



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (7/1/89)

Agency: Washington State School for the Blind

- Permanent Rule
 Emergency Rule

(1) Date of adoption: June 14, 1990

(2) Purpose: To provide a comprehensive student conduct code and set forth the disciplinary process.

(3) Citation of existing rules affected by this order: none

Repealed:

Amended:

Suspended:

(4) Authority for adoption:

Statute: RCW 72.40.022

Other Authority:

(5.1) PERMANENT RULE ONLY

Pursuant to notice filed as WSR 90-10-103 on May 2, 1990 (date).

Describe any changes other than editing from proposed to adopted version: WAC 72-120-230 LONG-TERM SUSPENSION - The changes clarify the sequence of procedures to be followed prior to imposing long-term suspension, in accordance with Honig v. Doe, U.S., 108 S. Ct. 592, 98 L. Ed. 2d 686 (1988).

(5.2) EMERGENCY RULE ONLY

Pursuant to RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If yes, explain:

(6) Effective date of rule:

Permanent Rules

Emergency Rules

30 days after filing

Immediately

Other (specify) _____ *

Later (specify) _____

* (If less than 30 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

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STATE OF WASHINGTON
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NAME (TYPE OR PRINT)

Dr. Roy J. Brothers

SIGNATURE

Roy J. Brothers

TITLE Superintendent

DATE 6/19/90

Chapter 72-120 WAC
STUDENT CONDUCT CODE

NEW SECTION

WAC 72-120-010 STUDENT RESPONSIBILITIES AND DUTIES. The mission of the Washington state school for the blind is to provide specialized educational services to visually impaired students which will assist those students to develop skills, competencies and attitudes that are fundamental to the development of responsible, contributing citizens. Admission to the Washington state school for the blind carries with it the obligation of responsibility for the welfare of the school. In order to advance the mission of the school, it shall be the responsibility and duty of each student to pursue his/her course of studies, respect the rights of others, comply with written rules adopted herein, and submit to reasonable disciplinary action for violation(s) of such rules. This chapter is intended to assure that disciplinary action is imposed for just cause and in a fair and reasonable manner.

NEW SECTION

WAC 72-120-015 STUDENT RIGHTS. (1) Each student is guaranteed the following rights, within the limitations of statutory law and school policy which are deemed necessary to achieve the school's educational goals:

(a) Students possess the right to a learning environment which is free from unlawful discrimination, inappropriate and disrespectful conduct, and sexual harassment.

(b) Students possess the rights, guaranteed under the Constitution, to freedom of expression, free inquiry, and peaceable assembly upon and within school facilities that are generally open and available to the public.

(c) Students possess the rights, guaranteed under the Constitution, to the free exercise of religion and to have their school free from sectarian control or influence, subject to reasonable limitations upon the time, place, and manner of exercising such right.

(d) Students possess the constitutional right to be secure in their persons, quarters, papers, and effects against unreasonable searches and seizures, subject to limitations set forth in RCW 28A.67-.300, 28A.67.310, 28A.67.320, and 28A.67.330.

(e) Students shall have the right to be free from unlawful interference in their pursuit of an education while enrolled at the Washington state school for the blind.

(f) Students shall not be deprived of the right to an equal educational opportunity in whole or in part by the Washington state school for the blind without due process including:

(i) Notice to the accused of the nature of the charges and the proposed disciplinary action; and

(ii) The opportunity to request a hearing as set forth in this chapter.

(2) The foregoing enumeration of rights shall not be construed to deny or disparage other rights guaranteed in the Constitution and the laws of the state of Washington.

(3) The school shall publish and make available to all students and parents, on an annual basis, written rules which state with reasonable clarity the types of misconduct for which disciplinary action may be imposed.

CONDUCT RULES

NEW SECTION

WAC 72-120-100 CONDUCT VIOLATIONS. A student who, either as actor, aider, abettor, or accomplice as defined in RCW 9A.08.020, violates any provision of this chapter shall be subject to the disciplinary actions herein adopted.

