

Discipline of Students with Special Needs

All students are expected to meet the requirements for behavior unless otherwise determined through the special education IEP process. State and federal special education and civil rights laws require that additional provisions be made for students who have been found by an evaluation to be eligible for special education or Section 504 services and whose program is described in an Individualized Education Plan (IEP) or Section 504 Plan. The IEP or Section 504 Plan will indicate whether the student is able to conform his/her behavior to the regular discipline code or if a modification is required. If a modified disciplinary code is required, it will be written into the IEP or Section 504 Plan.

Removal Up to Ten Days

The building administrator may order the removal of a special education student from the current placement. The district need not provide services to a special education student removed from the current placement for ten school days or less in any school year, if services are not provided to a student without disabilities. The building administrator contacts parents and documents this action through a letter. Copies of every suspension shall be sent to the Director of Special Needs.

Removal for More Than Ten Days

Anytime the school district removes a special needs student from his/her current educational placement for more than ten (10) consecutive school days in any school year, or for more than ten (10) cumulative days when a pattern of removal is occurring, this constitutes a "change in placement". A change in placement invokes certain procedural protections under the IDEA (the federal special education law) and Section 504.

Change in Placement

A change of placement occurs when a special education student is:

- Removed from the current placement for more than ten consecutive school days in a school year; or
- Subjected to a series of removals in a school year and which constitutes a pattern of removal because: 1) the series of removals total more than ten school days in a year; 2) the student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals; and 3) because of factors such as the length of each removal, the total amount of time a student is removed, and the proximity of the removals to one another. Whether a pattern of removal constitutes a change in placement is determined on a case-by-case basis by the building administrator and special needs director, and is subject to review through due process and judicial proceedings. Copies of every suspension letter for a student with disabilities

shall be sent to the Director of Special Needs, who will keep a record of all suspensions.

Manifestation Determination

Within ten school days after the date on which the decision to change the placement is made, the district shall conduct a "manifestation determination" of the relationship between the student's disability and the behavior subject to the disciplinary action. The review of the relationship between a student's disability and the behavior subject to the disciplinary action shall be done in a meeting by the parent, student, and relevant members of the IEP team who are selected by the parent and the district as well as the Director of Special Needs.

The team shall review all relevant information in the student's file, including the IEP, teacher observations, and information provided by the parent to determine:

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

If the team determines that the behavior resulted from any of the above, the behavior must be considered a manifestation of the student's disability and the contemplated disciplinary action shall not proceed.

If the team determines, specifically, that the conduct was the direct result of the district's failure to implement the IEP, the district must take immediate action to remedy the deficiencies.

If the IEP team determines that the conduct was a manifestation of the student's disability, the team must:

1. Conduct a functional behavioral assessment (unless already completed) and implement a behavioral interventions plan
 - A functional behavioral assessment can be a formal or informal assessment to identify the function or purpose the behavior serves for the student so that classroom interventions and behavior support plans can be developed to improve behavior. The assessment could include observations of the behavior, and interviews with family, teachers, and the student, so as to determine the frequency, antecedent and response of the targeted behavior; OR
2. Review the existing behavioral intervention plan and modify it to address the behavior
 - A behavior intervention plan could include:
 - A. A definition of the target behavior in observable terms
 - B. Identification of goals that address the behavior (increase, decrease behavior)
 - C. A clear statement of the objective(s) for the student
 - D. Evaluation criteria of plan and schedule for evaluation
 - E. CAP (criteria for acceptable performance)

- F. An outline of interventions, instruction (curricula), and resources that will be utilized to implement the plan
- G. A description of inservice of staff who will implement and monitor plan
- H. A statement of each person's responsibility in implementing the plan; OR

3. Return the child to the placement removed from unless the parents and the district agree a change is necessary as part of the behavioral intervention plan, or unless the infraction involves drugs, weapons, or bodily harm.

If the IEP team determines that the behavior is not a manifestation of the student's disability, the district may apply the same disciplinary measures that apply to students without disabilities. However, the student must continue to receive services to the extent necessary to enable the student to participate in the general curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP.

The relevant IEP team members, selected by the parent and the district, the Director of Special Needs and the Superintendent shall determine appropriate services.

Special Circumstances

Building administrator and the Director of Special Needs may order a change in placement to an appropriate interim alternative educational setting for the same amount of time that a student without disabilities would be subject to discipline, but for not more than 45 school days, if a special education student:

- Possesses a "dangerous weapon" or carries such a weapon to school or to a school function; or
- Knowingly possesses or uses "illegal drugs" while at school or a school function; or
- Sells or solicits the sale of a "controlled substance" while at school or a school function' or
- Inflicts serious bodily injury upon another person while at school or a school function. Serious bodily injury means a substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

Any interim alternative educational setting in which the student is placed is determined by the student's IEP team, Director of Special Needs, and Superintendent.

- Be selected so as to enable the student to participate in the general curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP; and
- Include services and modifications designed to address the behavior or to prevent the behavior from recurring.

The district may ask an administrative law judge, or seek injunctive relief through a court having jurisdiction of the

parties, to order a change in placement to an appropriate interim alternative educational setting for not more than 45 school days or seek injunctive relief through a court having jurisdiction of the parties when:

- The district can demonstrate beyond a preponderance of the evidence that maintaining said student's current placement is substantially likely to result in injury to the student or others;
- The district has made reasonable efforts to minimize the risk of harm in the current placement, including the use of supplementary aids and service; and
- The proposed interim alternative educational setting has been proposed by school personnel in consultation with the student's special education teacher.

Unless the parent and the district agree otherwise, if a parent requests a hearing to challenge either the manifestation determination or the interim alternative educational setting, the student must remain "stay put" in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the 45 day period, whichever occurs first.

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