

DISCIPLINE OF STUDENTS WITH DISABILITIES

Nothing in these regulations shall prohibit an Individualized Educational Plan (IEP) team from establishing consequences for disruptive or unacceptable behavior as a part of the student's IEP. The plan shall be subject to all procedural safeguards established by the IEP process and shall be in compliance with the Individuals with Disabilities Education Act (IDEA), Education of Exceptional Children Act and Board policy.

Change of Placement

Students with disabilities may be suspended or removed from school for violations of the student code of conduct so long as the removal does not constitute a change in placement.

The following removals result in a disciplinary change of placement:

1. Removal of more than 10 consecutive school days.
2. A series of removals up to 10 days each that constitute a pattern because they cumulate to more than 10 school days in a school year and because of such factors as the length of each removal, the total number of days of the removals and the proximity of the removals to one another.
3. Placement in an interim alternative educational setting by the district for up to 45 days for drug or weapons violations.
4. Placement in an interim alternative educational setting by a hearing officer for up to 45 days.

During any removal beyond 10 days in any given school year, services shall be provided to the extent necessary to enable the student to continue to appropriately progress in the general curriculum and appropriately advance toward the goals of the IEP. Once a child has been removed from school beyond 10 days, the district shall conduct a functional behavioral assessment or review and modify an existing behavior intervention plan and review and modify the IEP, if appropriate.

Manifestation Determination

When a disciplinary change in placement is being considered related to a disabled student's behavior, the student's parent, relevant members of the IEP team, and others who are knowledgeable of the student's disability and behavior shall review all relevant information in the student's file. Such a review must take place immediately, if possible, but no later than 10 school days from the date of the decision to take disciplinary action.

The team will determine whether the student's behavior is a manifestation of the disability and whether the student's disability impaired his or her ability to control or understand the impact and consequences of the behavior.

Disciplinary Action for Behavior that is Not a Manifestation

If the team determines that the behavior **was not** a manifestation of the disability, disciplinary procedures shall be applied to the student in the same manner as applied to non-disabled students, and services shall be provided consistent with this policy.

Disciplinary Action and/or Alternative Placement for Behavior that is a Manifestation

If the team determines that the behavior **was** a manifestation of the disability, the student may not be disciplined for such behavior but will be treated in accordance with his or her IEP, any behavioral intervention plan and this policy.

Disabled students carrying weapons, knowingly possessing or using illegal drugs or selling or soliciting the sale of a controlled substance, or inflicting serious bodily injury upon another person at school or at a school function may be unilaterally removed to an alternative educational setting for the same amount of time as would be applied to a non-disabled student, but not more than 45 calendar days in any given school year.

A CDE-appointed hearing officer may order removal to an interim alternative setting for up to 45 calendar days when the district demonstrates by substantial evidence that maintaining the student's current placement is substantially likely to result in injury to the student or others.

The interim alternative educational setting and services to be provided shall be determined by the IEP team and will enable the student to progress in the general curriculum and receive the services, including those on the IEP that will enable the student to meet his or her IEP goals and including services designed to prevent the behavior from recurring.

Expedited Hearings

An expedited due process hearing with a final decision due in no more than 45 days is available when:

1. The parent/guardian disagrees with the IEP team's manifestation determination or with any decision regarding placement.
2. The parent/guardian disagrees with the proposed new placement following an interim alternative educational placement.

An expedited due process hearing with a final decision due in no more than 10 days is available when the district believes it is dangerous for the student to be returned to the previous placement.

During any challenge to a manifestation determination or a placement that is not an interim alternative educational placement; the student will stay in his or her current educational placement.

During any challenge to a placement in an interim alternative educational placement, or to a manifestation determination related to behavior that led to such placement, the student will stay in the interim alternative educational setting pending the decision of the hearing officer but no longer than 45 days unless the hearing officer orders additional days or unless the district and parents agree to additional days.

Students not Identified as Disabled

Students who are not identified as disabled but contend that they should be identified as disabled after discipline is proposed, are subject to the same disciplinary measures applied to children without disabilities unless the district had "knowledge" of the potential disability.

The district is deemed to have “knowledge” when:

1. The parent/guardian has expressed concern in writing that the student needs special education or requested an initial evaluation.
2. The student’s behavior or performance has demonstrated a need for special education.
3. The student’s teacher or other district personnel have expressed concern about the student’s behavior or performance to the director of special education or other district personnel through the district’s referral process

If one of the bases for knowledge existed and the district either conducted an evaluation and determined that the student is not a student with disabilities or determined that an evaluation was not required and provided notice to the parent, the district will not be considered to have knowledge of the potential disability.

If a request for evaluation is made during the period the student is subject to disciplinary measures, the evaluation will be expedited. If the student is determined to be eligible for special education services the district must provide the student with FAPE. Pending results of the evaluation the student remains in the educational placement determined by school authorities.

Revised January 31, 2001; February 20, 2008