LENAPE TECHNICAL SCHOOL

SECTION: PROGRAMS

TITLE: DISCIPLINE OF STUDENTS WITH DISABILITIES

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113.1. DISCIPLINE OF STUDENTS WITH DISABILITIES

1. Purpose

The school shall implement Positive Behavior Support Plans and programs for students with disabilities who require specific interventions to address behaviors that interfere with learning. [1][2][3]

Students with disabilities who violate the Code of Student Conduct, or engage in inappropriate behavior, disruptive or prohibited activities and/or actions injurious to themselves or others, which would typically result in corrective action or discipline of students without disabilities, shall be disciplined in accordance with state and federal laws and regulations and Joint Operating Committee policy and, if applicable, their Individualized Education Program (IEP) and Positive Behavior Support Plan. [1][4][5][6][7]

2. Definitions

Students with disabilities – school-aged children who have been evaluated and found to have one or more disabilities as defined by law, and who require, because of such disabilities, special education and related services.[2]

Suspensions from school – disciplinary exclusions from school for a period of one (1) to ten (10) consecutive school days. [7] [8]

Expulsions from school – disciplinary exclusions from the school by the Joint Operating Committee, for a period exceeding ten (10) consecutive school days and may include permanent exclusion from the school. The school shall coordinate actions involving expulsions with the student's school district of residence as required by law or the agreement between the sending school district and Joint Operating Committee. [7] [8]

Interim alternative educational settings – removal of a student with a disability from the student's current placement. Interim alternative educational settings may be used by school personnel for up to forty-five (45) school days for certain infractions committed by students with disabilities. The IEP team shall determine the interim alternative educational setting; however, this does not constitute a change in placement for a student with a disability. [5] [9]

2. Authority

The Joint Operating Committee directs that the school shall comply with provisions and procedural safeguards of the Individuals with Disabilities Education Act (IDEA) and federal and state regulations, and shall coordinate with the student's school district of residence when disciplining students with

	disabilities for violations of Joint Operating Committee policy or school rules and regulations. No student with a disability shall be subjected to a disciplinary change in placement if the student's particular misconduct is a manifestation of **the student's** disability. However, under certain circumstances, in coordination with the student's school district of residence, a student with a disability may be placed in an interim alternative educational setting by school personnel or the IEP team could, if appropriate, change the student's educational placement to one which is more restrictive than the placement where the misconduct occurred. [4][5] [9] <u>Provision of Education During Disciplinary Exclusions</u> During any period of expulsion, or suspension from the school for more than ten (10) cumulative days in a year, or placement in an interim alternative educational setting for disciplinary reasons, a student with a disability shall continue to receive a free and appropriate public (FAPE), in accordance with law. The student's school district of residence shall be responsible to provide FAPE in the event of an expulsion from the school. [5][8][10]
3. Guidelines	<u>Suspension From School</u> A student with a disability may be suspended for ten (10) consecutive and fifteen (15) cumulative days of school per year, for the same reasons and duration as a student without a disability. Such suspension shall not constitute a change in the student's educational placement [4][5][8][9][11] <u>Changes in Educational Placement/Manifestation Determinations</u> For disciplinary exclusions which constitute a change in educational placement, the school, in coordination with the student's school district of residence and IEP team, shall first determine whether the student's behavior is a manifestation of the student's disability. Expulsion, or exclusion from school for more than fifteen (15) cumulative days in a year, or patterns of suspensions for substantially identical behaviors constitute changes in educational placements requiring a manifestation determination. For students with intellectual disability, any disciplinary suspension or expulsion is a change in educational placement. [4][5] A student with a disability whose behavior is not a manifestation of the student's disability may be disciplined in accordance with Joint Operating Committee policy, school rules and regulations in the same manner and to the same extent as students without disabilities. [4][5][6][7] <u>Parent/Guardian Appeals From Disciplinary Actions/Request for Hearing by School for Students Who are a Danger to Themselves or Others</u> A due process hearing may be requested by a parent/guardian of a student with

a disability who disagrees with a disciplinary placement or manifestation determination, or by the school, in coordination with the student's school district of residence, if the school believes that the current placement is substantially likely to result in injury to the student or others. On parent/guardian appeal, or when the school, in coordination with the student's school district of residence, requests a due process hearing, the hearing officer may return the student to the placement from which the student was removed or order the student's removal to an appropriate interim alternative educational setting for forty-five (45) school days if the hearing officer determines that maintaining the student's current placement is substantially likely to result in injury to the student or others. [9][12]

Placement during appeals of disciplinary actions shall be in the interim alternative educational setting pending the decision of the hearing officer or expiration of the time period set for the disciplinary exclusion from the student's regular placement unless the school, school district of residence and the parent/guardian agree otherwise. [9][13]

