

Section 11 Behavioral Intervention and Discipline

A. Behavioral Interventions

1. Behavioral interventions shall be used with children with disabilities to promote and strengthen desirable behaviors and reduce identified inappropriate behaviors.
2. A committee shall be established to develop and monitor procedures on the use of behavioral interventions for children with disabilities in accordance with the requirements of Section 5/14-8.05 of The School Code [105 ILCS 5/14-8.05]. The committee shall review the State Board of Education's guidelines on the use of behavioral interventions and use them as a non-binding reference. The behavioral intervention procedures shall be furnished to the Parent(s) of all children with individual education plans within 15 calendar days after their adoption or amendment by, or presentation to, the Board or at the time an individual education program is first implemented for a student; Parent(s) of all children shall be informed annually of the existence of the procedures. At the annual individualized education program review, a copy of the School District's behavioral intervention policy and procedures shall be given and explained to Parent(s). A copy of the procedures shall be available at any time and provided upon request of the Parent(s).
3. A behavioral intervention plan shall be based on a functional behavior assessment and shall include positive behavioral intervention strategies, and supports to address the inappropriate behavior. A functional behavioral assessment shall be completed, if appropriate, in relationship to the development or modification of a student's behavioral intervention plan. A functional behavioral assessment is an assessment process for gathering information regarding a student's target behavior, its antecedents and consequences, controlling variables, the student's strengths, and the communicative and functional intent of the behavior, for use in developing behavioral interventions. The conduct of the functional behavioral assessment does not require parental informed written consent unless the IEP Team decides to conduct individualized assessments that go beyond the review of existing data and the administration of tests or other evaluations that are administered to all children.

4. If the School District's board policy authorizes the use of isolated time out, time out, and/or physical restraint with students, the School District shall comply with ISBE requirements regarding the use of isolated time out, time out, and physical restraint. Isolated time out, time out, and physical restraint shall be used only if:
 - a. The student's behavior presents an imminent danger of serious physical harm to the student or others;
 - b. Other less restrictive and intrusive measures have been tried and proven ineffective in stopping the imminent danger of serious physical harm;
 - c. There is no known medical contraindication to its use on the student; and
 - d. School personnel applying the use of isolated time out, time out, or physical restraint have been trained in its safe application under 23 Ill. Admin.Code §1.285.

Isolated time out, time out, or physical restraint shall not be used as discipline or punishment, convenience for staff, retaliation, a substitute for appropriate educational or behavioral support, a routine safety matter, or to prevent property damage in the absence of imminent danger of serious physical harm to the student or others. The School District's behavioral intervention procedures (or separate procedures on the use of isolated time out, time out, and/or physical restraint) shall include the requirements for the use of isolated time out, time out, and physical restraint, the training requirements for school personnel, the documentation and record-keeping procedures, and notification of Parent(s).

B. Discipline of Children with Disabilities

1. The School District shall comply with the provisions of the Individuals With Disabilities Education Improvement Act of 2004 (IDEA) when disciplining students. No special education student will be expelled if the student's particular act of gross disobedience or misconduct is a manifestation of his/her disability. Any special education student whose gross disobedience or misconduct is not a manifestation of his/her disability may be expelled pursuant to the expulsion procedures, except that such child shall continue to receive educational services as provided in IDEA during the period of expulsion.

2. A special education student may be suspended for periods of no more than 10 consecutive school days each in response to separate incidents of gross disobedience or misconduct, regardless of whether the student's gross disobedience or misconduct is a manifestation of his/her disability, as long as the repeated removals do not constitute a pattern that amounts to a change in placement (considering factors such as the length of each removal, the total amount of time the child is removed, and the proximity of the removals to one another) and provided that such child receives educational services to the extent required by IDEA during such removals.
3. Any special education student may be temporarily excluded from school by court order or by order of a duly appointed State of Illinois impartial due process hearing officer changing the student's placement to an appropriate interim alternative educational setting for up to 45 school days, if the School District demonstrates that maintaining the child in his/her current placement is substantially likely to result in injury to the child or others.
4. A special education student who has carried a weapon to school or to a school function or who knowingly possesses or uses illegal drugs or sells or solicits the sale of controlled substance while at school or a school function or who has inflicted serious bodily injury upon another person while at school or at a school related activity may be removed from his/her current placement. All such children shall be placed in an appropriate interim alternative educational setting for no more than 45 school days in accordance with IDEA. The length of time a child with a disability is placed in an alternative educational setting must be the same amount of time that a child without a disability would be subject to discipline.
5. Upon the occurrence of any act that may subject the student either to expulsion from school or suspension resulting in more than ten cumulative days of suspension during any one school year, the School District shall convene a meeting of the IEP Team to review the student's behavioral intervention plan or, if a behavioral intervention plan has not yet been developed, to develop one.

