
Chapter 10 — Discipline

❖ Overview

For all students requiring special education, the school's code of conduct applies. Students requiring special education may be suspended. A set of specific procedural requirements must be followed in the event a student requiring special education engages in a behavior that requires a disciplinary intervention.

If the District and parents of a child with a disability who has violated a school code of conduct are unable to agree on an appropriate placement, the limitations on the amount of time that child can be removed from his or her current placement will be determined as indicated in IDEA and state statutes (see Sections 10-233a to 10-233k, inclusive, of the Connecticut General Statutes).

"Exclusion" in state statutes is defined as any denial of public school privileges to a student for disciplinary purposes. An exclusion from school privileges or from transportation only, for less than 10 consecutive school days, is a suspension; any exclusion from school privileges for greater than 10 consecutive school days is an expulsion. The District will notify the parents using an effective means, of any exclusion from school privileges exceeding 90 minutes; such notification will occur within 24 hours of the time the student was excluded.

At the point in time when a student will be excluded from school for more than 10 (cumulative) school days in a school year, a change in placement may occur; where the student is excluded for more than 10 consecutive school days, a change in placement does occur. If a change in placement does occur, the District engages in several activities designed to address the behavior subject to the disciplinary action, whether it be assessment activities, reviewing the IEP or determining if the misconduct is related to the child's disability. If a change in placement occurs, the child must:

1. Continue to receive educational services that 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; and
2. Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications designed to address the behavior violation so that it does not recur.

❖ Authority of School Personnel to Remove a Student from School

Removal by School Personnel for up to 10 School Days During a School Year

District personnel may suspend a student with a disability from school for as many as 10 school days during a school year without providing educational services. Both in-school suspension and suspension from bus transportation count toward the total 10 days of suspension.

NOTE: All students who are suspended in Connecticut shall be given an opportunity to complete any class work including, but not limited to, examinations which the student missed during the period of suspension; this includes state assessments.

However, in-school suspensions will not count toward the 10-day total if the student is afforded the opportunity to continue to progress appropriately in the general curriculum, continue to receive the services specified in his or her IEP and continue to participate with non-disabled peers to the extent they would have in their current placement.

Portions of the day in which the student is excluded may also count toward the 10-day total if the student is not afforded these same opportunities to continue to progress appropriately in the general curriculum, continue to receive the services specified in his or her IEP and continue to participate with non-disabled peers to the extent they would have in their current placement.

Bus suspensions are counted toward the 10-day total if the transportation is a part of the child's IEP. The days do not count toward the 10-day total if during this period of bus suspension the District provides transportation to the student in some other manner.

A suspension occurs if a child is sent home from school; such partial day removals count toward the 10-day total.

Our District makes a prompt referral to a PPT of 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.

Removal by School Personnel for More Than 10 Cumulative School Days during a School Year

NOTE: In Connecticut, no student may be suspended more than 10 times or a total of 50 school days in one school year, whichever results in fewer days of exclusion.

Removal for More than 10 Cumulative School Days in a School Year that is a Change in Placement

If a student is to be removed from school where the removal is for more than 10 cumulative school days, school personnel must determine whether the removal is a change in placement. The criteria for a change in placement are as follows:

- Removal for more than 10 consecutive school days; **or**
- The student has been subjected to a series of removals that constitute a pattern because:
 - The series of removals total more than 10 school days in a school year; and
 - The student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals; and
 - Such additional factors as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another.

If school personnel determine that the current removal is a change in placement, then the PPT must convene to determine whether the misconduct is a manifestation of the child's disability (please see "Manifestation Determination Review").

Removal for More than 10 Cumulative School Days in a School Year that is not a Change in Placement

If a student is to be removed from school where such removal has been determined not to be a change in placement, then a manifestation determination is not required and the student may be disciplined in the same manner as students without disabilities. If the current removal is not more than 10 school days, school personnel, in consultation with at least one of the child's teachers, must determine the extent to which educational services are needed so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP. The student shall also receive, as appropriate, a Functional Behavior Assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur.

School District's Authority: Interim Alternative Educational Setting (IAES)

School personnel may remove a child with a disability who violates a code of student conduct from their current placement to an appropriate alternative educational setting for not more than 10 consecutive school days to the extent that those alternatives are also applied to children without disabilities.

