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*Mission: Each student is highly educated, prepared for leadership and service, and empowered for success as a citizen in a global community.*

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**TO:** All School Leadership Executive Directors  
All Building Principals, Assistant Principals, & Leadership Interns  
**FR:** Erik P. Roush, Supervisor, Policy & Government Affairs and Board Services (Interim)  
Wanda Lillis, Associate Legal Counsel  
**RE:** Changes to School Discipline – Effective November 2, 2018

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On November 2, 2018, certain provisions of HB 318 will go into effect that will impact how schools handle out-of-school suspensions (OSS) and expulsions. Below are the key highlights for ALL building administrators. Following this information, there is more information pertaining to those administrators working with grades PK-3.

### **General Provisions**

1. Districts are NOW REQUIRED to permit a student to complete classroom assignments missed during both in-school suspension (ISS) and OSS; it should be noted that Board Policy has already required this, so this should not be a change in current procedures.
2. “In-school suspension” is now defined as a suspension served in a “supervised learning environment within a school setting” (see Division (K) of Section 3313.66 of the Revised Code). Additional information will be forthcoming. It should be noted that for elementary administrators, PEAK meets this definition.
3. The definition of a “knife” has been clarified as being “a knife capable of causing serious bodily injury” (see Division (B)(3) of Section 3313.66 of the Revised Code). For your purposes, this means a knife that has a blade of 2.5 inches or greater; it does not include plastic knives.

### **Emergency Removals, Suspensions, & Expulsions**

It is important to establish common definitions in this area before discussing the changes that will be going into effect on November 2. For purposes of Ohio law, an “**emergency removal**” is one in which a student’s “presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process taking place” and the removal is made “*without the notice and hearing requirements*” established under law (emphasis added; see Division (C)(3) of Section 3313.66 of the Revised Code).

In our discussions with several of your colleagues, it appears that the more typical approach is what we will term an “**immediate suspension**” – the action warrants a call to the student’s parent/guardian, where notice of the suspension hearing is provided and the hearing takes place immediately thereafter, often with the student being suspended for the remainder of the school day and for a determinate period of time. The definition of “immediate suspension” is a District construct and is not defined in statute. The distinction between these two concepts is critical as they carry much different legal consequences.

Under current law, after an “**emergency removal**,” a hearing must be conducted within three school days. HB 318 modifies this by requiring a hearing to be held on the NEXT school day after the emergency removal. Thus, where a student may have been removed for three days pending a hearing in the past, the hearing **MUST** take place on the next school day. Furthermore, until such time that the hearing takes place, the student must be allowed to participate in learning opportunities; a student **CANNOT** be forced to remain out of school prior to the hearing taking place.

Conversely, there is substantively no change for “immediate suspensions” under the Act as the amended language only concerns “emergency removals.” Thus, if a student is provided notice and a hearing prior to the imposition of an OSS, the student is effectively suspended and is not the subject of an emergency removal. Should something occur that prevents the immediate suspension hearing, until such time that the hearing takes place, the student must be allowed to participate in learning opportunities; a student **CANNOT** be forced to remain out of school prior to the hearing taking place.

While it is preferred for parents to be involved in the suspension hearing, it is not a requirement under Ohio law or Board policy.

This distinction becomes somewhat more challenging when we approach the topic of expulsion. The requirement that the hearing be held on the NEXT school day will have greater implications for the expulsion process. It appears that the common practice within the District has been to remove a student for the three days permitted under law pending the expulsion hearing. Once the requirement for a hearing on the next school day goes into effect, administrators will need to identify other options pending scheduling with the Hearing Office.

One such option is to proceed with an immediate suspension, effectively providing up to ten (10) school days in which to schedule the expulsion hearing with the Hearing Office. Administrators will need to remember that, as mentioned above, a student **CANNOT** be forced to remain out of school before the expulsion hearing takes place. An immediate suspension provides the time to schedule the hearing and is a permissible action to keep the student off of school premises in the interim.

It should be noted that pursuant to federal law and clarified via Section 10 of HB 318, students who have an Individualized Education Plan (IEP) are still limited to no more than ten (10) days of out-of-school discipline.

### **Provisions Specific to Grades PK-3**

As a key component of HB 318 is the reduction in out-of-school suspensions and expulsions, for students in grades PK-3, there are several provisions related specifically to these grade levels. Of immediate note, however, are the following changes.

1. The emergency removal of a student in grades PK-3 is now PERMITTED for the remainder of the school day WITHOUT a hearing provided the student be allowed to return the next school day. These removals will need to be recorded in Infinite Campus in both the attendance and behavior modules.
2. There are also limitations on pursuing an OSS or expulsion for students in grades PK-3 for which an emergency removal is made (see above for definition). Under the Act, no action may be taken towards a suspension or expulsion for the same incident for which the student was removed unless:
  - a. it is a serious and specific offense (ONLY guns, knives, serious bodily injury/harm, or bomb threat) for which suspension or expulsion is statutorily required or permitted; or
  - b. it is an offense for which the district or school determined suspension or expulsion was necessary “to protect the immediate health and safety of the student, the student’s fellow classmates, or the classroom staff or teachers.” This term will be defined via an upcoming Administrative Guideline.

For example, if an administrator utilizes an “emergency removal” for a PK-3 student for insubordination, that same student could not be given an OSS for that offense as it would not be compliant with Ohio law; however, the student may be given an immediate suspension for that offense. Again, the distinction between “emergency removal” and “immediate suspension” is critical, as for a student in these grade levels, certain behavioral resolutions may be unavailable to administrators depending upon the offense and whether or not the student is subject to an “emergency removal.”

While there are additional changes contained in the legislation, those provisions do not go into effect until after November 2, 2018. Additional information will be forthcoming.

Please let us know if you have any additional questions.