

5105 Discipline Actions for Special Education Students**Violation of Rules for Student Conduct**

Special education students may be suspended for violation of student conduct rules to the same extent as other students, subject to the limitations and procedures imposed by federal and state laws and regulations. The limitations and procedures vary depending on the length of the suspension in question, the nature of other suspensions of the student during the school year, and the student's conduct or rule violation.

1. Suspensions of Less Than Ten (10) Consecutive School Days

A. When the student has not been suspended for ten (10) days or more during the school year, and this suspension will not cause the student to be suspended for more than ten (10) days during the school year.

Regular Procedures. A special education student may be suspended from school for ten (10) consecutive school days or less, under the same procedures as students without disabilities. For suspensions of one (1) to five (5) school days, the process for short-term suspensions shall be followed. For suspensions of six (6) to ten (10) school days, the process for long-term suspensions shall be followed. The length of the suspension should be the same as it would be if the student were not in special education.

Inform IEP Manager. The Building Principal or designee should inform the student's IEP manager of the suspension.

Services During Suspension. Services do not need to be provided to a special education student who is suspended for less than ten (10) consecutive school days and who has not been suspended for more than ten (10) days during the school year, except to the extent services would be provided to a student without disabilities.

B. When the student has been suspended for ten (10) days or more during the school year, or this suspension will cause the student to be suspended for more than ten (10) days during the school year.

Regular Procedures. The regular procedures for a short-term or long-term suspension, as appropriate, shall be followed.

Inform IEP Manager. The Building Principal or designee should inform the student's IEP manager of the suspension.

Determine if a Change in Placement will occur because of the suspension. The IEP manager shall make a determination of whether a "change of placement" has

or will occur as a result of the suspension. The regulations set out the following standard for this purpose: “The child is subjected to a series of removals that constitute a pattern because they cumulate to more than ten (10) school days in a school year, and because of factors such as the length of each removal, the total amount of time the child is removed, and the proximity of the removals to one another.” The IEP manager is encouraged to have this determination made by the IEP team, if reasonably possible considering the length of the suspension and scheduling concerns.

Notice of Decision and Safeguards. The student's parents shall be notified of the suspension decision and be given the procedural safeguards notice. This notice should be given on or before the date the decision to suspend is made.

(1) If it has been determined that the suspension will not cause a change in placement.

IEP Meeting to Develop FBA plan and Develop or Review and Modify BIP. An IEP team meeting will be convened if necessary. The team will: (1) develop a functional behavioral assessment (FBA) plan, if such an assessment had not been conducted before the student engaged in the behavior for which the student is being suspended, and (b) develop, review and, if necessary, modify any existing behavioral intervention plan (BPI). This meeting will **not** be required if a FBA and a BPI was in place before the behavior occurred, unless one (1) or more of the IEP team members believe that modifications in the BIP are needed.

Services During Suspension. The District will provide services to the student during the suspension to the extent necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the student’s IEP. The determination of what services are necessary is to be made by school personnel, in consultation with the student’s special education teacher(s).

(2) If it has been determined that the suspension will cause a change in placement.

Transmit records. The special education and disciplinary records of the student are to be transmitted for consideration by the person or persons making the final determination regarding the disciplinary action.

IEP Meeting to Develop FBA plan and Develop or Review and Modify BIP, and to make a Manifestation Determination and Determine what Services will be provided during the Suspension. An IEP team meeting will be convened. This meeting shall be convened immediately, if possible, but no later than ten (10) school days after the date on which the decision to take the suspension action is taken. The IEP team shall develop a FBA plan and develop, review and, if

necessary, modify the BIP. The IEP team and other qualified personnel shall conduct a manifestation review, to determine whether the behavior of the student was a manifestation of the student's disability. If it is determined that the behavior of the student was a manifestation of the student's disability, the suspension will not be continued or enforced. If it is determined that the behavior of the student was not a manifestation, the IEP team shall further determine what services must continue during the suspension.

Services During Suspension. The District will provide services to the student during the suspension to the extent necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the student's IEP. The determination of what services are necessary is to be made by the IEP team.

2. **Expulsions or Suspensions of More Than Ten (10) Consecutive Days**

Regular Procedures. The process for long-term suspensions or expulsions will be followed. The length of the long-term suspension or expulsion should be the same as it would be if the student were not in special education. The Building Principal or designee should immediately notify the student's IEP team manager of the decision to recommend the long-term suspension or expulsion.

Inform IEP Manager. The Building Principal or designee should inform the IEP manager when a long-term suspension or expulsion recommendation has been made.

Notice of Decision and Safeguards. The student's parents shall be notified of the suspension decision and be given the procedural safeguards notice. This notice should be given on or before the date the decision to suspend is made.

Transmit records. The special education and disciplinary records of the student are to be transmitted for consideration by the person or persons making the final determination regarding the disciplinary action.