School personnel may remove a student to an appropriate IAES not to exceed 45 school days, without regard to whether the behavior is a manifestation of the child's disability, if the student: 1) carries or possesses a weapon at school, on school premises or at a school function, 2) knowingly possesses, uses, sells or solicits the sale of a controlled substance while at school or a school function, or 3) has inflicted serious bodily injury upon another person at school, on school premises or at a school function. Serious bodily injury is defined as an injury that results in: (1) a substantial risk of death; (2) extreme physical pain, (3) protracted and obvious disfigurement, or (4) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

School personnel cannot remove a student to an IAES for a student's behavior in the community that involves either weapons or controlled substances. However, students may be suspended or expelled for behavior occurring in the community in accordance with the provisions of the general statutes. (Refer to Sections 10-233c(a) and Section 10-233d(a)(1) of The Connecticut General Statutes)

In our District, the authority to expel a student for behavior occurring in the community rests with the Board of Education or its designee

In order to suspend or expel a student for behavior occurring in the community, the District has to show that the conduct off school grounds is violative of a publicized policy of our District and is seriously disruptive of the educational process. To find that the behavior is seriously disruptive of the educational process, the Board of Education or its designee will review factors related to the behavior, including whether:

- the behavior happened close to school;
- other students from school were involved, or whether there was any gang involvement;
- the conduct involved violence, threats of violence or the unlawful use of a weapon;
- any injuries occurred; and
- the conduct involved the use of alcohol.

❖ Authority of Hearing Officers, Judges and Courts

Hearing Officer's Authority to Order an IAES

The District may ask a special education hearing officer to order a change in placement of a student with a disability to an appropriate interim alternative educational setting (IAES) for not more than 45 school days.

The hearing officer may place a child in an interim alternative educational setting through an expedited due process hearing if the hearing officer determines that the District has demonstrated by substantial evidence that maintaining the current placement of the child is substantially likely to result in injury to the student or to others.

Judges and Courts Authority Re: Removal

A judge or the courts continue to have the authority to remove a student from educational settings and services in accordance with state and federal laws. The District may seek a temporary restraining order that orders the student to be placed in an IAES.

❖ Determination of Interim Alternative Educational Settings

The PPT selects the IAES in which a student is to be placed by the District for drugs/weapons/serious bodily injury violations, or by a hearing officer. The IAES must be selected so as to:

- Enable the student to continue to participate in the general curriculum, although in another setting;
- Allow for the continuation of those services and modifications, including those described in the student's current IEP, that will enable the student to progress towards meeting the goals in the student's IEP; and
- Include services and modifications to address the behavior that resulted in the removal to the IAES or that are designed to prevent the behavior from recurring.

These requirements also apply to students for whom there has been a change in placement that exceeds 10 consecutive school days.

❖ Manifestation Determination Review

The Process

Whenever the District is considering an action for a removal of a student to an IAES by school personnel or by a hearing officer or other removal that constitutes a change in placement, the District must notify the parents not later than the date on which the decision to remove the

student to an IAES or other change of placement is made and provide the parents with a copy of the procedural safeguards notice.

Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the PPT must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine:

- if the behavior in question was caused by, or had a direct and substantial relationship to the child's disability, or;
- if the behavior in question was the direct result of the District's failure to implement the IEP.

Determination that the Behavior was a Manifestation of the Disability

If in conducting the manifestation determination, the team finds that either standard has been met, the behavior of the child **must be** considered a manifestation of the child's disability. In this case, the Team must either: 1) conduct a functional behavioral assessment unless the District conducted one before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan (BIP); or 2) if a BIP had been developed, review the plan and modify it as necessary. In this case the student may not be expelled but must be returned to the placement from which the child was removed unless the parent and our District agree to a change in placement. If in conducting the manifestation determination, the team identifies deficiencies in the IEP or in its implementation, the team must take immediate steps to remedy those deficiencies.

However, the student may still be placed by the District in the IAES for drugs, weapons or causing serious bodily injury, or by the hearing officer, even if the parents file for due process to challenge the manifestation determination.

Determination that the Behavior was Not a Manifestation of the Disability

The team may find that the behavior **was not** a manifestation of the child's disability only if the team finds that:

- The student's conduct in question **was not caused** by, or **did not have** a direct and substantial relationship to the child's disability; and
- The student's conduct in question **was not** the direct result of the District's failure to implement the IEP.

