



Student Discipline: *Discipline of Students with Disabilities*
Policy Series: 3000 Students

Policy No. 3030
Procedure 2

Discipline Procedures for Students with a Disability

Federal and state laws restrict disciplining a student for conduct which is a manifestation of a disability. Therefore, where a student who has been identified as eligible for special education services engages in conduct which is a violation of school rules or conduct is subject to discipline under this general policy, additional procedures may apply. If the student has not previously been identified as eligible for special education but asserts that he or she should receive the procedural protections, application of the procedural protections will depend on the criteria set forth below.

Identified Students with a Disability Change of Placement for Disciplinary Reasons

For purposes of removals of a student with a disability from the student's current educational placement, a change of placement occurs if:

1. The removal is for more than ten (10) consecutive school days, including shortened school days.
2. The student is subjected to a series of removals that constitute a pattern because they cumulate to more than ten (10) school days in a school year, including shortened school days, because the student's behavior is substantially similar to behavior in prior incidents resulting in removal, and because of additional factors such as the length of each removal, the total amount of time each student is removed, and the proximity of the removals to one another. The District shall determine whether a pattern of removals constitutes a change in placement on a case-by-case basis.

Shortened school days occur when a student's school day is reduced by school personnel solely in response to the student's behavior for disciplinary purposes (rather than by the IEP team or placement team for the student to receive a FAPE).

Removals—

1. Ten (10) School Days or Less

a. Short-term suspension

- i. Subject to the provisions above on change of placement, and to the extent removal would be applied to students without disabilities, a principal may remove a student with a disability who violates the code of student conduct found in Policy FHA from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than ten (10) consecutive school days and for additional removals of not more than ten (10) consecutive school days in that same school year for separate incidents of misconduct without implicating any of the additional IDEA safeguards.

2. Change in Placement: Removals for More than Ten (10) School Days

a. Long-term suspension or expulsion.

- i. Any suspension of a student with a disability for more than ten (10) days constitutes a change in placement, as does a change in the student's educational program (classroom assignment) for disciplinary reasons. Prior to a change in placement, parents of the student must be notified of the proposed change and provided the procedural safeguards notice described in the state's Special Education Rules, and the student's IEP team and other qualified personnel must conduct a manifestation determination review of the relationship between the student's disability and the behavior subject to the disciplinary action. The manifestation determination review must take place immediately, if possible, but in no case later than ten (10) school days after the date on which the decision to take action was made.

Manifestation Determination—

Within ten (10) school days of any decision to change the placement of the student with a disability because of a violation of the code of student conduct, the school, the parent or guardian or adult student, and relevant members of the IEP Team (as determined by the parent/guardian or adult student and school) shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided to the parents to determine:

1. If the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability; or

- 75 2. If the conduct in question was the direct result of the school's failure to implement the
76 IEP.

77 If the school, the parent or guardian or adult student, and relevant members of the IEP
78 Team determine that the misconduct was the direct result of the school's failure to implement
79 the IEP, the school must take immediate steps to remedy those deficiencies.

80 If the school, the parent or guardian or adult student, and relevant members of the IEP
81 Team determine that either section one (1) or (2) above is applicable to the student, the conduct
82 shall be determined to be a manifestation of the student's disability.

- 83 1. If the IEP Team determines that the student's disruptive behavior is a manifestation of
84 the disability, the IEP Team must either (1) conduct a functional behavior assessment
85 (FBA) (unless the school had conducted a FBA before the behavior) and implement a
86 behavior intervention plan (BIP) for the student or (2) if a BIP has already been
87 developed, review the BIP and modify it as necessary to address the behavior. The
88 student must then be returned to the placement from which the student was removed
89 unless the specific conduct provisions below apply or the school and the parent or
90 guardian or adult student agree to a change of placement as part of the modification of
91 the BIP.
- 92 2. If the IEP Team determines that the conduct is not a manifestation of the disability or the
93 direct result of a failure to implement the IEP, then the student may be disciplined under
94 the same standards as are applied to non-disabled students. Provided, however, that if
95 the student is suspended for more than 10 days in a given school year, the District still
96 must provide services to the disabled student to the extent necessary to enable the
97 student to appropriately progress in the general curriculum and appropriately advance
98 toward achieving the goals set out in the student's IEP. The IEP Team shall determine
99 the instructional and related services to be provided during the time of suspension. The
100 student's IEP shall include goals and objectives designed to assist in returning the
101 student to school and preventing significant regression.
- 102 3. If the student's parent or guardian disagrees with the IEP Team's manifestation
103 determination, or regarding decisions for the student's placement, the parents may
104 request a due process hearing pursuant to the policies governing students with
105 disabilities.

