

Hamilton County Department of Education  
Policy Committee Meeting  
January 8, 2024 5:00 PM  
3074 Hickory Valley Road  
Chattanooga, TN 37421

I. Call to Order - Dr. Joe Wingate, Chairman

II. Second Read Policy Discussion

A. Board Policy 1.204 - Board Member Development Opportunities

B. Board Policy 5.202 - Suspension/Dismissal of Classified Employees

C. Board Policy 5.301 - Religious, Emergency, and Legal Leave

D. Board Policy 6.3023 - Disciplinary Procedures for Students Receiving Special Education

III. First Read Policy Discussion

A. Board Policy 5.400 - Personnel Health Examinations/Communicable Diseases

IV. Adjourn

# Hamilton County Board of Education

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| Monitoring:<br>Review: Annually<br>in September | Descriptor Term:<br><b>Board Member Development<br/>Opportunities</b> | Descriptor Code:<br>1.204 | Issued Date:<br>12/16/04 |
|   |   | Rescinded:                | Revised:<br>01/18/23     |

The Board shall participate in activities designed to assist board members in improving their skills as members of a policy-making body.

In order to control both the investment of time and funds necessary to implement this policy, the Board establishes these principles and procedures for its guidance:

1. A calendar of school board conferences, conventions and workshops shall be maintained by the board secretary and provided to each board member.
2. Each fiscal year, the Board will provide each Board member an allowance of three thousand dollars (\$3,000) to be spent toward development opportunities and related travel expenses consistent with this policy. Any Board member may transfer funds from his or her allowance to any other Board member for use in accordance with this policy.
3. Reimbursement to board members for their travel expenses shall be in accord with the travel expense policy for staff members;<sup>1</sup>
4. When a conference, convention or workshop is not attended by the full Board, those participating will be requested to share information, recommendations and materials acquired at the meeting; and
5. The public shall be kept informed through the news media about the Board's continuing in-service education and about the programs anticipated for short- and long-range benefits to the schools.

The Board regards the following as the kinds of activities and services appropriate for implementing this policy:

1. Participation in school board conferences, workshops and conventions held by the Tennessee School Boards Association;<sup>1</sup>
2. Local and district-sponsored training sessions for board members; and
3. Subscriptions to publications addressing the concerns of board members.

Legal References:

1. TCA 49-2-2001(c)

Cross References:

- Board Self-Evaluation 1.103
- Memberships 1.104
- School Board Legislative Involvement 1.105
- School District Goals 1.700
- School Calendar 1.800
- Expenses and Reimbursements 2.804

# Hamilton County Board of Education

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|--|---|---------------------------|--------------------------|
| Monitoring:<br>Review: Annually<br>in June | Descriptor Term:<br><b>Suspension/Dismissal of<br/>Classified Employees</b> | Descriptor Code:<br>5.202 | Issued Date:<br>03/15/12 |
|  |   | Rescinded:                | Revised:<br>01/18/23     |

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All classified employees of the Hamilton County Board of Education are under the authority of the Superintendent, or a designee, of Hamilton County Schools who may hire, direct and control, transfer, suspend or dismiss them in his/her sole discretion. If a classified employee is suspended, they will receive written notice and a written decision of the suspension. The suspension will be without pay. No classified employee will be employed under a contract or have any expectation of continued employment.

If the employee is reinstated after an investigation into the circumstances giving rise to their suspension has concluded, the employee shall be paid full salary for the period of suspension, unless suspension without pay for some or all of the duration of the suspension is deemed to be an appropriate penalty for the employee's infraction.

Legal References: \_\_\_\_\_

Cross References: \_\_\_\_\_

# Hamilton County Board of Education

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|--|---|---------------------------|--------------------------|
| Monitoring:<br>Review: Annually<br>in June | Descriptor Term:<br><b>Religious, Emergency<br/>and Legal Leave</b> | Descriptor Code:<br>5.301 | Issued Date:<br>06/18/15 |
|  |   | Rescinded:                | Revised:<br>01/18/23     |

## RELIGIOUS LEAVE

An employee whose religious affiliation requires the observance of a regularly scheduled religious service during an employee's scheduled workday shall be granted paid leave for a maximum of two (2) days annually non-accumulative for such services. The leave is limited to two (2) days of time off for religious observations that do not conform to HCDE's holiday schedule. However, this leave shall not be interpreted to include wedding ceremonies.

The employee's immediate supervisor shall grant religious leave of no more than two (2) days upon request, provided that the leave is requested at least one (1) working week in advance of the anticipated absence. Religious leave shall be taken and charged in at least one-half (1/2) day increments.

