

Special Education - Discipline

When students being served by an individualized education program (IEP) engage in conduct which would warrant a change in placement (suspension of more than 10 days or expulsion for a non-disabled student), the student's parents will be notified immediately (within 24 hours) of the circumstances of the misbehavior, and the time and location of the student's IEP team meeting addressing the infraction and its relationship to the disability.

The district will provide the student with an education if a student is suspended or expelled for more than 10 school days in a school year. These services may be provided in a different location or "interim alternative setting". The district may suspend or expel the student after conducting a manifestation determination if the behavior is not a manifestation of the students disability.

Within 10 school days of any decision to change the student's placement because of a violation of a code of student conduct, the district, parent and relevant members of the IEP team shall review all relevant information to determine:

1. If the conduct was caused by or had a direct and substantial relationship to the student's disability; or
2. If the conduct was the direct result of the district's failure to implement the IEP.

If the district, parent and relevant members of the IEP team conclude that either of the above two is applicable to the student, the conduct shall be determined to be a manifestation of the child's disability.

Should this team conclude the misconduct is not a manifestation of the student's disability, the student may be disciplined in the same manner as would other students.

If the team concludes the misconduct is a manifestation of the student's disability, the IEP team shall:

1. Conduct a functional behavioral assessment, and implement a behavior intervention plan for the student (provided that the district had not conducted such assessment prior to such determination before the behavior that resulted in the change of placement);
2. When a behavioral intervention plan has been developed, review and modify the plan as necessary to address the behavior; and
3. Return the student to the placement from which the student was removed unless the parent and district agree to change the placement as part of the behavioral intervention plan.

The district may **not** suspend for more than 10 days or expel a disabled student for any behavior which is a manifestation of the disability;

The district may seek a court or hearings officer order to remove a student to an interim alternative educational setting if:

- a. The student is substantially likely to injure self or others in the school;
- b. The district has made a reasonable effort to minimize the risk of harm; and
- c. The district has developed an interim alternative educational placement that allows the student to participate in the general curriculum and continue to receive special education and related services, including services to address the misconduct.

School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability, in cases where the student:

1. Carries or possesses a weapon to or at school, on school premises or to or at a school function, or any location if it would threaten the safety of the student body and disrupt the educational process.
2. Knowingly possesses or uses illegal drugs or knowingly sells or solicits the sale of controlled substances;
 - a. As used in this policy "weapon" means 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 1/2" in length; "drug" is defined as an illegal drug or 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.
 - b. "Drug violation" means the use, possession, sale or solicitation of drugs at school or a school-sponsored function. "Weapon violation" means carrying a weapon to school or a school-sponsored function or acquiring a weapon at school.
3. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the state or district.

The district may suspend a student with a disability from the current educational placement for disciplinary reasons for up to 10 school days in a row. The district may use short term removals, including suspension, moving a student to an appropriate interim alternative educational setting or placing a student in another setting, to the same extent these options would be used for students without disabilities.

END OF POLICY

Legal Reference(s):

ORS 326.565
ORS 326.575
ORS 336.187
ORS 339.240
ORS 339.250
ORS 339.252
ORS 339.260

ORS 343.177

OAR 581-015-0550 to -0559
OAR 581-021-0065 (5)
OAR 581-021-0070

Discipline of Disabled Students – JGDA/JGEA
(continued)

Education of the Handicapped Act of 1975, as amended, 20 U.S.C. Sections 1400-1427, as amended and renamed Individuals with Disabilities Education Act (IDEA), P.L. 101-476, 104 Stat 1103 (1990), as amended P.L. 105-17 (1997) as amended 108-446 (2004). [P.L. 94-142 is a well-known “short” reference to this federal legislation.] Assistance to States for the Education of Children with Disabilities, 34 CFR Section 300.520 (2000). Honig v. Doe, 484 U.S. 305 (1988). Possession of firearms and dangerous weapons in federal facilities, 18 U.S.C. Section 930(g)(2).