EASTCONN
Where Learning Comes to Life

STUDENTS
Series 5000
Policy 5023.2.1

Discipline of Students with Disabilities

Students with disabilities are neither immune from EASTCONN's disciplinary process nor entitled to participate in programs when their behavior impairs the education of other students. Students with disabilities who engage in disruptive activities and/or actions dangerous to themselves or others will be disciplined in accordance with their IEP, any behavioral intervention plan and this policy. School personnel may consider any unique circumstances on a case by case basis when determining whether to order a change in placement for a student with a disability who violates the code of student conduct. Therefore, EASTCONN has the authority on a case-by-case basis to place a student in an alternative setting while a manifestation determination is pending. During any period of disciplinary action, irrespective of whether the behavior is determined to be a manifestation of the student's disability, the student will continue to receive a "free appropriate public education" in accordance with federal law and applicable regulations and educational services in order to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP and receive, as appropriate, a functional behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

Manifestation Determination

When a disciplinary change in placement is being considered for more than ten (10) days in a given school year related to a disabled student's behavior, the relevant members of the IEP team (PPT) and other qualified school personnel as determined by the parent and school, will review the relationship between the student's disability and the behavior. All relevant information in the student's file including the IEP, any teacher observations and any parental provided information shall be reviewed to determine if the conduct in question was caused by, or had a direct and substantial relationship to the student's disability or if the conduct was the direct result of the school's failure to implement the IEP. Such a review must take place as soon as possible, but no later than 10 school days from the date of the decision to take disciplinary actions which would remove a student with a disability from his/her current educational placement for more than ten school days.

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

School personnel may order a change in the placement of a disabled student who violates the conduct code to an appropriate interim educational setting, another setting, or a suspension of not more than ten school days, to the extent that such alternatives are applied to non-disabled students.

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

A student with disabilities whose behavior is determined to be a manifestation of his or her disability may not be expelled but will be disciplined in accordance with his or her IEP, any behavioral intervention plan and this policy.

In addition to any disciplinary action provided for in the IEP or behavioral intervention plan, a disabled student may be suspended for up to 10 school days cumulatively in a school year to the extent suspension would be applied to non-disabled students, without the need to provide any services. Disabled students may be suspended for additional removals for up to 10 days for separate acts of misconduct as long as the removals do not constitute a pattern or change in placement. School administrators and the student's special education teacher shall determine the level of services to be provided to the disabled student in subsequent suspensions beyond the first 10 days cumulative in a school year.

School personnel may remove a disabled student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability if the student has inflicted serious bodily injury upon another person while at school, on school premises or at a school function or carries or possess a weapon to or at school, on school premises or at a school function or carries or possesses a weapon to or at school, or solicits the sale of a controlled substance while at school, on school premises or at a school function.

A "serious bodily injury" is defined as bodily injury which involves a 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. (18 U.S.C. §1365(h)(3))

The alternative educational setting shall be determined by the IEP Team (PPT). The parent/guardian of the disabled child who disagrees with any decision regarding disciplinary action, placement, or the manifestation determination, or the school if it believes that maintaining the current placement of the child is substantially likely to result in injury to the student or others, may request a hearing.

A hearing officer may order a change in placement of a disabled student to an appropriate alternative setting for not more than 45 school days where the school demonstrates by substantial evidence that maintaining the student's current placement is substantially likely to result in injury to the student or others.

When an appeal has been requested by the parent/guardian or school regarding the interim alternative educational setting or a manifestation determination, the student shall remain in the interim educational setting pending the decision of the hearing officer, or until the expiration of the 45 day time period, whichever occurs first, unless the parent and the state or EASTCONN agree otherwise.

Either before or within 10 days after any change in placement for more than ten days related to a disciplinary problem, the IEP team (PPT) must meet to determine an appropriate alternative setting, to develop a behavioral assessment plan or to review and modify an existing intervention plan, and review and modify the IEP where necessary.

Nothing in this policy shall prohibit the IEP team (PPT) 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.

Expedited Hearings

An expedited hearing is available when:

1. the parent/guardian disagrees with the IEP team (PPT) team's determination regarding manifestation or with any decision regarding placement.

2. the parent/guardian disagrees with the proposed new placement following an interim alternative placement.

3. the school believes it is dangerous for the student to be returned to the previous placement

The hearing shall occur within 20 days of the date it is requested and a decision rendered within 10 school days after the hearing.

During any challenge to placement, the student will stay in the alternative placement.

Students Not Identified as Disabled

Students who have not been identified as disabled may be subjected to the same disciplinary measures applied to children without disabilities who engaged in comparable behaviors if the school did not have "knowledge" of the disability.

The school shall be deemed to have knowledge that a student has a disability if, before the behavior that precipitated the disciplinary action occurred:

1. the parent has expressed concern in writing that the student needs special education.

2. the parent has requested an evaluation.

3. the student's teacher or other school personnel have expressed concern about the student's behavior or performance to the Director of Special Education or other supervisory Agency personnel.

If a request for evaluation is made during the period the student is subject to disciplinary measures, the evaluation will be expedited.

If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the school and information provided the parents/guardians, the school shall provide special education and related services in accordance with the IDEA, except that, pending the results of the evaluation, the student shall remain in the educational placement determined by school authorities.

(cf. 5023.1.1 – Conduct and Discipline)

(cf. 5026.1.1 - Student Records; Confidentiality)

(cf. 5007.1.1 - Drugs, Tobacco, Alcohol)

(cf. 5021.4.1 - Weapons and Dangerous Instruments)

Legal Reference: Connecticut General Statues

10-233a through 10-233f. Suspension, removal and expulsion of students.

53a-3 Definitions.

53a-217b Possession of Firearms and Deadly Weapons on School Grounds.

GOALS 2000: Educate America Act, Pub. L. 103-227.

18 U.S.C. 921 Definitions.

Title I - Amendments to the Individuals with Disabilities Act. (PL 105-17)

Sec. 314 (Local Control Over Violence)

Elementary and Secondary Schools Act of 1965, as amended by the Gun Free Schools Act of 1994

P.L. 108-446 The Individuals with Disabilities Education Improvement Act of 2004

Adopted: November 26, 2019
Revised:
Replaces: 5144.3