Flat River Academy Special Education Discipline Procedures

This procedure follows the requirements of the *Individuals with Disabilities Education Act* (IDEA) for the following circumstances:

- Disciplinary Removals of 10 School Days or Fewer
- Disciplinary Removals of More Than 10 Consecutive School Days Due to a Violation of the Code of Student Conduct
- Disciplinary Removals of More than 10 Cumulative School Days (Non-Consecutive) Due to a Violation of the Code of Student Conduct
- Disciplinary Removals Due to Special Circumstances
- Protection for Students Not Determined Eligible for Special Education and Related Services

What documentation may be necessary to implement these procedures?

- Discipline report for the student, including a record of all disciplinary actions during the school year
- Attendance records for the student
- Analysis of Pattern of Removals document and whether there is a change of placement
- Prior written notice of change of placement (letter or form)
- Procedural safeguards
- Manifestation determination review (MDR)
- The student's educational record
- Information provided by the parent to the MDR team
- Determination of a free appropriate public education (FAPE) after removal (who participated in the decision and what services will constitute FAPE)
- Delivery of FAPE after removal
- Interim alternative educational setting
- Functional behavioral assessment (FBA)
- Behavior intervention plan (BIP)

Procedure for Discipline Removals of 10 School Days or Less

When the decision is made to impose a disciplinary consequence the school administrator/special education coordinator determines if the disciplinary action is a removal.

If the consequence is not a removal, document disciplinary action in Skyward

If the decision is to make a disciplinary removal, it will be documented by:

- The administrator who is making the removal, using MIPSE.

The school administrator/special education coordinator reviews removal history and determines if there have been 10 days of removals or less.

Will FAPE services be provided?

- **Yes:** The school administrator/special education coordinator determines the services to be provided during the removal if the school provides services to students without disabilities who are similarly removed.
- **No:** If no, the student does not receive services during the removal if the school does not provide services to students without disabilities who are similarly removed.

The school administrator/special education coordinator in cooperation with the IEP team decides if an FBA/BIP needs to be developed, reviewed, or revised.

The IEP team will participate in the development, review, and revision of the FBA/BIP.

The IEP team will document the development, review, and revision of the FBA/BIP.

Even though the removals are not triggering an MDR, the school administrator/special education coordinator should review all removals to determine if there is an emerging need that must be addressed through the Individualized Education Program (IEP) process.

Procedure for Disciplinary Removals of More than 10 Consecutive School Days Due to a Violation of the Code of Student Conduct

When the decision is made to impose a disciplinary consequence, the school administrator/special education coordinator determines if the disciplinary action is a removal. On the date the decision is made to remove a student, the parent is notified that the removal constitutes a change of placement, and the procedural safeguards notice is provided to the parents.

Within 10 school days of the decision to remove the student which created the change of placement, the following will occur:

1. The school administrator/special education coordinator will schedule an MDR and invite the school district, parent, and relevant members of the IEP team.
2. The IEP team will determine the services for the student that will allow the student to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP. Services must be individualized and include frequency, location, and duration.
3. Service providers will arrange with the parent the specific time and location of services.
4. The school administrator/special education coordinator determines who will provide services.
5. Service providers will document delivery of services and keep the documentation in Service Logs.
6. The MDR is held. At the MDR the IEP team must review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents to determine:
    a. If the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability; **or**
    b. If the conduct in question was a direct result of the district's failure to implement the IEP.

If the conduct in question is a manifestation of the disability, the IEP team must either:

a. Conduct an FBA, unless the district conducted an FBA before the behavior that resulted in a change of placement occurred, and implement a BIP for the student; **or**

b. If a BIP has already been developed, review the BIP and modify it as necessary to address the behavior.

In addition, the district must return the student to the placement from which they were removed unless the parent and district agree to a change of placement as part of the modification of the BIP.

The school administrator/special education coordinator will verify the student's return to school.