C. Change of Placement

1. For purposes of this subsection, a disciplinary removal constitutes a “change of placement” if:
 - a. A student is removed from his/her current educational placement for more than 10 consecutive school days; or
 - b. The student has been subjected to a series of removals that constitute a pattern:
 - (1) Because the series of removals total more than 10 school days in a school year;
 - (2) Because the student’s behavior is substantially similar to the student’s behavior in previous incidents that resulted in the series of removals; and
 - (3) Because of such additional factors as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another.

D. Manifestation Determination

1. If a disciplinary removal constitutes a change in placement, the Parent(s) shall receive a copy of the procedural safeguards and written notification that a manifestation determination review (MDR) must be completed to determine whether the student’s act of gross disobedience or misconduct is a manifestation of his/her disability.
2. The MDR shall take place as soon as possible, but later than 10 school days after the decision related to the discipline of the student is made.
 - a. The MDR must be completed by the student’s Parent(s) and relevant members of the IEP Team (as determined by Parent(s) and the School District).
 - b. In carrying out the MDR, the IEP Team shall consider, in terms of the behavior subject to the disciplinary action, all relevant information in the student’s file, including:
 - (1) The student’s IEP;
 - (2) Any teacher observations of the student; and
 - (3) Any relevant information provided by Parent(s).
 - c. The conduct must be determined to be a manifestation of the student’s disability if it is determined that:

- (1) The conduct in question was caused by, or had a direct and substantial relationship to the student's disability; or
 - (2) The conduct in question was the direct result of the School District's failure to implement the student's IEP.
- d. If, at the MDR conference, it is determined that the behavior of the student was a manifestation of his/her disability, the School District must convene an IEP meeting and the IEP Team must conduct a functional behavioral assessment, unless the School District had conducted a functional behavioral assessment before the behavior that resulted in the change of placement, and implement a behavioral intervention plan for the child. If a behavioral intervention plan has already been developed, the IEP Team must review the behavioral intervention plan, and modify it, as necessary, to address the behavior.
- e. If, at the MDR conference, it is determined that the behavior of the student was a manifestation of his/her disability, suspension days that total more than 10 school days in a school year shall not continue, and the authorized administrator shall not continue with their recommendation for expulsion, if applicable. The authorized administrator or other individual may request a review of the appropriateness of the educational placement of the student in accordance with federal and State law. During the period necessary to propose a new placement, the student will remain in their then-current placement unless:
- (1) The student has not served a total of 10 cumulative school days of suspension imposed for gross disobedience or misconduct in the school year, in which case the student may be required to serve up to a total of 10 school days of the suspension;
 - (2) The Parent(s) and School District agree on a change of placement;
 - (3) The School District obtains an order from a court of competent jurisdiction or a State of Illinois impartial due process hearing officer decision changing the then-current placement or providing for other appropriate relief; or
 - (4) The student's misconduct meets the requirements in Section 11.G below.
- f. If, at the MDR conference, it is determined that the behavior of the student was not a manifestation of his/her disability, the suspension may continue, and the

authorized administrator may continue with their recommendation that the student be considered for expulsion by the Board of Education.

