause injury. Therefore, it was determined that this does not constitute cause for an out-of-school suspension. The ability to consider and modulate his behavior is a component of his special education status. After discussing the incident fully, the teacher and administrator agree that a one-day in-school suspension is necessary to reinforce with Martin the importance of observing school policy and classroom rules – most particularly those pertaining to physical contact. It is necessary to use the intervention of one-day assignment to in-school suspension so as to reinforce the learning around issues of safety. There were no cultural factors contributing to the incident or the response. While Martin has some history of speaking aloud to himself in class, this is the first time his behavior became problematic in the classroom setting. There have been no prior incidents of this type. While talking aloud does have a repetitive nature, this is not the focal aspect of the incident and is a manifestation of his special education disability. It is the potentially dangerous circumstances of his subsequent behavior that raise the need for appropriate consequences to limit future occurrences. The family has been responsive in the past and has been informed of the issue and the resultant suspension. The teacher will ensure that all of his usual special education supports are available to him during the day of suspension. Martin will be given time during the in-school suspension to meet with the school social worker to develop strategies for reducing self-talk in classroom settings.

FINAL DETERMINATION: In-School Suspension

Insubordination and Disrespect

Scenario:

Germaine is a male student who is of African-American, Latino and Caucasian descent. He is presently attending a high school in an urban district with a predominately African-American population. Germaine has always excelled in literature and devours the classics. About four weeks ago, while attending his Shakespearian literature class Ms. Levin, Germaine's teacher, began reciting a passage from *A Midsummer Night's Dream*. When she asked if anyone might finish the verse Germaine does so without hesitation, much to the chagrin of his classmates. Confronted with a barrage of disparaging remarks, it took some effort before Ms. Levin could quiet the class down; but, not before a final comment was made accusing Germaine of trying to act "white." During the past weeks, Germaine has presented with a sullen, disinterested and at times angry demeanor. Not only does he not offer responses to Ms. Levin's questions, he also refuses to respond when directly questioned. When pressed for a response on two occasions, Germaine shoved his books onto the floor and punched his desk in protest. Such incidents have caused Germaine to be perceived by his teacher as an overly sensitive, insolent and angry student. Over time, his outbursts have continued to escalate, exciting his classmates and causing severe disruption in the classroom. Ms. Levin has become deeply concerned and equally frustrated over these turns of events. Today, there were more of the same behaviors. The difficulty experienced in effectively addressing these behaviors in the classroom environment has led her to recommend out-of-school suspension for Germaine.

Summary of rationale:

Ms. Levin has suggested that Germaine receive an out-of-school suspension until he learns to behave appropriately. Although Ms. Levin understands that Germaine is experiencing "peer pressure" it has been determined that she is not fully aware of the gravity of the final accusation hurled at him; a statement that is tantamount to charging Germaine with "selling out" his own race (or ethnic identity). Upon initial review, Germaine's behavior appears to warrant out-of-school placement. However, there are several mitigating factors to be considered. Although Germaine has engaged in behavior that might result in damage to property or endangerment to persons, the intensity exerted during these acts did not cause actual damage to persons or property. Therefore, it appears unlikely that future acts would result in such damage. Instead, Germaine's behavioral outbursts appear to be in response to frustration rather than intent to expose persons or property to danger. Another mitigating factor is Germaine's "relative risk of lost instruction." Considering that he has begun to disengage from classroom activities, it is expected that such behavior will compromise his academic performance. Therefore, placement in out-of-school suspension would be the antithesis of effective use of behavioral interventions. Finally, of key importance in this situation are important cultural and developmental factors that must be considered prior to making a final determination. Racial identity development in students of color often involves a desire to maintain a sense of group or collective identity and a common racial heritage. Accusations that discredit this association are particularly problematic and may result in extreme responses. Such culturally relevant information regarding racial identity development must be used to inform the decision-making process, as some might argue that Germaine's response is in line with developmental theory regarding racial identity development in youth who are members of underrepresented groups. Out-of-school suspension would fail to address the root causes of Germaine's response and may prove to exacerbate the situation. As Germaine has not previously received any supportive strategies, nor does he have a history (prior to these incidents) of seriously disruptive behavior, in-school suspension with behavioral supports would be the most effective intervention. The school also should convene

its Behavioral Support Team and extend an invitation to Germaine’s parents to collaborate with this committee. This gesture would not only support the school’s endeavor to include parent’s in the decision-making process, but would also complement his parent’s expression of interest in Germaine’s progress during a “meet-and-greet day” at his school. The team will design a plan to increase Germaine’s participation in class activities and to address issues impacting his racial identity development to the extent that such concerns impact his academic performance. Finally, in support of the school’s desire to ensure student and staff exposure to a culturally rich and engaging school environment, training opportunities and activities of cultural relevance should be provided throughout the school year.

