

## **Students**

### **Misconduct by Students with Disabilities**

#### **A. General**

1. No special education student shall be expelled if the student's particular act of gross disobedience or misconduct is a manifestation of the student's disability. Any special education student whose gross misconduct or disobedience is not a manifestation of the disability may be expelled.
2. A special education student may be suspended as long as the suspensions do not cumulatively result in a change of placement, regardless of whether the student's gross disobedience or misconduct is a manifestation of his/her disabling condition.
3. Notwithstanding Section A.1 of this Policy, any special education student may be placed in an appropriate interim alternative educational setting for not more than 45 calendar days because of the student's physical danger to self, other students, faculty, or school property if the School District obtains injunctive relief from a court of competent jurisdiction or by a duly appointed State of Illinois hearing officer authorizing the placement. During the period of temporary exclusion, the School District shall be responsible for providing educational services as provided in the IDEA. If the District believes it would be dangerous for the student to return, it may ask for another expedited hearing to replace the student in the 45-day interim placement during the pendency of the hearing.
4. Notwithstanding Section A.1 of this Policy, the Board of Education 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 a school related function:
  - a. Suspend the student from school for ten (10) school days or less.
  - b. Convene a multi-disciplinary conference to consider placement in an interim alternative education setting up to 45 calendar days. At such conference, the team shall also follow the procedures described in the following Paragraphs C.1 through 5 of this Policy.

#### **B. Suspension Procedures**

1. All pre-suspension, notice and suspension review procedures set forth in Policy 7:200 *Suspension Procedures* must be followed in suspending a special education student.
2. A special education student may be suspended from school as long as the suspensions do not cumulatively result in a change of placement. For the first ten (10) days of removal in one school year, the District will not provide any services to the student if services are not provided to non-disabled students.
3. If additional incidents of misconduct occur, the student may be removed for up to ten (10) consecutive school days if non-disabled students would be so removed and provided that the removals do not amount to a change of placement.
4. Starting with the 11<sup>th</sup> day of removal in one school year, educational services must be provided.
  - a. if the removal would constitute a change in placement, the removal must be proceeded by a Manifestation Determination Review (MDR).

- b. if the removal is not a change in placement, District personnel in consultation with the student's special education teacher shall determine the services to be provided.
- 5. The parent(s)/guardian(s) of a suspended special education student shall be informed in writing that they may request a case study evaluation or a due process hearing pursuant to the Special Education Rules and Regulations and procedural safeguards of the IDEA.
- 6. Starting on the 11<sup>th</sup> day of removal, the Individualized Education Plan (IEP) team must meet to address behavioral issues.
  - a. The IEP team must meet within 10 business days of the 11<sup>th</sup> day to plan how to conduct a Functional Behavioral Assessment (FBA), if an FBA was not done and a behavioral intervention plan was not implemented before the misconduct which caused the removal.
  - b. After the FBA is done, the IEP team must meet as soon as practicable to develop a Behavior Intervention Plan (BIP).
  - c. If the student already has a BIP, the IEP team must meet within 10 business days of day 11 to review and modify the BIP and its implementation as needed to address the behavior.
  - d. If more removals occur and the removals do not constitute a placement change, the IEP team must meet to informally review the BIP. If one or more team members think BIP changes are in order, the IEP team must meet to modify the plan to the extent it deems necessary.

C. 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 regular education discipline policy shall apply to a notice of recommended expulsion in the case of a special education student. The notice shall be in the native language of the parent(s)/guardian(s) or other mode of communication used by the parent(s)/guardian(s), unless it is clearly not feasible to do so. Such notice shall also include the following information:
  - a. An IEP meeting shall be convened to determine whether the student's act of gross disobedience/misconduct is a manifestation of his disability. The IEP shall take place as soon as possible, but at least ten (10) calendar days after this notice was sent, unless such ten (10) day notice is waived by the parent(s)/guardian(s).
  - b. That the student's parent(s)/guardian(s) are requested to attend multi-disciplinary team meeting and the date, time and location of the meeting.
  - c. A notice of procedural safeguards as required under the IDEA.
- 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. A Manifestation Determination Review must be held within ten (10) business days by the IEP team and other qualified personnel.
  - a. The team must plan how to conduct a functional behavioral assessment (FBA) if an FBA was not done and if a behavior intervention plan (BIP) was not implemented before the misconduct that caused the removal occurred.
  - b. After the FBA is done, the IEP team must meet as soon as practicable to develop a BIP.
  - c. If the student already has a BIP, the IEP team must review and modify the BIP and its implementation as needed to address the behavior.
- 4. 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:

