

RANCHO SANTA FE SCHOOL DISTRICT

Board Policy No. 5013: SUSPENSION AND EXPULSION OF PUPILS WITH EXCEPTIONAL NEEDS

A. Introduction

1. The Board recognizes that it may be necessary to suspend, expel or otherwise remove from school for disciplinary reasons a student identified as an individual with disabilities pursuant to the Individuals with Disabilities Education Act (IDEA).
2. It is the intent of the Board that its policies and regulations be consistent with current law. Any part of this Policy that is inconsistent with current law shall be void.
3. As used in this Policy:
 - a. "Suspension" has the same meaning as defined by Board Policy 5012.
 - b. "Interim Alternative Educational Setting" means a temporary educational placement that enables the student to continue to progress in the general curriculum, although in another setting, and to continue to receive services and modifications described in the student's current individualized education program (IEP) so as to enable the student to meet the goals in such IEP.

B. Short Term Suspensions

The Principal, the Principal's designee, or the Superintendent may suspend a student with a disability from school for any reason(s) enumerated in Board Policy 5012 for no more than five consecutive school days.

C. Change in Placement

A change in placement occurs when a student with a disability is either suspended, expelled or otherwise removed from the student's current educational placement for disciplinary reasons as follows:

1. For more than 10 consecutive school days; or
2. For a series of suspensions or removals that constitute a pattern because they accumulate to more than 10 school days in a school year or because of such factors as the length of each suspension or removal, the total amount of time the student is removed and the proximity of the suspensions or removals to one another.

D. Manifestation Determination/Procedural Safeguards

1. If disciplinary action involving a change in placement is contemplated, school personnel must, not later than the date on which the decision to take the disciplinary action is made, notify the student's parent/guardian of the decision and of all procedural safeguards.
2. Within 10 school days of any decision to change the placement of a student with a disability for disciplinary reasons, the IEP team, the parent/guardian and other qualified District personnel must review all relevant information in the student's file, including the student's IEP, teacher observations, and any relevant information provided by the parent/guardian (the DEP team may also request a new or more current evaluations) to determine:
 - a. If the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability; or
 - b. If the conduct in question was the direct result of the District's failure to implement the student's IEP.

If it is determined that either of these conditions are met, the conduct in question must be determined to be a manifestation of the student's disability.

3. If it is determined that the conduct in question was a manifestation of the student's disability, the IEP team must:
 - a. Conduct a functional behavioral assessment (unless one was previously conducted) and develop and implement a behavioral intervention plan or, if a behavior intervention plan has already been developed, review the plan and modify it as necessary to address the behavior; and
 - b. Except as provided by Section E of this Policy, return the student to the placement from which the student was removed unless the parent/guardian and the District agree to a change of placement.
4. If the IEP team concludes that the misconduct was not a manifestation of the student's disability, the student may be suspended and/or expelled under the District's procedures for other students contained in Board Policy 5012. The parent/guardian shall be informed of all procedural and due process rights.

E. Interim Alternative Placement Up to 45 School Days Due to Dangerous Behavior

1. The District may place a student with a disability in an appropriate interim alternative educational setting for up to 45 school days, without regard as to whether the behavior is a manifestation of the student's disability, when the student commits one of the following acts while at school, going to or from school, during the lunch period whether on or off campus, while at a school related function, or going to or from a school related function:
 - a. Carries a weapon;
 - b. Knowingly possesses or uses illegal drugs;
 - c. Sells or solicits the sale of a controlled substance as defined by 21 USC 812(c) Schedules I-V;
 - d. Inflicts serious bodily injury upon another person.

The IEP team shall determine the student's interim alternative educational setting.

2. In addition, if school personnel believe that a student with a disability is dangerous to him or herself or others, the District may request a hearing officer in an expedited due process hearing to remove a student to an interim alternative educational setting for up to 45 days. The hearing officer will determine if the interim alternative placement proposed by the District is appropriate. If necessary, the District can request subsequent extensions for up to 45 days at a time.

F. Expulsion

1. Expulsion is considered a change of placement for a student with a disability. The District may expel a student with a disability pursuant to the procedures described in Board Policy 5012 if:
 - a. The student has engaged in conduct which would warrant expulsion if the student were not disabled; and
 - b. The IEP team determines that the student's conduct is not a manifestation of the student's disability;
2. The statutory times and those in Board Policy 5012 prescribed for expulsion proceedings shall commence after the completion of the manifestation determination, the IEP team meeting, and all due process hearings and appeals available under federal law.

G. Services During Suspensions and Expulsions

Students with disabilities that are suspended, expelled or otherwise removed from the current educational placement for more than 10 school days in a school year shall continue to receive services during the term of the disciplinary removal to the extent necessary to provide the student a free and appropriate public education. The alternative educational program will provide services necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals in the student's IEP.

H. Due Process Appeals

1. If the parent/guardian disagrees with a decision that the student's behavior in question was not a manifestation of the student's disability or with any decision regarding placement, he/she has a right to appeal the decision.
2. If the student's parent/guardian initiates a due process hearing to challenge the interim alternative educational setting or the manifestation determination, the student shall remain in the interim alternative setting pending the decision of the hearing officer or the expiration of the 45-day time period, whichever occurs first, unless the parent/guardian and district agree otherwise.

I. Reporting of Crimes to Law Enforcement Authorities

The District will report crimes committed by students with disabilities to appropriate law enforcement authorities to the same extent as it is required to do for crimes committed by non-disabled students.

J. Procedures for Students Not Yet Eligible for Special Education Services

1. A student who has not been identified as an individual with disabilities pursuant to the IDEA, and who is subject to suspension and/or expulsion as set forth in Board Policy 5012, may assert the procedural safeguards granted herein only if the District had knowledge that the student was disabled before the behavior occurred.
2. The District shall be deemed to have knowledge that the student had a disability if one of the following conditions exists:
 - a. The parent/guardian has expressed in writing that their child is in need of special education services; or
 - b. The parent/guardian has requested a special education evaluation; or
 - c. The student's teacher or other school staff have expressed concern about a pattern of behavior demonstrated by the student to the director of special

education or other District supervisory personnel in accordance with the District's established child find or special education referral system.

3. The District is not deemed to have knowledge that a student has a disability if either the District conducted an evaluation and determined that the student was not disabled, the parent/guardian has not allowed an evaluation, or the parent/guardian has refused services offered by the District.
 4. If an evaluation is requested during the time period in which the student is subject to disciplinary measures, an expedited evaluation must be provided. The District will determine the student's educational placement, which can include suspension or expulsion, until the evaluation is completed.
- K. If the pupil with exceptional needs is a foster child, as defined in Education Code section 48853.5(a), and the District has proposed a change in placement due to an act for which a pupil may be expelled, the attorney for the individual with exceptional needs and an appropriate representative of the county child welfare organization shall be invited to participate in the individualized education program team meeting that makes a manifestation determination pursuant to applicable federal law. The invitation shall be in accordance with Education Code section 48915.5(d), and may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.
- L. The District shall administer discipline for students with disabilities in a non-discriminatory manner in accordance with state and federal non-discrimination and disability laws.

Legal Reference:

Education Code section 48915.5

Title 34 Code of Federal Regulation §§ 300.530-300.537

20 U.S.C. section 1415

Date Policy Adopted by the Board: September 6, 1990

Dates Policy Revised by the Board: January 13, 2005; May 17, 2007; June 5, 2008; July 18, 2013, August 3, 2023