

Student with a Disability Exemption from the MMSD Expulsion Process For a Specific Incident

The Individuals with Disabilities Education Act (IDEA) 2004 provides that school personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement is appropriate for a child with a disability who engages in behaviors outlined in the Behavior Education Plan.

The district recognizes that, based on the individual need of each student, the expulsion process is not appropriate for all students. In such circumstances, consistent with IDEA and state law, the district may elect to exempt a student with a disability from an expulsion recommendation. This decision will be based on specific criteria and determined on a case-by-case basis with consultation with appropriate district administrators. The determination to exempt a student from the expulsion process for a specific incident is not based on any categorical area of disability, but on the unique characteristics of the student and the circumstances in which the behavior occurred.

A principal/assistant principal may continue to request a placement to an interim alternative educational setting (IAES) for a Level 5 behavior that involves weapons, drugs, and/or serious bodily injury, as per IDEA and MMSD policies and procedures, even when the student is exempted from the MMSD expulsion process for that specific incident. An IAES placement continues to require that an IEP meeting be held and that the parent receive a copy of the IEP and notice of continuing placement prior to placement in the IAES.

Eligible Students: Students whose disability significantly and pervasively impairs intellectual and/or emotional-behavioral functioning.

Conditions:

1. The student is identified as having a disability that severely limits the student's ability to understand the relative severity of his/her behavior and/or the impact that behavior may have on self or others across time and settings **and**
2. The student's significant limitation in cognition has been previously documented in one or more of the following (but not limited to): IEP evaluation(s), annual IEP's, previous Manifestation Determination reports, psychological, psychiatric or medical reports as part of the student's record, **and**
3. There is sufficient evidence to conclude that the student's impaired cognitive functioning severely limited the student's ability to understand the relative severity and/or impact of the behavior in question. [must meet all three conditions]

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Or

1. The student is identified as having a disability that significantly limits the student's ability to maintain emotional and/or behavioral control and the pattern(s) of behavior are pervasive across time and settings, **and**
2. The student's significantly impaired emotional/behavioral functioning, severe limitation in maintaining emotional and/or behavioral control, and pattern(s) of behavior have been previously documented in one or more of the following: IEP evaluation(s), IEP programs, previous Manifestation Determination reports, psychological, psychiatric or medical reports as part of the student's record, **and**
3. The student's severe limitation in maintaining emotional and/or behavioral control is evidenced by a pre-existing pattern(s) of behaviors that are similar to the specific behavioral incident under consideration. [must meet all three conditions]

Procedures

If a school administrator wishes to request an exemption from the expulsion process for a student that engaged in a Level 5 behavior (except those involving possession of a firearm and explosives):

1. The principal/assistant principal will conduct a thorough investigation as per MMSD policies and procedures a student who engages in a Level 5 behavior outlined in the Behavior Education Plan
2. The principal/assistant principal will review the student's records to determine whether there is sufficient documentation to support a request for a possible exemption from the expulsion process (see the above criteria). Consistent with the beliefs and values of the BEP, it is expected that all eligible students will be exempted when they meet the criteria. Exceptions will be made with the approval from the Chief of School Operations, Executive Director of Student Services, and the Coordinator of Progressive Discipline.
3. The principal/assistant principal will:
 - Complete a description of the specific behavioral incident and document the incident as per MMSD policies and procedures for students who engage in a Level 5 behavior
 - Gather the documentation needed to support the student's qualification for exemption from the MMSD expulsion process in preparation for the consult with the Assistant Director of Special Education in the Department of Student Services.
 - Complete the "Student Exemption from the MMSD Expulsion Process" form
4. The principal/assistant principal will submit the "Student Exemption from

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the MMSD Expulsion Process" form to the Office of Progressive Discipline within two school days after a disciplinary investigation.

5. Within two school days of the receipt from the principal/assistant principal, the Office of Progressive Discipline will enter the exemption request into the log and contact the Assistant Director of Special Education to review the student's records and the exemption request.

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6. The Assistant Director of Special Education, in consultation with the principal/assistant principal, and the student's case manager, as appropriate:

- Verifies whether conditions 1 - 3 in either set of conditions are or are not met, and
- Determines whether the information and circumstances are sufficient to recommend to the Chief of School Operations, Executive Director of Student Services and the Coordinator of Progressive Discipline that the student be exempted from the expulsion process for that specific incident
- *Optional:* Following the Assistant Director of Special Education's verification that the conditions for exemption are met and the decision as to recommend whether the student should/should not be exempted, the Assistant Director and the building administrator may review the student's current IEP and services. The Assistant Director may also recommend to the building administrator that the IEP team reconvene to review/revise the IEP and/or that staff and parent(s) meet to discuss ways to improve implementation of the IEP.

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7. The Coordinator of Progressive Discipline, in consultation with the Assistant Director of Special Education, as needed, will:

- Determine whether the request to exempt a student from the expulsion process meets procedural criteria to move forward with the exemption process.
- Approve or not approve any request for a delay in suspension of the student.
- Notify the principal/assistant principal of the decision(s) and, if approved, will provide the school and the Assistant Director of Special Education with a copy of the signed approval.
- If the request is not approved, the student will immediately be suspended (if allowed by MMSD policies regarding suspension of a student with a disability) and the regular expulsion process will begin. The Office of Progressive Discipline will notify the principal/assistant principal in writing that the request has not been approved.

8. The Coordinator of Progressive Discipline and the Assistant Director of Special Education will verify in writing to the Chief of School Operations and to the Executive Director of Student Services that the conditions have or have not been met and whether the Assistant Director does/does not recommend that the student should be exempted from expulsion for that specific incident.

9. The Office of Progressive Discipline will notify the principal/assistant principal in writing of the decision to exempt the student or to continue with the expulsion process.

Note:

- This Exemption Process is decided on a case-by-case basis for each specific behavioral incident of the student. This process must be used every *time* a student engages in a behavior that requires a recommendation for expulsion and the principal/assistant principal wishes to request that that student be exempted from the processing of an expulsion recommendation under the Behavior Education Plan for that specific incident.
- The exemption of a student from the application of the MMSD expulsion process should **not** be included, under any circumstances, in the student's IEP, including a behavior plan that has been developed as part of the IEP, as an alternative to the Behavior Education Plan or as an intervention or strategy to be used in response to Level 5 behaviors.