

DISCIPLINE OF STUDENTS WITH DISABILITIES

The Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act, and related regulations provide eligible students with certain procedural rights and protections in the context of student discipline.

In general, students with disabilities who violate school rules are subject to removal from their current placement for up to ten (10) consecutive school days to the extent that such a removal would be applied to students without disabilities. This removal can occur without a prior determination of whether the conduct is a manifestation of the student's disability. Students may be removed for additional periods for up to ten (10) consecutive school days in the same school year for separate incidents of misconduct without a manifestation determination, as long as the removal does not constitute a "change in placement" as described below.

If the IEP Team, including the parents, determines the behavior was not a direct result of the student's disability, the school may discipline the student according to the school's code of student conduct, except that the district must continue to provide the student with educational services during the period of suspension or expulsion. However, if the Team determines that the behavior was a direct result of the disability, the student may not be excluded from the current educational placement (except in the case of weapons, drugs, or serious bodily injury) until the Team develops and parents/guardians consent to a new Individualized Educational Program (IEP). The Team also must conduct a functional behavioral assessment and develop or revise a behavioral plan for the student as necessary.

A suspension of longer than ten (10) school days or a series of shorter term suspensions that constitute a pattern are considered to represent a change in placement. Whether a pattern exists must be decided on a case-by case basis, considering such factors as the length of each suspension, the nature of the alleged conduct, the proximity of the suspensions to one another, and the total amount of time the student is excluded from school. Prior to a suspension that constitutes a change in placement, the student's Team must meet to determine whether the behavior is a manifestation of the student's disability. In making this determination, the Team must review all relevant information in the student's file, including the IEP, teacher observations, and any relevant information provided by the parents, to determine if the conduct was caused by, or had a direct and substantial relationship to the student's disability or was the direct result of any failure by the school to implement the IEP.

Any student who is removed from school for a disciplinary offense for more than ten (10) consecutive days will have an opportunity to receive educational services and make academic progress during the period of removal under the school-wide education service plan, and will so be informed at the time of the suspension/expulsion. When a student with a disability is excluded from their program for more than ten (10) school days in the school year, the district must provide the student with services to the extent necessary for progress in the general curriculum and/or towards Individualized Education

Program (IEP) goals, as determined by the principal in consultation with at least one staff person who is a member of the student's IEP Team.

If an administrator imposes an out-of-school suspension for a student in preschool or in grades K through 3, the administrator will send to the superintendent a copy of the written determination and an explanation of the reasons therefore, before the out-of-school suspension takes effect.

In the event a student possesses, uses, sells or solicits a substance or possesses a weapon, or seriously injures an individual at school or a school function, the District may place a student in an interim alternative education setting (IAES) for up to 45 school days. Hearing officers may also order the placement of a student in an appropriate IAES for up to 45 school days upon determination that the current placement is substantially likely to result in injury to the student or others.

When a parent disagrees with the Team's decision on the manifestation determination or with a decision regarding placement, the parent has a right to request an expedited due process hearing with Bureau of Special Education Appeals. Additional information regarding the procedural protections for special education students can be obtained from the Director of Special Education at 978-264-4700, extension 3265.

Discipline of Students Subject to Section 504 of the Rehabilitation Act

Discipline of students with disabilities under Section 504 of the Rehabilitation Act provides students with disabilities certain procedural rights and protections in the context of student discipline. Prior to imposing a "significant change in placement" for disciplinary reasons, the district must determine whether the conduct is a manifestation of the student's disability. A significant change of placement results not only from an exclusion for more than 10 consecutive school days, but also from a pattern of shorter suspensions accumulating to more than 10 schools days during a school year. Whether a pattern exists must be decided on a case-by case basis, considering such factors as the length of each suspension, the nature of the alleged conduct, the proximity of the suspensions to one another, and the total amount of time the student is excluded from school.

Prior to any significant change in placement for disciplinary reasons, a group of individuals with knowledge of the student, the evaluation data, and the school program must determine whether the conduct at issue is related to the student's disability. If the conduct is directly related to the disability, the district will not impose the discipline and will develop an individual behavior management plan if the behavior significantly interferes with the student's ability to benefit from his/her education. If the conduct is not directly related to the student's disability, the district may discipline the student as it does general education students. Additional information regarding the procedural protections for students eligible for services under laws providing for services for students with disabilities under Section 504 can be obtained from the Assistant Superintendent for Student Services at 978-264-4700,

extension 3265.

Discipline of Students Not Yet Determined Eligible for Special Education

The IDEA protections summarized in this policy for students who are eligible for special education also apply to students who have not yet been found eligible for IEPs if the school district is deemed to have knowledge that the student was eligible for special education before the conduct that precipitated the disciplinary action occurred.

The IDEA provides that a school district is “deemed to have knowledge” if: (1) the child’s parent/guardian had expressed concern in writing to district supervisory or administrative personnel or the child’s teacher that the child needs special education and related services; (2) the child’s parent/guardian had requested an evaluation of the child to determine eligibility for special education services; or (3) the teacher of the child or other school district personnel had expressed specific concerns about a pattern of behavior by the child directly to the district’s director of special education or to other supervisory personnel. However, a school district is not “deemed to have knowledge” if the district evaluated the student and determined that the child was not eligible for special education services or the child’s parent refused an evaluation of the child or IDEA services.

If the school district has no knowledge that a student is an eligible student under the IDEA before taking disciplinary measures against the student, the student may be disciplined just as any other student may be. If, however, a request is made for an evaluation to determine eligibility while the student is subject to disciplinary measures, the district must conduct the evaluation in an expedited manner. Pending the results of the evaluation, the student must remain in the educational placement determined by the school authorities, which may include suspension or expulsion without services. If the student is determined eligible for an IEP as a result of the evaluation, the school district must provide the student with special education and related services in accordance with the IDEA.

Additional information regarding the procedural protections for students with special education services can be obtained from the Director of Special Education at 978-264-4700, extension 3265.

References: Individuals with Disabilities Education Act (IDEA)
Section 504 of the Rehabilitation Act of 1973
MGL Chapter 71, Section 37H, 37H ½, 37H ¾

Approved: April 26, 2018