106 107 **Students Not Identified as Eligible for Special Education—**

108 If a student who has not been previously identified as eligible for special education
109 services, or the student's parents, assert that the student is entitled to the special discipline
110 procedures applicable to students with disabilities, then those procedures shall apply to the
111 student if any of the following conditions are satisfied, subject to paragraph 4 below:

- 112 1. The student's parent or guardian or adult student has previously expressed in writing to
113 the student's teacher or to supervisory or administrative personnel of the District that the
114 student needs special education and related services.

2. The student's parent or guardian or adult student has previously requested that the student be evaluated for eligibility for special education services.
3. The student's teacher or other school personnel have previously expressed specific concerns about a pattern of behavior demonstrated by the student directly to the special education director of the school or to other supervisory personnel.
4. If, prior to the conduct for which discipline is contemplated, (a) the student's parent or adult student has not allowed an evaluation of the student for eligibility for special education services, (b) the student's parent or adult student refused special education services for the student, or (c) the District evaluated the student and determined that the student was not a child with a disability, then the special discipline procedures for students with disabilities shall not apply to the student, and the student shall be disciplined in accordance with the procedures for non-disabled students.

If, during the period of time in which a student is subject to disciplinary sanctions, the student's parent or guardian requests that the student be evaluated for eligibility for special education services, an evaluation shall be conducted on an expedited basis. Until the evaluation is complete, the student's educational placement shall remain the same (if the child has been suspended or expelled, for example, the suspension or expulsion shall remain in effect).

Removal of Disabled Students for Specific Conduct—

In the following circumstances, regardless of whether the student's action was a manifestation of the student's disability, the student may be placed in an interim alternative educational setting for a period to be determined but not to exceed 45 days.

1. The student carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of the State Board of Education or the District;
2. The student knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of the State Board of Education or the District;
3. The student has inflicted serious bodily injury on another person while at school, on school premises, or at a school function under the jurisdiction of the State Board of Education or the District.

For purposes of determining if the applicable circumstances are present, the following definitions apply:

1. "Controlled substance" means a drug or other substance that cannot be distributed without a prescription, 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 a drug controlled, possessed, or used under the supervision of a licensed health-care professional or one legally possessed or used under state or federal law.

- 154 3. "Serious bodily injury" means bodily injury that involves a substantial risk of death,
155 extreme physical pain, protracted and obvious disfigurement, or protracted loss or
156 impairment of the function of a bodily member, organ, or mental faculty. It excludes a
157 cut, abrasion, bruise, burn, disfigurement, physical pain, illness, or a temporary
158 impairment of the function of a bodily member, organ or mental faculty.
- 159 4. "Weapon" means a weapon, device, instrument, material, or substance, animate or
160 inanimate, that is used for or is readily capable of, causing death or serious bodily injury.
161 It excludes a pocket knife with a blade of less than 2.5 inches.

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163 If the circumstances warranting an interim alternative educational setting are present,
164 then:

- 165 1. The appropriate interim alternative educational setting shall be determined by the IEP
166 Team.
- 167 2. If the student's parent or guardian requests a due process hearing, the student shall
168 remain in the alternative educational setting during the pendency of any due process
169 proceedings unless the parents and the special educational coordinator agree otherwise.
- 170 3. The IEP Team must convene prior to the end of the period of removal to the alternative
171 educational setting to determine the least restrictive environment in which the student
172 may be placed when the period of removal is concluded.

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174 **Legal References**

175 [34 CFR § 300.121](#)
176 [34 CFR § 300.530-536](#)
177 [Utah Admin. Rules R277-750-2 \(August 22, 2023\)](#)
178 [State Board of Education Special Education Rules V.E.5.](#)
179 [State Board of Education Special Education Rules V.J.](#)
180 [State Board of Education Special Education Rules V.E.](#)
181 [State Board of Education Special Education Rules V.D.](#)
182 [State Board of Education Special Education Rules V.D.](#)
183 [State Board of Education Special Education Rules V.B.2.](#)
184 [20 U.S.C. § 1415\(k\)\(1\)\(B\)](#)

185 **Board Approved:**
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