If the conduct in question was a direct result of the district's failure to implement the IEP, the district must take immediate steps to remedy these deficiencies. The school administrator/special education coordinator should document these steps.

If the conduct in question is not a manifestation of the disability, school personnel may apply the same discipline procedures in the same manner and for the same duration as are applied to students without disabilities.

The IEP team will determine:

a. The services that will be provided to the student by the district to participate in general education curriculum, although in another setting (determined by the IEP team), and to progress toward meeting the goals set out in the student's IEP; **and**
b. Receive, as appropriate, an FBA and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not reoccur.

Both a and b are documented by the school administrator/special education coordinator on MIPSE.

If the services are determined to be best met in an interim alternative educational setting, the services are documented by the service provider on service logs. Service providers will arrange, with the parent, the specific time and location of services.

Procedure for Disciplinary Removals of More Than 10 Cumulative School Days (Non-Consecutive) Due to a Violation of the Code of Student Conduct

When the decision is made to impose a disciplinary consequence the school administrator/special education coordinator determines if the disciplinary action is a removal.

If the consequence is not a removal, document disciplinary action in MIPSE.

If the decision is to make a disciplinary removal, it will be documented by:

- The school administrator/special education coordinator who is making the removal, using MIPSE.

The school administrator/special education coordinator reviews removal history.

If a student is removed for discipline for more than 10 non-consecutive school days in a school year, the district must determine if the removal constitutes a change of placement on a case-by-case basis.

Using information found in MIPSE, a change of placement has occurred if:

- The series of removals total more than 10 school days in a school year;
- The student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals; **and**
- Additional factors exist, such 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.

The school administrator/special education coordinator documents this consideration on MIPSE.

If the removals constitute a change of placement:

1. The school administrator/special education coordinator will notify the parent that the removal constitutes a change of placement and provide the parent with a procedural safeguards notice on the date the decision was made.

2. The IEP team will determine the services to be provided to the student to participate in general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP. Services must be individualized and include frequency, location, and duration.
    a. The service provider arranges with the parent, the specific time and location of services.
    b. The school administrator/special education coordinator determines who will provide services.
3. The school administrator/special education coordinator will schedule an MDR and invite the school district, parent, and relevant members of the IEP team to be completed within 10 days of the decision to remove the student.
    a. To meaningfully participate, the parent will need sufficient time to prepare. The parent needs time to review and, if needed, ask questions about the notice. Parents may also need time to adjust their schedules, gather any relevant documents they wish to bring, and arrange for others to attend.
    b. Some parents may believe that an MDR team decides whether the student engaged in misconduct or decides on the amount or type of discipline the student will receive. {Person} should explain the purpose of the MDR is solely to determine whether the conduct is related to a disability or IEP implementation failure.
4. When holding the MDR, the IEP team must review all relevant information in the student's file, including:
    - The student's IEP;
    - Any teacher observations; **and**
    - Any relevant information provided by the parents.
        - District team members may feel rushed to complete the MDR. But it's important for district team members to listen to and discuss the parent's concerns and any documentation or other input they may provide. Build time into the agenda to discuss the parent's views or regularly pause to ask for their input and discuss it.
        - Some parents may be hesitant to talk during an MDR. In those circumstances, the team leader should ask the parent questions designed to elicit their views concerning how and where the student's disability-related behavior typically manifests, any information they have related to what led to the misconduct at

issue, and why they believe the conduct is or is not a manifestation of a disability.

The team must determine:

a. If the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability; **or**
b. If the conduct in question was a direct result of the district's failure to implement the IEP.

If the conduct in question is a manifestation of the disability, the IEP team must conduct an FBA, unless the district had conducted an FBA before the behavior that resulted in the change of placement occurred, and implement a BIP for the student. If a BIP has already been developed, review the BIP and modify it as necessary to address the behavior. Return the student to the placement from which they were removed unless the parent and member district agree to a change of placement as part of the modification of the BIP.

The school administrator/special education coordinator will verify the student's return to school.

