

## Students

### Administrative Procedure - Misconduct by Students with Disabilities

#### Special Education Suspension Procedures

1. All suspension notices and suspension review procedures established by The School Code shall be followed when suspending a special education student. In addition, a special education student who is suspended from school for more than 10 school days in a school year shall receive educational services in accordance with the IDEA.
2. The first time a student is removed for more than 10 cumulative days during the school year, the District shall, no later than 10 business days after the decision to suspend a student is made, convene an IEP meeting to review and, if appropriate, modify the student's behavior intervention plan, as necessary, to address the student's behavior. If no behavior intervention plan is in place, the IEP team shall develop a plan for a functional behavioral assessment that must be used to develop a behavior intervention plan.
3. For all subsequent removals of the student that do not constitute a change in placement, the IEP team members must review the behavior intervention plan and its implementation. If any team member indicates that the plan may need to be modified, the IEP team must be convened to review the plan and revise it, if appropriate.
4. For all removals that exceed 10 cumulative days during one school year, the District must provide services to the student. School personnel, in conjunction with the student's special education teacher, shall determine the services to be provided. Such services must be designed to enable the student to progress in the general curriculum and advance toward his or her IEP goals.

#### Special Education Expulsion Procedures

1. The District shall promptly notify the student's parent(s)/guardian(s) of the disobedience or misconduct and whether the student shall be recommended for expulsion. All procedural protections pertaining to notice provided under the District's discipline policy shall apply to a notice of recommended expulsion in the case of a special education student. The parent(s)/guardian(s) shall also receive a copy of IDEA's procedural safeguards and receive written notification that:
  - An IEP conference shall be convened to determine whether the student's act of gross disobedience or misconduct is a manifestation of his or her disability. The IEP meeting shall take place as soon as possible, but no later than 10 school days after the decision to discipline the student is made.
  - The student's parent(s)/guardian(s) are requested to attend the IEP team meeting at the date, time, and location specified in the notice.
2. For purposes of such manifestation determination review, the IEP team shall include the members of the student's IEP team and other qualified personnel including, but not limited to, the authorized administrator familiar with the act of misconduct.
3. In carrying out the manifestation determination review, the team shall consider, in terms of the behavior subject to the disciplinary action, all relevant information including:
  - Evaluation and diagnostic results, including relevant information supplied by the parents;
  - Observations of the student; and
  - The student's IEP and placement.

4. The team may determine that the subject behavior was not a manifestation of the student's disability only if it is determined that:
  - The conduct in question was caused by, or had a direct and substantial relationship to, the student's disability; or
  - The conduct in question was a direct result of the District's failure to implement the student's individual education plan (IEP).
5. If, at the manifestation determination review conference, it is determined that the behavior of the student was a manifestation of his or her disability, the authorized administrator shall not continue with his or her recommendation for expulsion. The authorized administrator may request a review of the appropriateness of the educational placement of the student in accordance with the ISBE Special Education Rules and Regulations. During the period necessary to propose a new placement, the student will remain in his or her then-current placement unless:
  - The student has not served a full 10 school day suspension imposed for the offense, in which case the student may be required to serve the remaining days of his or her suspension; or
  - The parent(s)/guardian(s) and the District agree on an interim placement; or
  - The District obtains an order from a court of competent jurisdiction or a State of Illinois hearing officer changing the then-current placement or providing for other appropriate relief.
6. If, at the manifestation determination review conference, it is determined that the behavior of the student was not a manifestation of his or her disability, the authorized administrator may continue with his or her recommendation that the student be considered for expulsion by the School Board. The parent(s)/guardian(s) shall receive written notice that includes the following provisions:
  - The parent(s)/guardian(s) are entitled to all rights provided under the IDEA and those set forth in the ISBE Special Education Rules and Regulations, as available to the parent(s)/guardian(s) from the District. A copy of the parent'(s)/guardian'(s) rights shall be included with the expulsion hearing notice.
  - In addition to issues regularly determined at an expulsion hearing, the authorized administrator must present evidence that the manifestation determination review team met and concluded that the student's misconduct was not a manifestation of his or her disability, which shall be duly noted by the School Board.
  - The administration shall ensure that relevant special education and disciplinary records of the student are transmitted for consideration by the School Board.
7. If a special education student is expelled from school in accordance with the procedures set forth above, the District shall convene an IEP meeting to develop an educational program to deliver educational services to the student during such period of expulsion.

