

DISCIPLINE OF STUDENTS WITH DISABILITIES

A. **Introduction:**

These regulations accompany Policy #4465 and relate to the out-of-school suspension or other disciplinary removal of a child with a disability from the classroom. Disability is defined by the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act. "Disciplinary removal" refers to reassignment of a child to an Interim Alternative Educational Setting (IAES) or another setting, designated by the School District, for a prescribed course of education.

B. **Definitions:**

For purposes of this policy, the following definitions apply:

1. "Controlled substance" means a drug or other substance identified under schedules I, II, III, IV or V in section 202(c) of the Controlled Substances Act, 21 U.S.C. § 812(c).
2. "Illegal drug" means a controlled substance, but does not include such a substance that is legally possessed or used under the supervision of a licensed health care professional or that is legally possessed or used under any other authority under the Controlled Substances Act or under any other provision of federal law.
3. "Weapon" means a dangerous weapon as defined by 18 U.S.C. § 930(g)(2), specifically, a weapon, 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 such term does not include a pocket knife with a blade of less than 2 ½ inches in length.
4. "Serious bodily injury" means bodily injury which involves: a substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of function of a bodily member, organ, or mental faculty.

C. **Short-Term Out-of-School Suspension or Disciplinary Removal:**

The School District may suspend out of school or implement a disciplinary removal of a child with a disability for a period of ten consecutive school days or less for any conduct that would warrant out-of-school suspension or disciplinary removal for a child without a disability. The School District will follow its policy and procedures for the out-of-school suspension of children without disabilities in conjunction with the short-term out-of-school suspension of children with disabilities. The School District will notify the child's parent of the disciplinary action and of all applicable procedural safeguards under state and federal law and School District policy no later than the date on which the decision to take disciplinary action is made.

D. Long-Term Disciplinary Removal:

The School District may implement the disciplinary removal of a child with a disability to an Interim Alternative Educational Setting for a period of not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child:

1. Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the School District's jurisdiction; or
2. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance while at school, on school premises, or to or at a school function under the School District's jurisdiction; or
3. Has inflicted serious bodily injury to another person at school, on school premises, or at a school function under the jurisdiction of the School District.

The child's Individualized Education Program ("I.E.P.") or 504_Accommodation Plan ("A.P.") team will determine the child's Interim Alternative Educational Setting. Any IAES in which the School District places the child will:

1. Be selected to enable the child to continue to participate in the general curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP or 504 AP; and
2. Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

The School District will notify the child's parent of the disciplinary action and of all applicable procedural safeguards under state and federal law and School District policy no later than the date on which the decision to take disciplinary action is made.

E. Process for Implementing a Long-Term Out-of-School Suspension or Disciplinary Removal:

Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, and disciplinary action is being made for an out-of-school suspension or disciplinary removal of more than ten school days or when a series of short-term out-of-school suspensions or disciplinary removals exceeds ten school days during the school year, the School District will convene a meeting of the student's I.E.P. or 504 A.P. team. The team will:

1. Conduct a functional behavioral assessment (FBA) of the child, unless the School District had conducted a FBA before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan to address the child's behavior; or

2. If the child already has a behavioral intervention plan, review and modify it, as necessary, to address the behavior; and
3. Conduct a manifestation determination, by reviewing the relationship between the child's disability and the behavior subject to disciplinary action.

F. Making a Manifestation Determination:

If the I.E.P. or 504 A.P. team determines that the behavior subject to disciplinary action is a manifestation of the child's disability, then the School District cannot suspend the child out of school long-term or implement a long-term disciplinary removal as discipline for the behavior, unless it is due to a weapon, drug, or serious bodily injury offense. Return the child to the placement from which the child was removed, unless the parent and the School District agree to a change of placement as part of the modification of the behavioral intervention plan.

If the I.E.P. or 504 A.P. team determines that the behavior subject to disciplinary action is not a manifestation of the child's disability, then the School District may suspend the child with a disability out of school long-term or implement a long-term disciplinary removal in the same manner and for the same duration as the procedures would be applied to a child without a disability.

The I.E.P. or 504 A.P. team must review all relevant information in the student's file, including the child's IEP, and teacher observations, and any relevant information to determine:

1. If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
2. If the conduct in question was the direct result of the School District's failure to implement the I.E.P. or 504 A.P.

If the I.E.P. or 504 A.P. team determines that the child cannot be suspended out of school or a disciplinary removal implemented as discipline for the behavior, it may still consider whether a change of program and/or placement is appropriate for the child for non-disciplinary reasons.

School District personnel will provide the child's special education and disciplinary records for consideration to the person(s) making the final decision about the disciplinary action to be imposed.

G. Continuing Educational Services:

The School District will provide appropriate educational and/or related services during long-term out-of-school suspensions to a child with a disability under the IDEA and Section 504 of the Rehabilitation Act, whether the child's behavior is or is not a manifestation of his or her disability. The child's I.E.P. or 504 A.P. team will determine an appropriate educational program and placement for the

child. Otherwise, educational services during the out-of-school suspension term shall be governed by the School District's policy and procedures for the out-of-school suspension of children without disabilities.

H. Placement During Appeals:

The parent of a child with a disability who disagrees with any decision regarding placement or the manifestation determination, or the School District believes that maintaining the current placement of the child is substantially likely to result in injury to the child or other students, may appeal the decision by requesting a hearing. A resolution meeting must occur within seven days of the receiving notice of the due process complaint, unless the parents and the School District agree in writing to waive the resolution meeting.

When an appeal has been made by either the parent or the School District, the child must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period specified for the suspension/removal or, whichever occurs first, unless the parent and the School District agree otherwise.

I. Suspension from Transportation:

The School District may suspend a child with a disability from transportation as a disciplinary measure. During the period of the suspension from transportation, the School District will reimburse the child's parent or his or her designee for the reasonable cost of transporting the child to and from school.