Students Not Identified as Disabled/Pending Evaluation

Students who have not been identified as disabled may be subject to the same disciplinary measures applied to students without disabilities if the school did not have knowledge of the disability. If a request for evaluation is made during the period the student is subject to disciplinary measures, the school shall contact the student's school district of residence and an evaluation shall be expedited. [9][14]

Administrative Removal to Interim Alternative Educational Setting for Certain Infractions

School personnel shall contact the student's school district of residence and notify it of the need to remove a student with a disability, including intellectual disability, to
an interim alternative educational setting for no more than forty-five (45) school days without regard to whether the behavior is determined to be a manifestation of the student's disability if the student: [5][10]

1. Carries a weapon to or possesses a weapon at the school, on school property, or at school functions. For purposes of this provision, **weapon** is defined as a weapon, device, instrument, material or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than two and one-half (2½) inches in length. [5][9][15][16]

2. Knowingly possesses or uses illegal drugs, as defined by law, or sells or solicits the sale of a controlled substance, as defined by law, while at

the school, on school property, or at school functions. [5][9][17][18]

3. Has inflicted serious bodily injury upon another person while at the school, on school premises, or at a school functions. For purposes of this provision, **serious bodily injury** means bodily injury which involves 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. [5][9][19]

School personnel shall provide the student's school district of residence with the supporting information necessary for the school district of residence and the student's IEP team to determine the interim alternative educational setting for the student.

Referral to Law Enforcement and Reporting Requirements

For reporting purposes, the term **incident** shall mean an instance involving an act of violence; the possession of a weapon; the possession, use, or sale of a controlled substance or drug paraphernalia as defined in the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act; the possession, use, or sale of alcohol or tobacco **products**; or conduct that constitutes an offense listed **in the school safety and security provisions of School Code.**[20][21][22]

The Administrative Director or designee shall immediately report required incidents and may report discretionary incidents committed on school property, at any school-sponsored activity or on a conveyance providing transportation to or from the school or a school-sponsored activity by a student with a disability, including a student for whom an evaluation is pending, to the **law enforcement agency** that has jurisdiction over the school's property, in accordance with state and federal laws and regulations, the procedures set forth in the memorandum of understanding with **law** enforcement and Joint Operating Committee policies. The Administrative Director or designee, in coordination with the student's school district of residence, shall respond to such incidents in accordance with law and regulations and, if applicable, the procedures, methods and techniques defined in the student's Positive Behavior Support Plan. [1][3][6][9][16][18][20][22][23][24][25][26][27][28][29][30][31][32]

For a student with a disability, who does not have a Positive Behavior Support Plan, subsequent to notification to law enforcement, the school shall contact the student's school district of residence to convene the student's IEP team to consider whether a Positive Behavior Support Plan should be developed to address the student's behavior, in accordance with law, regulations and Joint Operating Committee policy. [1][3][25]

When reporting an incident committed by a student with a disability to the appropriate authorities, the school, in coordination with the student's school district of residence, shall provide the information required by state and federal laws and regulations and shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by those authorities. The school shall ensure compliance with the Family Educational Rights and Privacy Act when transmitting copies of the student's special education and disciplinary records. [9][20][23][24][25][27][31][33][34][35][36]

In accordance with state law, the Administrative Director shall annually, by July 31, report to the **PA Department of Education** on the required form all new incidents committed by students with disabilities, including students for whom an evaluation is pending, which occurred on school property, at any school-sponsored activity or on a conveyance providing transportation to or from the school or a school-sponsored activity. [22][31][32]

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Legal References
1. 22 PA Code 14.133
2. Pol. 113
3. Pol. 113.2
4. 22 PA Code 14.143
5. 34 CFR 300.530
6. Pol. 218
7. Pol. 233
8. 22 PA Code 12.6
9. 20 U.S.C. 1415
10. 20 U.S.C. 1412
11. 34 CFR 300.536
12. 34 CFR 300.532
13. 34 CFR 300.533
14. 34 CFR 300.534
15. 18 U.S.C. 930
16. Pol. 218.1
17. 21 U.S.C. 812
18. Pol. 227
19. 18 U.S.C. 1365
20. 22 PA Code 10.2
21. 35 P.S. 780-102
22. 24 P.S. 1319-B
23. 22 PA Code 10.21
24. 22 PA Code 10.22

	25. 22 PA Code 10.23 26. 22 PA Code 10.25 27. 34 CFR 300.535 28. Pol. 103.1 29. Pol. 218.2 30. Pol. 222 31. Pol. 805.1 32. 24 P.S. 1306.2-B 33. 20 U.S.C. 1232g 34. 34 CFR Part 99 35. Pol. 113.3 36. Pol. 216 20 U.S.C. 1400 et seq 34 CFR Part 300