- a. Evaluation and diagnostic results, including relevant information supplied by the parents,
  - b. Observations of the student, and
  - c. The student's IEP and placement.
5. The team shall make the following determination regarding whether the student's conduct was a manifestation of his/her disability:
    - a. Whether, in relationship to the behavior subject to the disciplinary action, the student's IEP and placement were appropriate,
    - b. Whether the special education, supplementary aids and services and behavior intervention strategies were provided consistent with the student's IEP and placement,
    - c. Whether the student's disability did or did not impair the ability of the student to understand the impact and consequences of the behavior subject to the disciplinary action, and
    - d. Whether the student's disability did or did not impair the ability of the student to control the behavior subject to the disciplinary action.
  6. If, at the IEP meeting conference, it is determined that the special education student's act of gross disobedience or misconduct is a manifestation of his/her disability, the authorized administrator shall not recommend expulsion. The authorized administrator may request a review of the appropriateness of the educational placement of the student in accordance with the Special Education Rules and Regulations. During the period necessary to propose a new placement, the student will remain in his/her then current placement unless:
    - a. Parent(s)/Guardian(s) and the District agree on an interim placement, or
    - b. The School 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.
  7. If, at the IEP meeting conference, it is determined that the special education student's act of gross disobedience or misconduct is not a manifestation of his/her disability, the authorized administrator may recommend expulsion to the Board. The expulsion notice to the parents sent pursuant to Policy 7:210, *Expulsion Procedures*, shall also include three (3) additional statements that:
    - a. The Parent(s)/Guardian(s) are entitled to all rights provided under the IDEA and those set forth in the Special Education Rules and Regulations, as available to the parent(s)/guardian(s) from the School District. A copy of parent's rights shall be included with the notice of the expulsion hearing.
    - b. In addition to issues regularly determined at an expulsion hearing, the authorized administrator must present evidence that the manifestation review team met and concluded that the student's misconduct was not a manifestation of his/her disability, which shall be duly noted by the Board of Education.
    - c. The administration shall ensure that relevant special education and disciplinary records of the student are transmitted for consideration by the Board of Education.
  8. The expulsion procedures set forth in Policy 7:210, *Expulsion Procedures* shall be followed in expelling a special education student.
  9. In addition to the two (2) issues regularly determined at an expulsion hearing; See Policy 7:210, *Expulsion Procedures*, the authorized administrator must present the results of the IEP meeting conference and the Board of Education must make a finding that the special education student's gross disobedience or misconduct is not a manifestation of his disability.
  10. If it is determined that it is permissible to expel a special education student, the student shall be provided with services as determined by the student's IEP team, which will enable the

student to appropriately progress in the general curriculum and advance toward achieving IEP goals.

#### D. Parental Objections to an Expulsion

##### 1. Parents of Special Education Students

- a. If the parent(s)/guardian(s) of a special education student object at any time to a determination that the student's behavior was not a manifestation of the child's disability or with any decision regarding placement, the Board of Education shall, upon request from the parent(s)/guardian(s), arrange for an expedited hearing as provided for in the Special Education Rules and Regulations.
- b. The expedited hearing must result in a decision within ten (10) business days of the request for the hearing, unless the parent(s)/guardian(s) and school officials otherwise agree.
- c. If the student is currently in an interim alternative setting pursuant to Sections A.3 or 4 of this Policy and the parent(s)/guardian(s) requests an expedited hearing, the student shall remain in the interim educational setting pending the decision of the hearing officer or until the expiration of the 45 day limit, whichever occurs first, unless the District and the parent(s)/guardian(s) agree otherwise.
- d. If, at the conclusion of the 45 day interim alternative setting placement pursuant to Section A.3 or 4 of this Policy and the District proposes a change in placement which the parent(s)/guardian(s) are opposing through the review process as provided in the Special Education Rules and Regulations, the student shall return to his/her prior placement for the duration of the due process challenge to the proposed placement. If the child is likely to injure him/herself or others in the prior placement, the Board may follow the procedures established in A.3 of this Policy.

##### 2. Parents of Non-Special Education Students

- a. If the parent(s)/guardian(s) of a non-special education student requests an evaluation of a student during the time period in which the child is subjected to disciplinary measures, an expedited evaluation shall be conducted.
- b. Pending the results of the evaluation, the child shall remain in the educational placement determined by the District.

Copies of this Policy shall be furnished to the parents or guardians of students eligible for special education services within fifteen (15) days after the beginning of the school year, or within fifteen (15) days after a transfer student begins classes in the District.

LEGAL REF.: Individuals With Disabilities Education Improvement Act of 2004, 20 U.S.C. §§1412, 1413, and 1415.  
Gun-Free Schools Act, 20 U.S.C. §7151 et seq.  
34 C.F.R. §§300.101, 300.530 - 300.536.  
105 ILCS 5/10-22.6 and 5/14-8.05.  
23 Ill.Admin.Code §226.400.  
Honig v. Doe, 108 S.Ct. 592 (1988).

CROSS REF.: 2:150 (Committees), 6:120 (Education of Children with Disabilities), 7:130 (Student Rights and Responsibilities), 7:190 (Student Discipline), 7:200 (Suspension Procedures), 7:210 (Expulsion Procedures), 7:220 (Bus Conduct)

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