Please note that if allowing the employee to have the religious holiday off would amount to a substantial burden on HCDE's operations, the accommodation may be denied. Accommodation requests in excess of two (2) days must be reviewed by Human Resources.

## EMERGENCY LEAVE

An immediate supervisor may grant an employee emergency leave during the workday for a maximum of three (3) hours. Such leave shall be for a sudden, unexpected occurrence demanding immediate attention. Leave beyond three (3) hours shall be taken as personal leave, sick leave, or leave without pay.<sup>1</sup>

## JURY DUTY

An employee called for jury duty ordered by a court to appear as a witness, validly subpoenaed as a witness, or required by the Board to appear in a state court related proceeding during the workday shall suffer no loss in pay or leave days.

All fees or remuneration the employee receives during such leave shall be turned over to the Hamilton County School System.<sup>2</sup>

## COURT APPEARANCES

If an employee appears in state court because of a personal interest, whether as a plaintiff, defendant or witness or voluntarily appears in behalf of family or friends, or when a teacher is required to appear in court either as a defendant or plaintiff in a civil case, personal leave or leave without pay shall be granted in accordance with the established board policies on leaves.

Any employee who is involuntarily and validly subpoenaed as a witness in a case pending in any court who is ultimately compelled to appear in court in accordance with the terms of the subpoena, will be

1 paid for time in attendance in court provided that the time sheet is accompanied by a copy of the  
2 subpoena. Employees who were previously in law enforcement and are subpoenaed to testify in cases  
3 due to their prior work as law enforcement officials may also be paid for travel time in addition to time  
4 for attendance in court to comply with the subpoena.  
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6 Any employee who is absent by reason of attending court to participate in the trial of a case either as  
7 plaintiff or defendant will not be entitled to pay.  
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43 Legal References:

- 44 1. TCA 49-5-711 (c)(1)(2); OP Tenn. Atty. Gen. 81-5 (Jan. 9, 1981)
- 45 2. TCA 22-4-106; TCA 24-2-109

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Cross References:

# Hamilton County Board of Education

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| Monitoring:<br>Review: Annually<br>in October | Descriptor Term:<br><b>Disciplinary Procedures for Students<br/>Receiving Special Education</b> | Descriptor<br>Code:<br>6.3023 | Issued Date:<br>05/11/23 |
|   |   | Rescinded:                    | Revised:<br>01/18/23     |

1  
2 The purpose of this policy is to inform students, parents/guardians, and educators in general terms of the  
3 procedures governing the discipline of students with disabilities under the Individuals with Disabilities  
4 Education Act (IDEA) or Section 504 of the Rehabilitation Act (Section 504). In the event of an apparent  
5 conflict between this policy and the provisions of federal law, federal law shall control.  
6

## 7 **LIMITS ON OUT OF SCHOOL SUSPENSIONS**

8  
9 Administrators may suspend students with disabilities for misconduct just as they would non-disabled  
10 students for up to ten (10) days during the course of any given school year.<sup>1</sup>  
11

12 Any time an administrator determines that a student with a disability should be suspended for five (5)  
13 days, or if any given suspension, when added to previously imposed suspensions, exceeds the total of  
14 five (5) days, the principal shall have the student's case manager convene an IEP team or Section 504  
15 committee meeting as soon as practicable. The purpose of this meeting may be to obtain permission for  
16 a functional behavior assessment (FBA), develop a behavioral intervention plan (BIP) and, if necessary,  
17 revise the IEP or Section 504 plan. The team must consider whether the IEP or Section 504 is appropriate  
18 to the student's needs and, if so, whether it is being implemented with fidelity. It is the Board's intention  
19 that the school administration and the IEP team or Section 504 committee will collaborate to develop  
20 appropriate interventions aimed to reduce the need for further disciplinary measures.<sup>2</sup>  
21

22 For any given suspension that would exceed ten (10) days, or for any suspension that, when combined  
23 with previous suspensions, would exceed a total of ten (10) days for any given school year, the school  
24 principal shall immediately notify the Department of Exceptional Education (in the case of a student  
25 receiving services under the IDEA) or SEAD (in the case of a student receiving services under Section  
26 504) to convene a manifestation determination review (MDR). The MDR shall operate in accordance  
27 with this policy and the requirements of federal law.  
28

## 29 **MANIFESTATION DETERMINATION REVIEW<sup>3</sup>**

30  
31 The MDR meeting will include a fully convened IEP team, including the parents/guardians of the student,  
32 the principal or his/her designee, a representative from the Department of Exceptional Education or  
33 SEAD, Psychologist, Case Manager, and such other members of the IEP team or Section 504 committee  
34 as may be appropriate.  
35

36 The MDR shall meet within ten (10) days of the decision to suspend the student to determine whether  
37 the behavior was a manifestation of the student's disability.<sup>4</sup> The MDR shall occur prior to the  
38 implementation of further discipline. The MDR shall consider all relevant information, including the  
39 IEP, teacher observations, and the most current evaluations of the student. The MDR shall also consider  
40 any functional behavioral assessment (FBA) and behavioral intervention plan (BIP) or any student safety  
41 plan. The MDR shall also consider whether the student's behavior might be a manifestation of any

1 disability or documented and suspected disability voiced by any member of the IEP team or Section 504  
2 committee.