FINAL DETERMINATION: In-School Suspension

Obscene Language

Scenario:

Jane is a ninth grade Caucasian student who often swears at her classmates during lessons for no apparent reason. Jane's classmates say that she is "unbalanced" and attempt to avoid speaking to her. However, Jane continues to engage in this behavior, which frequently results in major classroom disruptions. Jane refuses to comply with her teacher's requests to discontinue this behavior and to leave the classroom. Instead, she begins to direct her swearing directly toward the teacher. Jane has received in-school suspension for this behavior on three occasions. However, during these placements she engages in many of the same behaviors. Attempts by the in-school suspension coordinator to address this behavior have been unsuccessful. Jane's behavior has escalated to the point that she is now verbally threatening bodily harm to the coordinator and her peers in the in-school suspension room. It has become apparent that Jane's behavior cannot be adequately managed in the in-school suspension room.

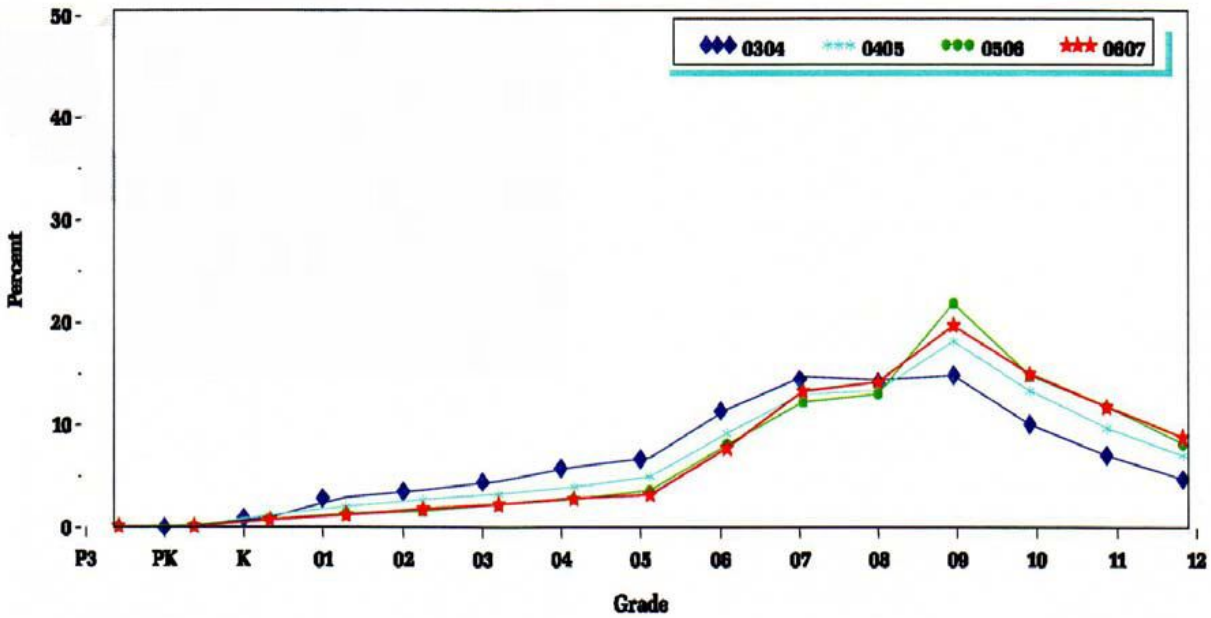
Summary of rationale:

Jane's behaviors have become so disruptive that they are unable to be managed in the in-school suspension environment. Her behavior has escalated from engaging in profanity toward her peers to directing such language toward her teacher. Additionally, previous placements in the in-school suspension environment have not lessened the occurrence of this behavior. Instead, Jane's behavior has escalated such that she now threatens bodily harm toward the in-school suspension coordinator and her peers, causing a serious disruption to the educational process. Neither her teachers nor other school personnel have been able to ascertain the meaning or cause of Jane's outbursts. Although developmentally, many theorists support the belief that the teenage (adolescent) years are expected to be a more complex and, perhaps, tumultuous stage of development (in most industrialized societies), Jane's behavior exceeds what might be framed as typical adolescent adjustment. The risk of "lost instruction" that Jane will experience if placed in out-of-school suspension is a factor of concern. However, the severity of Jane's behavior is such that out-of-school suspension is warranted. In light of Jane's escalating behavior, out-of-school suspension along with the use of other behavioral supports is the most appropriate and effective intervention at this time. Jane's parents, who have both been actively involved in school functions, will be invited to meet with the school's mental health team to discuss her behavior and to collaborate in the development of solutions. Gathering such information regarding the antecedents and consequences of Jane's behavior will help to facilitate the development of future effective intervention strategies. Additionally, Jane's previous history of in-school suspension placements will result in a referral to the school's Planning and Placement Team.

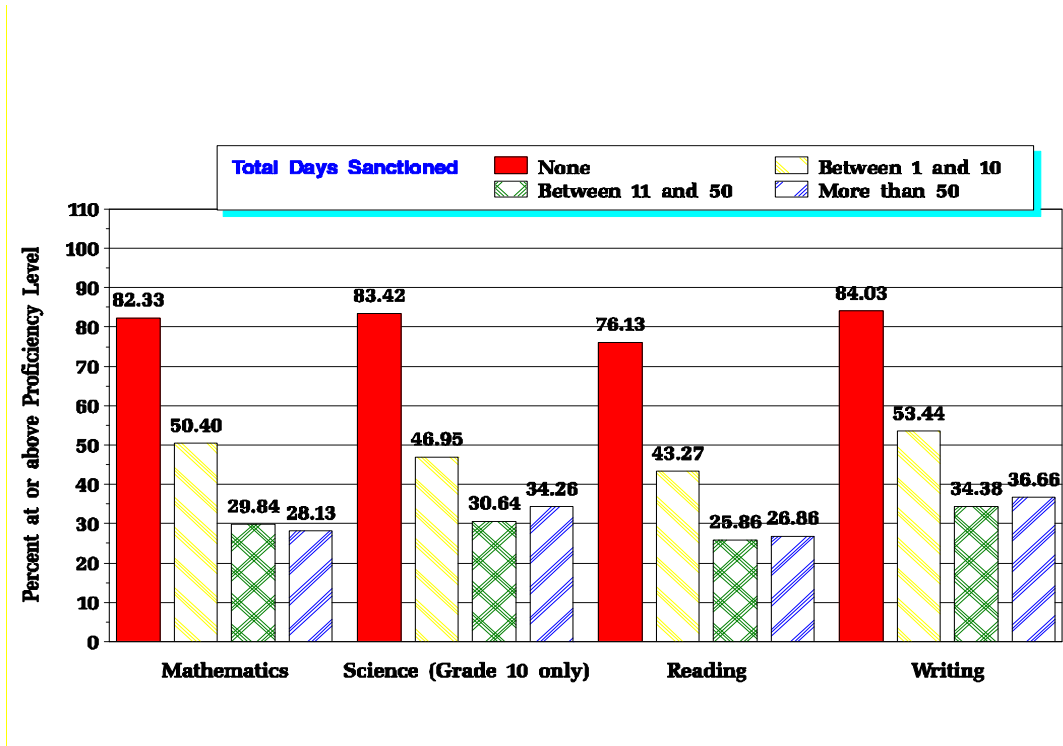
FINAL DETERMINATION: Out-of-School Suspension

Appendix C

Graph 1
Percent of Incidents by Grade per School Year
2003 - 2007



Graph 2
Comparison of Student Academic Achievement with Out-of-Class Sanctions for Discipline
2006-07 School Year



Appendix D

Children with Disabilities

In-School Suspension Law and Impact on Children with Disabilities under the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act

The change in the in-school suspension law will require districts to pay particular attention to the settings used and services provided to children with disabilities during in-school suspension. The IDEA and Section 504 each contain a set of procedural protections to be applied when children with disabilities are subject to school discipline. Districts should review what is currently required under both IDEA and Section 504 when discipline becomes an issue for a child with a disability. The Bureau of Special Education of the State Department of Education also provides a discipline chart that summarizes the procedural steps under the IDEA that must occur when discipline becomes an issue for a child with a disability. This chart can be found at:

<http://www.sde.ct.gov/sde/lib/sde/PDF/DEPS/Special/BureauBlogNov.pdf>

IDEA Considerations

There are three issues to be considered. The first issue is whether an in-school suspension will be counted toward days of suspension. If the in-school suspension is counted toward days of suspension, there are both free appropriate public education (FAPE) and procedural protection consequences. The long-term policy of the Office of Special Education Programs (OSEP) with regard to whether in-school suspensions are to be counted toward the days of suspension is as follows:

In-school suspension days do not count toward days of suspension as long as:

- the child is afforded the opportunity to continue to appropriately participate in the general curriculum;
- the child continues to receive the services specified on the child's IEP; and
- the child continues to participate with nondisabled children to the extent that he or she would have in his or her current placement.

See Analysis of Comments and Changes, IDEA Regulations 2006, Federal Register Vol. 71, No. 156, page 46715.

A child with a disability receives FAPE during in-school suspension if all three criteria are met, therefore, the time spent serving an in-school suspension is not counted toward the days of suspension.

In determining whether the removal of a child with a disability to in-school suspension is counted toward days of suspension, districts must examine the setting used and the services provided to children with disabilities. Practically speaking, the first two criteria, participation in the general curriculum and receipt of services in the IEP, can be addressed in in-school suspension. The third criteria requires that a child with a disability participates with nondisabled children to the extent such child would have in his or her current placement. If the child with a disability will not have the same level of participation with nondisabled children to the extent they would have in their current placement, the time the child spends serving an in-school

suspension will be counted toward days of suspension. Each situation must be judged individually, and the child's time with nondisabled peers assessed to determine if the time with nondisabled peers during periods of in-school suspension is comparable to the time the child spends with nondisabled peers during a typical school day.

Although OSEP has not provided any definitive guidance on this issue, it appears that if a district establishes an in-school suspension setting that is available to children with and without disabilities, the time with nondisabled peers criteria is met, even if on any given day that child with a disability is the only child placed in the in-school suspension setting.

The second issue to be addressed is whether multiple, short-term in-school suspensions constitute a change in placement, which may have procedural safeguard consequences. If the in-school suspension is treated as an out-of-school suspension as described above, a change in placement takes place when the following criteria are met:

The child has been subjected to a series of removals that constitutes a pattern of exclusion from school because:

- the series of removals total more than 10 school days in a school year;
AND
- the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; AND
- additional factors, such 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.

If multiple, in-school short-term suspensions result in a change of placement for a child with a disability, the procedural safeguard consequences to be addressed are conducting a manifestation determination and Functional Behavior Assessment (FBA), developing or revising, as appropriate, and implementing a Behavior Intervention Plan and the provision of educational services, when appropriate.

If the child has already been excluded from school for more than 10 school days and multiple, short-term subsequent in-school suspensions do not result in a change of placement, for any subsequent exclusion from school the child must be provided with educational services. School personnel, in consultation with at least one of the child's teachers, determine the extent to which educational 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. The child also shall receive, as appropriate, a FBA and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not reoccur.

The third issue to be addressed is the content of the FAPE to be provided to children with disabilities during an in-school suspension. FAPE provided during a period of in-school suspension means that the child continues to receive educational services to enable the child to continue to participate in the general education curriculum and to progress toward meeting the goals set out in the child's IEP. If instruction is required to meet this FAPE standard, the district must use highly qualified teachers to provide instruction to children with disabilities.

To summarize:

- A child with a disability may be removed to in-school suspension.
- If a child with a disability will not continue to appropriately participate in the general curriculum, receive the services specified on his or her IEP and participate with nondisabled children to the extent the child would have in his or her current placement, the time spent during in-school suspension must be counted toward the days of suspension for purposes of determining whether there are FAPE and procedural safeguard consequences.
- The district must determine whether a change in placement has occurred for multiple short-term in-school suspensions. The procedural safeguard consequences to be addressed include conducting a manifestation determination and FBA, developing or revising, as appropriate, and implementing a BIP and the provision of educational services when appropriate.
- After 10 school days of suspension (where services are not provided during the period of suspension), the child with a disability must receive educational services to enable the child to continue to participate in the general education curriculum and progress toward meeting the goals set out in the child's IEP.
- When instruction is required to provide FAPE during a period of in-school suspension, the instruction must be provided by a highly qualified teacher.