The following offenses are prohibited:

(1) Physical abuse. Actual, attempted, or threatened physical abuse of any person or conduct which threatens or endangers the health and safety of any person or which intentionally causes a reasonable apprehension of harm to any person.

(2) Destroying or damaging property. Destroying, defacing, or damaging school property or the property of others on school premises or at school-sponsored activities.

(3) Sexual harassment. Engaging in unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where such behavior offends the recipient, causes discomfort or humiliation, or interferes with job or school performance.

(4) Disruption. Disorderly or abusive behavior which interferes with the rights of others, school, or school-sponsored activities; obstructing the free movement of people or vehicles; inciting others to engage in prohibited conduct; or threatening disruption.

(5) Disturbing the peace. Creating noise in such a way as to interfere with school functions.

(6) Insubordination. Refusal or failure to follow instructions and proper orders of school officials, while on school premises or at school-sponsored activities, thereby infringing upon the rights and privileges of others, and/or refusal to desist from prohibited conduct.

(7) False alarms. Falsely setting off, improper use or disabling of any safety equipment, alarm, exit sign, or other device.

(8) False information. Filing a formal complaint which falsely accuses another with violation of this chapter, falsifying information to school officials, or forging or tendering any forged instrument to the school.

(9) Theft. Actual or attempted theft of property or services belonging to the school, any student, school employee or school visitor, including knowing possession of stolen property.

(10) Conversion. Unauthorized use of school equipment or services.

(11) Academic dishonesty. All forms of cheating, plagiarism and fabrication, including submitting any work product that the student misrepresents as his/her work product for the purpose of fulfilling any assignment or task required as part of the student's course of studies.

(12) Unlawful entry and trespassing. Entering and/or remaining in any administrative or other employee office or any locked or otherwise closed school facility, in any manner, at any time, without permission.

(13) Smoking. The Washington state school for the blind supports the goal of the governor's nonsmoking policy and the policy of the public schools mandating a total ban on the use of all tobacco products by September 1, 1991. Students are not allowed to smoke or use tobacco products on school premises or during school-sponsored activities.

(14) Alcohol. Use, possession, distribution of, or visible intoxication from alcoholic beverages is prohibited on school property or at school-sponsored activities.

(15) Drugs and controlled substances. Use, possession, distribution, or being visibly under the influence of any narcotic or controlled substance as defined in the Uniform Controlled Substances Act,

chapter 69.50 RCW, as amended, except when the use or possession of a drug is specifically prescribed as medication by an authorized medical doctor or dentist.

(16) Weapons and dangerous chemicals. Unauthorized use, possession or storage of any weapon, explosives, dangerous chemicals, substances or instruments, which may be used to inflict bodily harm on another or damage upon school property or personal property.

(17) Other conduct. Any other conduct or action, the terms and violations of which are published annually in the student/parent handbook, in which the school can demonstrate a clear and distinct interest and which substantially threatens the educational process or other legitimate function of the school or the health or safety of any member of the school community is prohibited.

DISCIPLINARY PROCESS AND PROCEDURES

NEW SECTION

WAC 72-120-200 POLICY. The Washington state school for the blind has established standards of conduct for students and the disciplinary process to protect members of the school community, maintain and advance its educational mission, and provide for the orderly conduct of the school's activities. Disciplinary procedures used by the school are considered part of its educational process. In every case of misconduct, the nature and circumstances of the violation will be considered and appropriate disciplinary actions will be administered on a less restrictive alternative basis, including but not limited to time out, detention, behavior contracts, restriction of privileges, reprimand, restitution, or suspension.

NEW SECTION

WAC 72-120-205 LIMITATIONS. (1) No form of disciplinary action shall be enforced in such a manner as to prevent a student from accomplishing specific academic grade, subject, or graduation requirement: PROVIDED, That a student's academic grade or credit in a particular subject or course may be adversely affected as a result of excessive tardiness or absences.

(2) Corporal punishment as defined by the board of education in WAC 180-40-235 and the unreasonable use of force on children described in RCW 9A.16.100 as now or hereafter amended, is prohibited.