Weapon and Drug Offenses; Infliction of Serious Bodily Injury

In accordance with the above procedures, the District may take one or more of the following steps when a student with a disability carries a weapon to school or to a school function, ~~or~~ knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or at a school-related function, or inflicting a serious bodily injury upon another person while at school or at a school-related function:

1. Suspend the student from school for 10 school days or less.
2. Convene an IEP conference to: (a) determine placement in an interim alternative educational setting for up to 45 calendar days, (b) review and, if appropriate, modify the student's

behavior intervention plan, as necessary, to address the student's behavior, (if no behavior intervention plan is in place, the IEP team shall develop a plan for a functional behavioral assessment that must be used to develop a behavior intervention plan), and (c) conduct a manifestation determination review. The student may be placed in an interim alternative educational setting even if the behavior is a manifestation of the student's disability.

3. The interim alternative educational setting must:
  - Enable the student to continue to progress in the general curriculum;
  - Enable the student to receive the services and modifications set forth in his or her IEP; and
  - Include services and modifications designed to address the misconduct to prevent it from recurring.
4. If the parent(s)/guardian(s) disagree with the alternative educational placement or with the District-proposed placement and initiate a due process hearing, the student must remain in the alternative educational setting during the authorized review proceedings, unless the parent(s)/guardian(s) and the District agree on another placement.

#### Change of Placement if Maintenance of Current Placement Is Likely to Result in Injury

In the event that maintenance of a student's current placement is substantially likely to result in injury to the student or to others, the District may seek an order from a court of competent jurisdiction or a State of Illinois Due Process Hearing Officer to change the student's placement to an appropriate interim alternative educational setting for one or more 45-day periods after convening an IEP meeting to:

1. Conduct a manifestation determination review following procedures described under sub-heading "Special Education Expulsion Procedures," paragraph numbers 3 and 4, and
2. Determine a proposed interim alternative educational setting that meets the requirements under sub-heading "Weapon and Drug Offenses," in paragraph number 3.

The length of time a student with a disability is placed in an alternative educational setting must be the same amount of time that a student without a disability would be subject to discipline.

#### Disciplining Children Not Yet Eligible Under IDEA

1. Any child who has not been determined to be eligible for special education and related services and who engages in behavior that violates the School District's code of conduct shall be disciplined in accordance with the District's discipline policy for nondisabled students, unless the School District had knowledge that the child was a child with a disability.
2. The School District will be deemed as having knowledge that a child may be eligible for special education and related services prior to the disciplinary incident, if any one of the following conditions exists:
  - The parent(s)/guardian(s) of the child expressed concern in writing (or orally if the parent(s)/guardian(s) does not know how to write or has a disability that prevents a written statement) to school personnel that the child is in need of special education and related services;
  - The behavior or performance of the child demonstrates the need for special education and related services;
  - The parent(s)/guardian(s) of the child has requested an evaluation of the child; or
  - The child's teacher or other school personnel expressed concern in writing about behavior or performance of the child to the Director of Special Education or other personnel or in accordance with the School District's child find activities or referral procedures.

3. The School District will not be deemed to have knowledge if:
  - Documentation maintained in the school student records affirm that an evaluation to determine the presence of a disability was either conducted and the child was found not eligible for special educational and related services;
  - Documentation maintained in the school student records affirm that an evaluation to determine the presence of a disability was recommended but the parent(s)/guardian(s) denied consent for such evaluation; or
  - the parent(s)/guardian(s) was provided with written notice that the School District had considered the need to conduct an evaluation and had determined that an evaluation was not warranted.
4. If, following the District's decision to discipline a child who has not been determined to be eligible for special education and related services, the child's parent(s)/guardian(s) request a full and individual evaluation, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the child shall remain in the educational placement determined by the School District, which may include suspension or expulsion without educational services.

Referral to and Action by Law Enforcement and Judicial Authorities

The School District is not prohibited from reporting a crime committed by a child with a disability to appropriate authorities. The School District shall ensure that copies of special education and disciplinary records are also transmitted to the authorities in such instances, subject to the requirements of federal and State law.

LEGAL REF.: 20 U.S.C. §§ 1412 (State eligibility), 1413 (local educational agency eligibility), 1415 (Individuals with Disabilities Education Act).  
34 C.F.R. §§ 300.121, 300.346, 300.520, 300.519, 300.521, 300.522, 300.523, 300.524, 300.520.  
105 ILCS 5/10-22.6, 5/14-8.05.

23 Ill. Admin. Code §§ 226.50 (requirements for FAPE), 226.75 (definitions), 226.220(factors in development of the IEP), 226.400 (disciplinary actions), 226.410 (manifestation determination review), 226.520 (notification of district's proposal), 226.655 (expedited due process hearing).

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Revisions