Section 504 Considerations

The Section 504 regulations do not contain any specific references to the discipline of children receiving services under a Section 504 plan. The Office for Civil Rights (OCR), the federal agency charged with investigating allegations of discriminatory action in violation of Section 504, has outlined the applicability of the Section 504 regulations in the discipline context through the use of policy memos and letters of finding issued by the agency at the conclusion of investigations into allegations of school district noncompliance with the requirements of Section 504.

OCR has identified two separate Section 504 regulations which impact on the discipline of children receiving services under a Section 504 plan. Section 34 CFR 104.33 requires that recipients of federal financial assistance provide an appropriate education for each qualified handicapped¹ person within its jurisdiction. An appropriate education is the provision of regular or special education and related aids and services that are designed to meet the individual needs of handicapped students as adequately as the needs of nonhandicapped students are met. Section 34 CFR 104.35(a) requires that a recipient conduct an evaluation and review placement decisions prior to any significant change in placement for a handicapped student. OCR has established standards for determining when an exclusion from school constitutes a change in placement that would require a re-evaluation of the student. As more schools use in-school suspension as a disciplinary method, OCR also has weighed in on when in-school suspension constitutes a change in placement that would require a re-evaluation (manifestation determination) of a child receiving services under a Section 504 plan. There are two inquiries: the nature and the quality of the educational services provided during in-school suspensions and whether repeated; and short-term suspension constitutes a change in placement that would require a manifestation determination before additional short-term suspensions could be used with the same child.

¹ OCR uses the term "handicapped" rather than person with a disability to reflect the language found in the Section 504 regulations.

OCR compares the nature and quality of the educational services provided during in-school suspension with the nature and quality of educational services received by the child before the in-school suspension in order to determine if a significant change in placement has occurred. When an in-school suspension results in the removal of the child from the educational program and there is a failure to provide the child with the services, modifications and accommodations listed in the child's Section 504 plan during the period of in-school suspension, the in-school suspension would be counted in determining whether a significant change in placement has occurred which would have procedural safeguard consequences. A significant change in placement includes a series of short-term suspensions that creates a pattern of exclusion. The factors to look at when determining whether a series of suspensions constitutes a significant change in placement are the length of each suspension, the proximity of the suspension to one another and the total amount of time the child is excluded from school. The procedural consequences may include conducting a manifestation determination (after the cumulative number of days of exclusion exceeds 10 school days) to determine if the child's misconduct is caused by the child's disability. If the child's misconduct is caused by the child's disability, the evaluation must continue to determine if the child's Section 504 plan is appropriate. If it is determined that the child's misconduct is not caused by the child's disability, the child may be excluded from school in the same manner nonhandicapped children are excluded.

To summarize:

- A child receiving services pursuant to a Section 504 plan may be removed to in-school suspension.
- If the child is not provided with the instructional services, modifications and accommodations outlined in the child's Section 504 plan during the period of in-school suspension, the time spent serving an in-school suspension is counted for purposes of determining if a significant change in placement has occurred.
- To determine if a significant change in placement has occurred as the result of multiple short-term suspensions, the district must look to see whether a pattern of exclusion has occurred by looking at factors such as the behavior precipitating each in-school suspension, length of each suspension, proximity of the suspensions to one another and total amount of time the child is excluded from school.
- If a significant change in placement has occurred as the result of multiple, in-school suspensions, the district must comply with the procedural safeguards, including conducting a re-evaluation of the child (manifestation determination) to determine if the child's misconduct is a result of the child's disability.

Recommendation:

Districts should consider whether the child is receiving an appropriate education if the child is continuously removed to in-school suspension during the course of the school year, notwithstanding the fact that the child receives the services, modifications or accommodations listed in the plan.

Appendix E

Effective In-School Suspension Programs

Connecticut Public Act 07-66 amended the definition of “in-school suspension” to mean an exclusion from regular classroom activity for no more than 10 consecutive school days, but not an exclusion from school. While CGS Sec. 10-233c, as amended, expressly references that pupils serving an in-school suspension may attend the school of enrollment or another school building under the jurisdiction of the local or regional board of education, the law does not address the educational program for pupils receiving an in-school suspension in either location. The Connecticut State Department of Education believes that the content of the program should address, but not be limited to, the following:

- placement of pupils by age or grade in a positive learning environment;
- supervision and/or instruction as determined by district using a qualified individual;
- prompt access to current school work supplied by the pupil’s classroom teachers; and
- guidance on correcting behavior.