If the team concludes that the behavior subject to the discipline is not a manifestation of the student's disability, the student may be disciplined to the same extent that students without disabilities would be disciplined for the same behavior. However, students with disabilities must continue to receive educational services so as to enable the student to continue to participate in the general education curriculum although in another setting, and to progress towards meeting the goals set out in the student's IEP. The PPT determines the educational services to be received and the setting for those services. If disciplinary procedures are initiated, the special education and disciplinary records of the student are transmitted for consideration to the person or persons making the final determination regarding the disciplinary action.

❖ Protection for Students Not Yet Eligible for Special Education

A student who has not been determined eligible for special education and related services under the IDEA and who has engaged in behavior that violated a code of student conduct may assert any of the protections provided for in IDEA if the District had knowledge that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred.

The District would be deemed to have knowledge that a student is a student with a disability if before the behavior that precipitated the disciplinary action occurred:

- The parent of the student submitted to District supervisory or administrative personnel or a teacher of the child, a written statement of their concerns that the student is in need of special education and related services. This may be a parent referral for special education or any such written expression that the parent provides the District. This expression of concern can be provided orally if the parent does not know how to write or if they have a disability that prevents a written statement;
- The parent of the student requested an evaluation of the student to determine her/his eligibility for special education and related services under IDEA; or
- The teacher of the student, or other District personnel, expressed concern about the behavior or performance of the student to the director of special education of the District or to other supervisory personnel.

If the District does not have knowledge that a student is a student with a disability prior to taking disciplinary measures against the student, the student is subject to the same disciplinary measures as applied to students without disabilities who engage in comparable behavior.

The District will not be deemed to have knowledge that the student has a disability if the student's parents had not allowed an evaluation of the student, or has refused services under the IDEA, or the student has been evaluated and determined not to be a student with a disability under the IDEA.

If a request is made to evaluate the student to determine eligibility for services during the time period in which the student is subject to the disciplinary measures, the evaluation must be conducted in an expedited manner. Pending the results of the evaluation, the student remains in the educational placement determined by school authorities, which can include suspension or expulsion. Due to the specific requirements of the state expulsion statutes, educational services may or may not be required during the period of expulsion. The District's code of student conduct explains in detail the provision of services during periods of expulsion.

If the student is determined to be a student with a disability and in need of special education and related services, special education and related services must be provided according to the IDEA, including the disciplinary provisions of the Act, as outlined in this chapter of the District's Special Education Policy and Procedures Manual.

❖ Expedited Due Process Hearings

An expedited due process hearing will be scheduled when a hearing is requested:

- By the District to remove the student to an IAES because the District believes that keeping the student in the current school program is substantially likely to result in injury to the child or to others;
- By the District to maintain the student in an IAES or another appropriate placement after the expiration of the IAES where the parents disagree with the proposed change and the District believes that maintaining the student in the current school program is substantially likely to result in injury to the child or to others;
- By the parent where the parent believes that a change in placement has occurred because the student has been kept out of school for more than 10 consecutive days in a row without the school following proper steps;
- By the parent where the parent believes that a change in placement has occurred because the student has been kept out of school for more than 10 days in a school year without the school following the proper steps;
- By the parent where the parent does not agree with the IAES placement; or
- By the parent where the parent does not agree that the child's behavior was not a manifestation of the child's disability.

During the expedited hearing, the child must remain in the IAES or other disciplinary setting pending the decision of the hearing officer or until the expiration of the additional suspensions, expulsion or 45 school day IAES unless the parent and the LEA otherwise agree.

An expedited hearing must meet the general hearing requirements. The state due process regulations contain procedural requirements that are specific to expedited hearings. The hearing is limited to the above issues and the hearing officer has the authority to limit the introduction of exhibits and testimony as may be necessary to rule on the issue presented. In addition, a resolution meeting must occur within 7 days of receiving notice of the due process complaint. The hearing may proceed unless the matter is resolved to the satisfaction of both parties within 15 days of receipt of the due process complaint. The hearing will be held within 20 school days of the date the hearing is requested and will result in a decision within 10 school days after the hearing.

Each party has the right to prohibit the introduction of any evidence at the hearing that has not been disclosed to the other party at least two business days prior to the commencement of the expedited hearing; and, each party must disclose to the other and to the hearing officer at least two business days prior to the commencement of the expedited hearing all completed evaluations and recommendations based on the offering party's evaluation that the party intends to offer or rely on at the expedited hearing.

❖ Referral to and Action by Law Enforcement & Judicial Authorities

The District may report criminal acts committed by a student with a disability to the appropriate authorities in the same manner as crimes committed by students without disabilities are reported by the District to the proper authorities.