E. 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 cumulative school days in a school year shall receive educational services in accordance with IDEA.
2. If a removal does not exceed 10 consecutive school days and is not a change of placement, school personnel, in consultation with at least one of the student's teachers, shall determine the services to be provided. If the removal is a change of placement, the IEP Team determines appropriate services. Such services must be designed to enable the student to participate in the general curriculum and to make progress toward his/her IEP goals.
3. If a removal exceeds 10 consecutive school days, the School District will provide, 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.
4. If any disciplinary removal constitutes a change in placement, an MDR is required following procedures described in Section 11.D. above.
5. For all removals that exceed 10 cumulative days during one school year, the School District must provide services to the student. School personnel, in consultation with at least one of the child's teachers, shall determine the services to be provided. Such services must be designed to enable the child to progress in the general curriculum and advance toward his/her IEP goals.

F. Special Educational Procedures for Expulsion or Disciplinary Change in Placement

1. The School District shall promptly notify the student's Parent(s) of the gross disobedience or misconduct and whether the child shall be recommended for expulsion. All procedural protections pertaining to notice provided under the School District's discipline policy shall apply to a notice of recommended expulsion in the case of a special education student.

2. An MDR is required in compliance with the procedures set forth in Section 11.D. above.
3. If a special education student is expelled from school in accordance with the procedures set forth above, the School District shall convene an IEP meeting to develop an educational program to deliver educational services to the child during such period of expulsion.

G. Misconduct Involving Weapons, Drugs, or Infliction of Serious Bodily Injury.

1. In accordance with the above procedures, the School District may take one or more of the following steps when a child 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 has inflicted serious bodily injury upon another person while at school or a school-related function:
 - a. Suspend the child from school for 10 school days or less.
 - b. Convene an IEP conference to: (a) determine placement in an interim alternative educational setting for up to 45 school 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.
 - (1) The child may be placed in an interim alternative educational setting even if the behavior is a manifestation of the student's disability.
 - (2) The interim alternative educational setting must:
 - (a) Enable the child to continue to progress in the general curriculum;
 - (b) Enable the child to receive the services and modifications set forth in his/her IEP; and
 - (c) Include services and modifications designed to address the misconduct to prevent it from recurring.
2. If the Parent(s) disagree with the interim alternative educational placement or with the School District-proposed location for placement and initiate a due process

hearing, the child must remain in the interim alternative educational setting during the authorized review proceedings, unless the Parent(s) and the School District agree on another placement.

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

1. In the event that maintenance of a student's current placement is substantially likely to result in injury to the child or to others, the School District may seek an order from a court of competent jurisdiction or a State of Illinois impartial due process hearing officer to change the student's placement to an appropriate interim alternative educational setting for one or more 45 school day periods after convening an IEP meeting to:
 - a. Conduct a manifestation determination review following procedures described under sub-heading "Special Education Expulsion Procedures," above, and
 - b. Determine a proposed interim alternative educational setting that meets the requirements under sub-heading "Misconduct Involving Weapons, Drugs, or Infliction of Serious Bodily Injury," above.
2. The length of time a child with a disability is placed in an alternative educational setting must be the same amount of time that a child without a disability would be subject to discipline.

I. Protections for 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 School 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:
 - a. The Parent(s) of the child expressed concern in writing (or orally if the Parent(s) does not know how to write or has a disability that prevents a written statement) to supervisory or administrative School District personnel that the child is in need of special education and related services;

- b. The Parent(s) of the child has requested an evaluation of the child; or
 - c. The child's teacher or other School District personnel expressed specific concerns about a pattern of behavior demonstrated by the child directly to the School District's Director of Special Education or to other School District supervisory personnel.
 - 3. The School District will not be deemed to have knowledge if:
 - a. The Parent(s) of the child has not allowed their child to be evaluated after he/she was referred for such evaluation by the School District;
 - b. The Parent(s) has refused special education services; or
 - c. 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 or the Parent(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 School 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) 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.
- J. 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 (Procedural safeguards).

34 C.F.R. §§ 300.101 (Free appropriate public education (FAPE)), 300.530-300.535 (Discipline procedures).

105 ILCS 5/10-22.6 (Suspension or expulsion of pupils; school searches), 5/14-8.05 (Behavioral intervention).

23 Ill. Admin. Code §§ 226.50 (requirements for FAPE), 226.75 (definitions), 226.220 (Development, REview, and Revision of the IEP), 226.400 (disciplinary actions), 226.655 (expedited due process hearing).

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