NEW SECTION

WAC 72-120-210 EMERGENCY REMOVAL FROM CLASS OR ACTIVITY. (1) Notwithstanding any other provision of this chapter, a student may be removed immediately from a class, subject, or activity by a certificated teacher or an administrator and sent to the principal or a designated school authority: PROVIDED, That the teacher or administrator has good and sufficient reason to believe that the student's presence

poses an immediate and continuing danger to the student, other students, or school personnel, or an immediate and continuing threat of substantial disruption of the class, subject, activity, or educational process of the school. The removal from classes, subjects, or activities shall continue only until:

(a) The danger or threat ceases; or

(b) The principal or designated school authority acts to impose disciplinary action pursuant to this chapter.

(2) The principal or school authority shall meet with the student as soon as reasonably possible following the student's removal and take appropriate disciplinary action. In no case shall the student's opportunity for such meeting be delayed beyond the commencement of the next school day. Prior to or at the time any such student is returned to the class(es), subject(s), or activity(ies), the principal or school authority shall notify the teacher or administrator who removed the student therefrom of the action which has been taken.

NEW SECTION

WAC 72-120-220 SHORT-TERM SUSPENSION. (1) As used in this chapter "short-term suspension" shall mean a denial of attendance at any class or admission to or entry upon school property for up to and not exceeding ten consecutive school days.

(2) Unless otherwise prohibited, short-term suspensions may be imposed upon a student for violation(s) of rules adopted in WAC 72-120-100.

(3) A student may be suspended for a short term after another less restrictive form of disciplinary action, reasonably calculated to modify his or her conduct, has been imposed as a consequence of misconduct of the same nature: PROVIDED, That the school may resort to immediate short-term suspension in cases involving exceptional misconduct. For the purposes of this section, "exceptional misconduct" means misconduct, other than absenteeism, of such frequent occurrence, notwithstanding prior attempts by the school to control such misconduct through the use of other forms of disciplinary action, and/or so serious in nature as to warrant immediate resort to short-term suspension.

(4) Any student subject to short-term suspension shall be provided the opportunity upon return to make up assignments and tests missed by reason of the suspension if such assignments or tests have a substantial effect upon the semester grade.

NEW SECTION

WAC 72-120-225 SHORT-TERM SUSPENSION--NOTICE AND CONFERENCE--GRIEVANCE PROCEDURE. (1) Prior to the short-term suspension of any student pursuant to WAC 72-120-220, a conference shall be conducted with the student as follows:

(a) An oral or written notice of the alleged misconduct and violation(s) of school rules shall be provided to the student;

(b) An oral or written explanation of the evidence in support of the allegation(s) shall be provided to the student;

(c) An oral or written explanation of the disciplinary action which may be imposed shall be provided to the student; and

(d) The student shall have the opportunity to present his/her explanation.

(2) In the event a suspension is to exceed one calendar day the parent(s) or guardian(s) of the student shall be notified of the reason for the student's suspension and the duration of the suspension

orally and/or by letter deposited in the United States mail as soon as reasonably possible. The notice shall also inform the parent or guardian of the right to a brief adjudicative proceeding and that the suspension may possibly be reduced as a result of such proceeding.

(3) Any student, parent, or guardian aggrieved by the imposition of a short-term suspension pursuant to WAC 72-120-220, shall have the right to a brief adjudicative proceeding in accordance with WAC 72-108-100. The school personnel member whose action is being grieved shall be notified of the initiation of a brief adjudicative proceeding as soon as reasonably possible. During the brief adjudicative proceeding the parties shall be entitled to question school personnel involved in the matter. The disciplinary action may continue notwithstanding the implementation of the grievance procedure set forth in this section.

NEW SECTION

WAC 72-120-230 LONG-TERM SUSPENSION. (1) As used in this chapter "long-term suspension" shall mean a denial of attendance at any class or admission to or entry upon school property in excess of ten consecutive school days.

(2) Unless otherwise prohibited, long-term suspensions may be imposed on a student for violation(s) of rules adopted in WAC 72-120-100.