3  
4 **For behavior that is a manifestation:**

5  
6 If the MDR is unable to rule out a known or suspected disability as a cause of or a direct and substantial  
7 factor in the student's misconduct, then the IEP team shall take appropriate steps to address the  
8 educational needs of the student, including obtaining consent for and conducting a FBA (unless the MDR  
9 determines that any recent FBA is adequate), the developments or the refining of a BIP, and the revision  
10 of any IEP or 504 plan.

11  
12 Except as set forth below, the student may not be suspended or removed from the existing educational  
13 placement but must "stay put" in that placement unless the IEP team or Section 504 committee, including  
14 the parents/guardians, agree that a more restrictive placement is appropriate for the implementation of  
15 the BIP so that the student may receive a free appropriate public education.<sup>5</sup>

16  
17 **For behavior that is not a manifestation:**

18  
19 If the MDR can rule out a known or suspected disability as a cause or direct and substantial factor in the  
20 student's misconduct, then the MDR shall adjourn. The student may be disciplined as would any student  
21 without disabilities per Board Policy Nos. 6.300 and 6.3021, which provides for the student Code of  
22 Acceptable Behavior and Discipline.<sup>6</sup>

23  
24 In the case of a student receiving services under the IDEA, the case manager will coordinate to ensure  
25 that the student will continue to receive any services required by the IEP during the time of his/her  
26 suspension. The case manager shall convene an IEP team meeting to discuss the change of placement if  
27 such a meeting is necessary to provide a free appropriate public education.

28  
29 In the case of a student receiving services under Section 504, services will cease during the period of any  
30 out-of-school suspension. If the student is remanded to an alternative educational setting and services  
31 are required to enable the student to participate in the program, the case manager will coordinate these  
32 services.

33  
34 **EXCEPTIONS TO "STAY-PUT"<sup>7</sup>**

35  
36 Irrespective of whether a student's conduct may be a manifestation of his/her disability, a student may  
37 be suspended to an interim alternative educational placement for up to forty-five (45) days for:

- 38  
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- 40 • Carrying or possessing a dangerous weapon as defined in 18 U.S.C. § 930 on school property or at a  
41 school function;
  - 42 • Knowingly using or possessing or selling or soliciting the sale of illegal drugs on school property or  
43 at a school function; or
  - 44 • Inflicting serious bodily injury, meaning an injury with a substantial risk of death, extreme physical  
pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a

1       bodily member, organ or mental faculty, while on school property or at a school function.

2  
3       An interim alternative educational placement shall not automatically be forty-five (45) days but shall be  
4       in conformity with consequences imposed on students without disabilities. The case manager at the  
5       student's school of enrollment will coordinate with the interim alternative educational placement how to  
6       provide services to any students with an IEP assigned to an interim alternative educational placement.

7  
8       **APPEAL RIGHTS FOR STUDENTS WITH DISABILITIES**

9  
10       Any student or parent/guardian who disputes that the student violated the Code of Acceptable Behavior,  
11       Board policy, or state law; or who disagrees with the decision of the MDR that the student's behavior  
12       was not a manifestation of a known or suspected disability; or who objects to the consequences imposed  
13       by the administrator may request a hearing before the disciplinary hearing authority, the COO, and the  
14       Board of Education pursuant to Board Policy No. 6.3022.

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16       Alternatively, a student or parent/guardian may request a due process hearing before an administrative  
17       law judge.<sup>8</sup>

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36       Legal References:

- 37       1. C.F.R. § 300.530(b)(1)  
38       2. T.C.A. § 49-6-3401(c)(3)  
39       3. 34 C.F.R. § 300.530(e)  
40       4. 34 C.F.R. § 300.530(e)(1)  
41       5. 34 C.F.R. § 300.530 € and (f)  
42       6. 34 C.F.R § 300.530(d)(1)  
43       7. 34 C.F.R. § 300.530(g)  
44       8. 34 C.F.R. § 300.532

36       \_\_\_\_\_  
36       Cross References:

