

Discipline/Suspension/Expulsion of Disabled Students

In matters relating to the disciplining of disabled students, the Board shall abide by federal and state laws regarding suspension and expulsion. The Principal will follow the guidelines below and ensure they are properly used when disciplining any student with a disability.

Removals of Not More Than 10 Days – The 10-Day Rule

The School may unilaterally remove a Student with a disability who violates a code of student conduct from the Student's current placement for not more than ten (10) school days. This option may be used only if the disciplinary action is consistent with actions taken against nondisabled students. The School may place Students removed under the 10-day rule in an appropriate interim alternative educational setting (“IAES”) if applicable (see below), another setting, or suspend them. Removals under the 10-day rule are not considered a “change of placement” and the School is not obligated to provide services to Students during those removals. The School can use the 10-day rule to remove a student for either a single removal of ten (10) consecutive school days; or a series of shorter-term removals over the course of the school year that are more than ten (10) school days during that school year, so long as those removals do not constitute a pattern of removals (and therefore, a change of placement). When a removal is not a change of placement, an IEP meeting is not required. However, if one or more IEP team members believe that modifications are needed to the Student’s behavior plan, the team shall meet to modify the plan and its implementation to the extent the team determines necessary.

Removals of More than 10 Days – Change of Placement

A change of placement occurs if a removal is for more than ten (10) consecutive school days; or if a Student is subjected to a series of removals which accumulate to more than ten (10) school days, that constitute a pattern. If a change of placement occurs (after a Manifestation Determination Review (see below)), then the School must notify the parents or guardians of that decision. This notice must inform the parents or guardians of all the procedural safeguards accorded under the law. These safeguards include a Manifestation Determination Review, a right to receive services, and a continuation of services for a free appropriate public education. The School must provide services that:

- enable the Student to continue to participate in the general education curriculum (although in another setting); and
- enable the Student to progress toward meeting the goals set out in the Student’s IEP.

Manifestation Determination Review (“MDR”)

The School will conduct an MDR to examine a Student's behavior before imposing disciplinary consequences that would amount to a change of placement. The purpose of the MDR is to determine whether a Student’s disability caused, influenced or otherwise impacted the Student’s behavior in question. To make this determination, the Student’s IEP team is required to review

certain information and determine whether the behavior causing the disciplinary infraction is or is not a manifestation of the Student's disability.

The MDR is not required for disciplinary removals that do not constitute a change of placement, that is, less than ten (10) school days per incident or a series of removals accumulating to more than ten (10) school days in one school year that do not constitute a pattern.

No later than the date on which the decision to take a disciplinary action which may be a change of placement is made, the School must notify the parents or guardians of that decision and of all procedural safeguards, including the MDR. The School and the parents or guardians must determine which members of the IEP team are relevant to conduct the manifestation determination. The team will review all relevant information in the Student's file to determine whether the conduct in question was caused by, or had a direct and substantial relationship to, the Student's disability or was the direct result of the School's failure to implement the IEP. If the team determines that either condition is applicable for the Student, it must determine that the conduct is a manifestation of the Student's disability.

Manifestation – If the team determines that the behavior was a manifestation of the Student's disability, the full IEP team must meet the following requirements:

- conduct a functional behavior assessment and implement a behavior intervention plan for the student, unless the School conducted a functional behavior assessment prior to the manifestation determination;
- if the IEP team already developed a behavior intervention plan, it must review and modify the plan as necessary to address the behavior; and
- return the Student to the placement from which he or she was removed; 45-day rule exception applies.

No Manifestation – If the team determines that the behavior was NOT a manifestation of the disability, the School may discipline the Student using the relevant disciplinary procedures applicable to Students without disabilities in the same manner and for the same duration, continuing to provide services to Students with disabilities.

If a Student's behavior was not a manifestation of the disability, the School will still take steps to attend to the Student's behavior. The Student must receive, as appropriate, a functional behavior assessment, behavioral intervention services, and modifications designed to address the behavior violation in order to attempt to prevent a reoccurrence.

Exceptions to the MDR Requirement – The Unilateral Change in Placement and 45-Day Rule

School personnel may remove a Student to an IAES for up to forty-five (45) school days, without a prior MDR or IEP meeting, when a Student:

- carries or possesses a weapon (a 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 the term does not include a pocket knife with a blade of less than 2 1/2 inches in length);

- knowingly possesses or uses illegal drugs (a controlled substance not legally possessed or used under the supervision of a licensed health care professional, or legally possessed or used under any other authority under the Controlled Substances Act (21 U.S.C. 812) or under any other provision of federal law), or sells or solicits the sale of a controlled substance (a drug or other substance identified under Schedule I, II, III, IV or V in the Controlled Substances Act); or
- has inflicted serious bodily injury on another person (a cut, abrasion, bruise, burn or disfigurement, physical pain, illness, impairment of the function of a bodily member, organ or mental faculty, or any other injury, no matter how temporary).

This authority can be exercised if a Student commits any of the offenses described above at the School, on the School premises, or at a School function.

The IEP team will meet subsequent to the unilateral placement in an IAES and must determine what the permanent setting will be, take steps to modify the student's IEP, as appropriate, provide appropriate behavioral intervention services and modifications designed to address the behavior violation so that it does not recur, and continue to provide the Student with educational services to enable him or her to participate in the general education curriculum and to progress toward IEP goals.

The School must still do an MDR, but it can occur after the removal to the 45-day setting. If the conduct is a manifestation of the Student's disability, the School must still meet all of the requirements outlined above for the MDR, with the additional exception that the Student stay in the alternative placement for 45 school days, regardless of the outcome of the manifestation.

Due Process Complaint

Parents or guardians who disagree with any decision regarding placement or the outcome of an MDR may appeal the decision through the filing of a due process complaint and may request an expedited due process hearing.

The School may request a hearing to change a Student's placement if the School believes that maintaining the Student's current placement is substantially likely to result in injury to the Student or others. Under those circumstances, the hearing officer may order a change in placement of a Student with a disability to an IAES for a period of up to forty-five (45) school days if the hearing officer agrees with the School's assessment.

During any due process proceedings, the Student's placement, through a disciplinary action, must not change unless the parents/guardians and the School agree otherwise, or upon admissions to the School and parent/guardian consent. The School may change the Student's

placement when taking disciplinary actions that constitute a change of placement against students with disabilities, or Students who may be eligible for IDEA services.

In the case where a Student has been placed in an IAES, the Student will remain in the IAES chosen by the School, pending the hearing officer's decision or until the time period expires, whichever occurs first, unless the Parent and School agree otherwise. An expedited hearing will be arranged during an IAES appeal and will occur within twenty (20) days of the hearing request, and the hearing officer must make a determination within ten (10) school days after the hearing.