(3) When a student engages in conduct that would warrant long-term suspension, the student, parent(s) or guardian(s) shall be notified immediately (within twenty-four hours) of the nature and circumstances of the misconduct, the disciplinary action proposed, and the time and location of any individualized education program (IEP) team meeting review.

(4) If long-term suspension is recommended, the school shall convene a meeting to review the student's individualized education program (IEP) pursuant to WAC 72-171-210. The IEP team shall determine whether the misconduct is a manifestation of or is substantially related to the student's handicapping condition(s).

(5) If the IEP team concludes that the misconduct is not a manifestation of the student's handicapping condition(s), the student may be disciplined under the procedures set forth in WAC 72-120-234 through 72-120-236.

(6) If the IEP team concludes that the misconduct is a manifestation of the student's handicapping condition(s), suspension for more than ten days shall not be imposed unless:

- (a) The school and parent(s) or guardian(s) agree otherwise; or
- (b) The IEP team recommends a change of placement.

(7) A student involved in the complaint shall remain at the school during the pendency of any administrative or judicial proceeding, unless:

- (a) The student's misconduct poses an immediate threat to the safety of others or where maintaining the student in his/her current placement at the school has a substantial likelihood of resulting in injury either to the student or to others; or
- (b) The school, student, and parent(s) agree otherwise.

(8) A party may request a hearing pursuant to WAC 72-171-600, on any matter described in this section.

(9) Nothing in this section shall be construed to limit the superintendent's ability to seek injunctive relief in appropriate cases from a court of competent jurisdiction.

NEW SECTION

WAC 72-120-234 LONG-TERM SUSPENSION--MISCONDUCT UNRELATED TO HANDICAPPING CONDITION(S)--NOTICE. (1) A student may be suspended for a long term after another less restrictive form of disciplinary action, reasonably calculated to modify his or her conduct, has been imposed as a consequence of misconduct of the same nature: PROVIDED, That the school may resort to immediate long-term suspension in cases involving exceptional misconduct. For the purposes of this section, "exceptional misconduct" means misconduct, other than absenteeism, of such frequent occurrence, notwithstanding prior attempt by the school to control such misconduct through the use of other forms of disciplinary action, and/or so serious in nature as to warrant immediate resort to long-term suspension.

(2) Prior to the long-term suspension of any student for misconduct unrelated to his/her handicapping condition(s):

(a) A conference shall be conducted with the student according to the procedures in WAC 72-120-225(1);

(b) Written notice of an opportunity for a hearing shall be delivered in person or by certified mail to the student and parent(s) or guardian(s). The notice shall:

(i) Be provided in the predominant language of a student and/or a parent(s) or guardian(s) who predominantly speak a language other than English, to the extent feasible;

(ii) Specify the alleged misconduct and the rule(s) alleged to have been violated;

(iii) Set forth the disciplinary action proposed;

(iv) Set forth the right of the student and/or his or her parent(s) or guardian(s) to a hearing for the purpose of contesting the allegation(s);

(v) State that a written request for a hearing must be received by the school employee designated, or by his or her office within twenty days after receipt of the notice of opportunity for a hearing; and

(vi) State that if such a request is not received within the prescribed period of time, then the right to a hearing may be deemed to have been waived and the proposed long-term suspension may be imposed.

NEW SECTION

WAC 72-120-236 LONG-TERM SUSPENSION--MISCONDUCT UNRELATED TO HANDICAPPING CONDITION(S)--HEARING. (1) If a request for a hearing is received pursuant to WAC 72-120-234 within the required time period, the superintendent or his or her designee shall schedule a hearing to commence within seven school days after the date upon which the request for a hearing was received according to the requirements in chapter 10-08 WAC adopted in WAC 72-108-010.

(2) The hearing shall be an adjudicative proceeding governed by the Administrative Procedure Act, chapter 34.05 RCW and chapter 72-108 WAC.

(3) During the pendency of any administrative or judicial proceeding involving suspension under this section, unless the school and the parent(s) of the student (or the eligible student as defined in WAC 72-171-010(1)) agree otherwise, the student shall remain in the educational placement he or she was in when the request for hearing was made.