# Hamilton County Board of Education

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|---|---|---------------------------|-----------------------------|
| Monitoring:<br>Review: Annually<br>in January | Descriptor Term:<br><b>Personnel Health Examinations/<br/>Communicable Diseases</b> | Descriptor Code:<br>5.400 | Issued Date:<br>12/16/04    |
|   |   | Rescinded:                | Revised:<br><b>01/18/24</b> |

1  
2 All employees, prior to entering service, shall present a certificate showing a satisfactory health record.<sup>1</sup>  
3 Employees shall inform the Director of Schools or his/her designee ~~director of schools~~ whenever they  
4 contract a contagious or communicable disease. All employees hired to work in the Pre-K program shall,  
5 within thirty-six (36) hours of beginning employment, have or file written evidence of a physical  
6 examination written within the last three (3) years and a statement that his/her general physical and  
7 mental condition will permit him/her to direct and actively supervise the activities of young children.  
8 The physical form and the statement shall have the signature or stamp of a licensed physician, certified  
9 nurse practitioner or a certified physicians' assistant.

10  
11 Pre-K employees shall present to the Director of Schools or his/her designee ~~director of schools~~ a  
12 physical health form every three (3) years or more often if deemed necessary by HCDE. No employee  
13 who has any communicable disease shall perform his/her duties in any location where such might  
14 endanger the health of school children. Employees who have tested positive for a communicable disease,  
15 and are asymptomatic will be allowed to work with appropriate protective equipment while maintaining  
16 acceptable social distancing in accordance with all relevant state and federal law. ~~except the wearing of~~  
17 ~~face coverings shall not be required unless in accordance with the provisions set forth in Tenn. Code~~  
18 ~~Ann. § 14-2-104.~~ The Board shall require any employee to submit to a physical examination by a  
19 physician whenever there is reason to believe that the employee has any communicable disease.<sup>2</sup>

20  
21 The Director of Schools or his/her designee ~~director of schools~~ shall reassign or grant appropriate leave  
22 to any employee who is suspected of having a communicable disease which might endanger the health  
23 of children. Any such decision shall be consistent with applicable Board policies and state and federal  
24 law.

## 25 26 SPECIAL RULES REGARDING CRITICAL INFRASTRUCTURE

27  
28 In the event an employee who performs an essential function in support of the school system's critical  
29 infrastructure, e.g., the central office administration or vital maintenance, has been exposed to a  
30 communicable disease but is asymptomatic and has tested negative for the disease, and pursuant to  
31 guidance from the Tennessee Department of Health or the local health department, the Hamilton County  
32 Board of Education delegates to the Director of Schools or his/her designee ~~director of schools~~ the  
33 discretion to permit the employee to continue working provided that each of the following criteria are  
34 met:

- 35 • The Director of Schools or his/her designee ~~director~~ determines that the employee performs an  
36 essential function in support of critical infrastructure, e.g., central office administration or vital  
37 maintenance, and that the employee cannot perform those essential functions remotely;
- 38 • The employee who has tested positive for a communicable disease, and is asymptomatic will be  
39 allowed to work with appropriate protective equipment while maintaining acceptable social  
40 distancing in accordance with all relevant state and federal law. ~~The employee remains~~  
41 ~~asymptomatic and has not tested positive;~~

- ~~• The employee wears all necessary and appropriate protective equipment while on school campus except the wearing of face coverings shall not be required unless in accordance with the provisions set forth in Tenn. Code Ann. § 14-2-104.~~
- The employee is able to perform his or her duties while maintaining appropriate social distance;
- The employee will not be in the presence of children; and
- The employee chooses to continue working rather than taking leave otherwise available to him or her

The Director of Schools or his/her designee ~~director~~ shall exercise this discretion on a case-by-case basis weighing the nature of the employee’s duties, whether those duties are an essential part of the school system’s critical infrastructure, and whether any threat posed by the employee’s exposure can be mitigated by the use of protective equipment and maintaining distance from other people. Before exercising the discretion set forth in this policy, the director shall develop appropriate administrative procedures, incorporating whatever specific terms or conditions the appropriate local, state, or federal authorities may recommend or require. These procedures shall not become effective unless and until they have first been approved by the appropriate public health authority.

**APPEALS TO THE BOARD**

Any employee aggrieved by the application of this policy may lodge an appeal with the Board. The Board shall review the Director of Schools or his/her designee’s ~~director’s~~ decision giving appropriate difference to the director’s discretion.

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Legal References:

1. TRR/MS 0520-1-3-.08(2)(f)
2. TCA 49-5-710(a)(7); TCA 49-5-404

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Cross References:

- Grievances & the Americans w/ Disabilities Act 1.802  
 Suspension/Dismissal 5.200