IEP Meeting to Develop FBA plan and Develop or Review and Modify BIP, and to make a Manifestation Determination and Determine what Services will be provided during the Suspension. An IEP team meeting will be convened. This meeting shall be convened immediately, if possible, but no later than ten (10) school days after the date on which the decision to take the expulsion or suspension action is taken. The IEP team shall develop a FBA plan and develop, review and, if necessary, modify the BIP. The IEP team and other qualified personnel shall conduct a manifestation review, to determine whether the behavior of the student was a manifestation of the student's disability. If it is determined that the behavior of the student was a manifestation of the student's disability, the expulsion or suspension will not be continued or enforced. If it is determined that the behavior

of the student was not a manifestation, the IEP team shall further determine what services must continue during the suspension.

Services During Expulsion or Suspension. The District will provide services to the student during the expulsion or suspension to the extent necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the student's IEP. The determination of what services are necessary is to be made by the IEP team.

3. **Suspension of Forty-five (45) School Days (Weapon or Drugs).**

Special education students may be placed in an alternative educational setting for forty-five (45) school days or less if the student either:

(a) Carries a weapon (for this provision, "weapon" is defined as anything which may be used for, or is readily capable of, causing death or serious bodily injury, including a pocket knife with a blade of 2½ inches in length or more, and "carries" includes among other things instances in which the student is found to have a weapon that the student obtained while at school); or

(b) Possesses, uses, sells, or solicits the sale of illegal drugs or controlled substances, to or at school (which includes school grounds and vehicles owned, leased, or contracted by the school, and vehicles being driven for a school purpose by a school employee or designee) or a school function.

The following steps will apply:

Regular Procedures. The process for long-term suspensions or expulsions will be followed. The length of the placement in the alternative educational setting should be the same as it would be if the student were not in special education, subject to the forty-five (45) school day limit. The Building Principal or designee should immediately notify the student's IEP team manager of the decision to recommend the change in placement.

Inform IEP Manager. The Building Principal or designee should inform the student's IEP manager when a long-term suspension or expulsion recommendation has been made.

Notice of Decision and Safeguards. The student's parents shall be notified of the decision to change the student's placement and be given the procedural safeguards notice. This notice should be given on or before the date the decision to make the change in placement is made.

Transmit records. The special education and disciplinary records of the student are to be transmitted for consideration by the person or persons making the final

determination regarding the disciplinary action.

IEP Meeting to Develop FBA plan and Develop or Review and Modify BIP, and to make a Manifestation Determination and Determine what Services be provided during the Expulsion or Suspension. An IEP team will be convened. This meeting should be convened immediately, if possible, but no later than ten (10) school days after the date on which the decision to take the expulsion or long-term suspension action is taken. The IEP team shall develop a FBA plan and develop, review and, if necessary, modify the BIP. The IEP team and other qualified personnel shall conduct a manifestation review, to determine whether the behavior of the student was a manifestation of the student's disability. If it is determined that the behavior of the student was a manifestation of the student's disability, the student will not be suspended for a period of more than ten (10) consecutive days (on a cumulative school year basis) or be expelled. If it is determined that the behavior of the student was not a manifestation, the IEP team shall further determine what services must continue during the long-term suspension or expulsion, and the alternative educational setting in which the student is to be placed.

Services during Expulsion or Suspension. The District will provide services to the student during the expulsion or suspension in an alternative educational setting. The alternative educational setting will be selected to enable the student to continue to progress in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the student's current IEP, that will enable the student to meet the goals set out in the IEP, and will also include services and modifications to address the behavior designed to prevent the behavior from recurring. The determination of the alternative educational setting is to be made by the IEP team.

4. Forty-five (45) Day Hearing Officer Placement (Dangerousness).

A State Department of Education Hearing Officer may, through a special proceeding, place a special education student in an interim alternative educational setting for not more than forty-five (45) days if a student's current placement is substantially likely to result in injury to the student or others. The Superintendent or designee is authorized to initiate such proceedings when deemed appropriate.

5. Applicability of Regulation.

The procedures and requirements of this regulation are applicable to students who have been determined to be eligible for special education and related services and to students who assert the protections of this regulation or the law and regulations pertaining to the discipline of special education students, if the District had knowledge that the student is a child with a disability before the behavior that precipitated the disciplinary action occurred.

The District may be deemed to have knowledge that the student is a child with a disability if: (1) the parent of the student has expressed concern in writing to personnel of the District that the student is in need of special education and related services; (2) the behavior or performance of the student demonstrates the need for these services; (3) the parent of the child has requested a special education evaluation; or (4) the teacher of the student, or other personnel of the District, has expressed concern about the behavior or performance of the student to the director of special education or to other District personnel in accordance with the District's established child find or special education referral system. Such knowledge will not be deemed to exist if, as a result of receiving the above specified information, the District has either conducted an evaluation of the student and determined that the student is not a child with a disability, or determined that an evaluation is not necessary, and given notice of such to the student's parents in accordance with the regulations concerning evaluation procedures. If an evaluation request is received during the time a student is suspended or expelled, the evaluation is to be conducted in an expedited manner.

Legal Reference: Rule 51; 20 U.S.C. §1400, et. seq.; 34 CFR Parts 300 and 303

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