If the conduct in question was a direct result of the district's failure to implement the IEP, the district must take immediate steps to remedy these deficiencies.

If the conduct in question is not a manifestation of the disability:

- The school administrator may apply the same discipline procedures in the same manner and for the same duration as are applied to students without disabilities.
- The student should receive, as appropriate, an FBA and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not reoccur. This consideration is documented on MIPSE.

If the removals do not constitute a change of placement:

- The school administrator, in consultation with one or more of the student's teachers, determines the extent to which services are needed for the student to participate in the general education curriculum and to make progress on his or her IEP goals, although in another setting.

Disciplinary Removals Due to Special Circumstances

When a decision is made to impose a disciplinary consequence, the school administrator determines if the removal is due to a special circumstance when one of the following occurs:

- The student carries a weapon to or possesses a weapon at school, on school premises, or at a school function.
- 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.
- The student inflicts serious bodily injury upon another person while at school, on school premises, or at a school function.

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 was determined to be a manifestation of the student's disability.

The school administrator determines if the removal is a change of placement and follows the appropriate procedures above.

Protections for Students Not Determined Eligible for Special Education and Related Services

If the district has basis of knowledge and suspects a disability:

A student who has not been determined eligible for special education and has violated a code of student conduct may assert any of the protections above if the district had knowledge that the student was a student with a disability before the behavior occurred.

The district is deemed to have a basis of knowledge if any of the following have occurred before the behavior that resulted in disciplinary action:

- The parent expressed concern in writing to supervisory or administrative personnel of the school district, or a teacher of the student, that the student is in need of special education and related services;

- The parent of the student requested a special education evaluation; **or**
- The student's teacher or other personnel expressed specific concerns about a pattern of behavior demonstrated by the student directly to the director of special education or other supervisory personnel of the school district.

The school must conduct an expedited evaluation (meaning that it should be conducted in a shorter period of time than a typical evaluation).

The school administrator determines if the removal is a change of placement and follows the appropriate procedures above.

The school is not considered to have a basis of knowledge if:

- The parent did not allow an evaluation of the student.
- The parent refused services.
- The student was found to not be a student with a disability after an evaluation.

If the school did not have a basis of knowledge and no disability is suspected, district personnel may apply the same discipline procedures in the same manner and for the same duration as are applied to students without disabilities.

If the district has no basis of knowledge and a request is made for an evaluation during the time period in which the student is subjected to disciplinary measures, the district must:

Conduct an expedited evaluation (meaning that it should be conducted in a shorter period of time than a typical evaluation):

- While the evaluation is ongoing, school personnel may apply the same discipline procedures as are applied to students without disabilities.
- Until the evaluation is completed, the student remains in the educational placement determined by the school authorities, which can include suspension or expulsion, without educational services.
- Take action based on evaluation results:

If the student is determined eligible for special education programs and related services, resolve ongoing discipline removals by following the appropriate procedures for a student with a disability. (See page 3 for removals of more than 10 consecutive days, page 4 for removals of more than 10 non-consecutive days, and page 7 for removals due to special circumstances involving weapons, drugs, or injuries.)

If the student is determined not eligible for special education, continue with discipline procedures applied to students without disabilities.

Discipline Resources

United States Department of Education Office of Special Education and Rehabilitative Services, Dear Colleague Letter, August 1, 2016 (https://sites.ed.gov/idea/files/dcl-on-pbis-in-ieps-08-01-2016.pdf)

IDEA: Questions and Answers on Discipline Procedures (PDF) (https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/discipline-q-a.pdf)

Alternatives to Suspensions and Expulsions Toolkit (https://www.michigan.gov/mde/0,4615,7-140-74638_72831---,00.html)

Michigan Administrative Rules for Special Education (MARSE) With Related IDEA Federal Regulations (https://www.michigan.gov/documents/mde/MARSE_Supplemented_with_IDEA_Regs_379598_7.pdf)