The school administration must use appropriate space and facilities for the pupils under its care. Where classroom or other general space is available, the pupil should be so placed. When space is unavailable, the school administration must exercise reasonable discretion to locate the pupil in an environment that is conducive to learning. A single location in a school system may be sufficient. If classroom or other general space is unavailable or inappropriate for the pupil, the school administration may assign the pupil to attend an educational program in another school under the jurisdiction of the school district. In the situation where a pupil attends a program in another school under the jurisdiction of the school district, the pupil may be eligible to receive transportation services pursuant to and in accordance with the transportation policy of the school district.

The National Association of State Boards of Education, in its publication *Schools Without Fear: The Report of the NASBE Study Group on Violence and Its Impact on Schools and Learning* (1994), developed recommendations to assist state boards of education to advance learning by creating a school climate that is both disciplined and supportive to students and staff members. The report recommends that state boards assure that a “continuum of sanctions is available for children and youth who have been disruptive or delinquent.” Further, schools are encouraged to keep students in their neighborhood schools to the maximum extent possible while providing programs with strong academic and counseling components. In the development of disciplinary policies, the theme of minimizing or eliminating time away from instruction is paramount. Other components of effective discipline include: provision of counseling or other psychosocial services, as needed; conflict resolution and problem-solving skills; high standards for learning and behavior; appropriate supervision; customized and targeted instruction; and family involvement.

Successful in-school suspension programs require thoughtful planning in order to accomplish the goals of reconnecting students to the learning community and remediation of behavioral and/or academic concerns. It is recommended that these programs include an assigned coordinator to ensure continuity of programming, to develop and maintain positive relationships with students who may have an ongoing discipline issue, and to maintain effective connections with administrators and faculty members. The in-school suspension coordinator also would act as a

liaison to administration, faculty and staff; maintain communication with parents and elicit parent support; maintain records and collect data on the use of in-school suspension; and participate in the development of schoolwide discipline policies. To accomplish the complex and varied duties of the in-school suspension coordinator, it is recommended that programs hire a baccalaureate-level person. In addition to the coordinator, it is further recommended that the programs include on a rotating basis appropriately certified content teachers in the essential areas such as reading and math, several periods a week in order to provide instructional support to students. School counselors, psychologists and/or social workers also should be available to provide services on a rotating basis to students in the in-school suspension room.

Effective in-school suspension programs provide for increased student supervision through low student-to-staff ratios, which also allow for individual assistance in completing the required academic assignments provided by classroom teachers. Expectations for the program are explicitly taught, as well as requirements for re-entry to the general program. In-school suspension rooms are located in the school buildings where the students attend or in an alternative location within the school district. In either setting it is necessary to maintain separate groups by grade and developmental level. The in-school suspension room is not to be used as an informal “time out” for students who need a brief separation from the classroom.

Quality in-school suspension programs are one component of a broader schoolwide system of comprehensive behavior supports used to increase student engagement and minimize the loss of instructional time; to decrease disciplinary referrals and the dropout rate; and to provide for a positive and satisfying school environment. Interventions that include a system of behavioral support for every student in the school create a positive school environment and incorporate the teaching of social emotional skills in five major areas: recognizing and managing emotions, developing caring and concern for others, making responsible decisions, establishing positive relationships and handling challenging situations effectively. The capacity of the school to provide a safe and supportive learning environment is increased by providing explicit instruction in these competencies in a sequential fashion throughout each student’s school career.

For students who require additional instruction, remediation and/or support, targeted interventions such as small-group or individual interventions may be necessary. These may include social skills or conflict management groups, or individual counseling based on the individual student’s needs. A third level of intensive intervention is implemented when problem behaviors are dangerous, highly disruptive and may require the development of a functional behavior assessment (FBA) and a behavioral intervention plan (BIP). By providing schoolwide multiyear supports and rewards for positive social, health and academic behaviors through these systematic approaches, the need for more reactive and exclusionary disciplinary methods is reduced.