

THE SCHOOL DISTRICT OF PHILADELPHIA

SECTION: PROGRAMS

TITLE: DISCIPLINE OF STUDENTS
WITH DISABILITIES

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REVISED: January 19, 2017

113.1 DISCIPLINE OF STUDENTS WITH DISABILITIES

Purpose

The district shall develop and implement positive Behavior Support Plans and programs for students with disabilities who require specific interventions to address behaviors that interfere with learning.[1][2][3]

Students with disabilities who violate the Code of Student Conduct, or engage in inappropriate behavior, disruptive or prohibited activities and/or actions that could injure themselves or others, which would typically result in discipline of students without disabilities, shall be disciplined in accordance with state and federal laws and regulations and School Reform Commission (SRC) policy and, if applicable, their Individualized Education Program (IEP) and Behavior Support Plan.[1][4][5][6][7]

Definitions

Students with disabilities - school-aged children within the jurisdiction of the district who have been evaluated and found to have one or more disabilities as defined by law, and who require, because of such disabilities, special education and related services.[2]

Suspensions from school - disciplinary exclusions from school for a period of one (1) to ten (10) consecutive school days.[7][8]

Expulsions from school - disciplinary exclusions from school by the SRC for a period exceeding ten (10) consecutive school days and may include permanent exclusion from school.[7][8]

Interim alternative educational settings - removal of a student with a disability from his/her current placement. Interim alternative educational settings may be used by school personnel for up to forty-five (45) school days for certain violations committed by students with disabilities. The IEP team shall determine the interim alternative educational setting; however, this does not constitute a change in placement for a student with a disability.[5][9]

Manifestation determination - within ten (10) school days of any decision to change the placement of a student with a disability because of a violation of the Code of Student Conduct or other inappropriate, disruptive or prohibited activities violating SRC policy or district rules, the student's parents/guardians; general education teacher; special education teacher; district administrator and/or designee; school psychologist; and other individuals requested by the parent/guardian who have special knowledge of the student must review all relevant information in the student's file, including the IEP, any teacher observations, and any relevant information provided by the parents/guardians to determine:[2][5]

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

Authority

The SRC directs that the district shall comply with provisions and procedural safeguards of the Individuals With Disabilities Education Act (IDEA) and federal and state regulations when disciplining students with disabilities for violations of the Code of Student Conduct, SRC policy or district rules or procedures. No student with a disability shall be subjected to a disciplinary change in placement if the student's particular misconduct is a manifestation of his/her disability. However, under certain circumstances a student with a disability may be placed in an interim alternative educational setting by school personnel or the IEP team could, if appropriate, change the student's educational placement to one which is more restrictive than the placement where the misconduct occurred.[4][5][9]

Guidelines

Changes in Educational Placement

A suspension, expulsion, or disciplinary transfer to an alternative educational setting or another setting for either more than ten (10) consecutive school days or more than fifteen (15) cumulative school days in a school year is a change in placement. If a student has transportation included in his/her IEP, then bus suspensions are also counted.[4][5][9][10]

Suspensions that may total less than fifteen (15) cumulative school days in a school year may be a change in placement if they appear as part of a pattern of suspensions. A pattern of suspensions may be found if the student is suspended for behavior that is substantially similar to behavior for which the student has previously been suspended. Factors may include same type of behavior, same victim, same class, same day of the week or same time of day.

For students with an intellectual disability, any disciplinary suspension or expulsion is a change in educational placement, and requires a manifestation determination, permission from the parent/guardian or permission from the Pennsylvania Department of Education.[4]

Manifestation Determinations

For disciplinary exclusions which create a change in educational placement, the district shall first determine whether the student's behavior is a manifestation of his/her disability by conducting a manifestation determination review in accordance with applicable law and regulations. [\[4\]](#)[\[5\]](#)

A student with a disability whose behavior is not a manifestation of his/her disability may be disciplined in accordance with the Code of Student Conduct, SRC policy, district rules and procedures in the same manner and to the same extent as students without disabilities. [\[4\]](#)[\[5\]](#)[\[6\]](#)[\[7\]](#)

Suspension From School

A student with a disability may be suspended for five (5) consecutive and fifteen (15) cumulative days of school per school year, for the same reasons and duration as a student without a disability. Such suspension shall not constitute a change in the student's educational placement. Also, use of interim alternative educational settings permitted by law does not constitute a change in educational placement for these purposes. [\[4\]](#)[\[5\]](#)[\[8\]](#)[\[9\]](#)[\[11\]](#)

EXCEPTION: For students with an intellectual disability, any disciplinary suspension or expulsion is a change in educational placement.

Provision of Education During Disciplinary Exclusions

During any period of expulsion, or suspension from school for more than ten (10) cumulative days in a year, or placement in an interim alternative educational setting for disciplinary reasons, a student with a disability shall continue to receive a free and appropriate education, in accordance with law. [\[5\]](#)[\[8\]](#)[\[12\]](#)

Parent/Guardian Appeals From Disciplinary Actions/Request for Hearing by District for Students Who are a Danger to Themselves or Others

A due process hearing may be requested by a parent/guardian of a student with a disability who disagrees with a disciplinary placement or manifestation determination, or by the district if the district believes that the current placement is substantially likely to result in injury to the student or others. On parent/guardian appeal, or when the district requests a due process hearing, the hearing officer may return the student to the placement from which s/he was removed or order his/her removal to an appropriate interim alternative educational setting for up to forty-five (45) school days if the hearing officer determines that maintaining the student's current placement is substantially likely to result in an injury to the student or others. [\[9\]](#)[\[13\]](#)

Placement during appeals of disciplinary actions shall be in the interim alternative educational setting pending the decision of the hearing officer or expiration of the time period set for the disciplinary exclusion from the student's regular placement unless the district and the parent/guardian agree otherwise. [\[9\]](#)[\[14\]](#)

Protections for Students Not Determined Eligible for Special Education and Related Services/Pending Evaluation

Students who have not been identified as disabled may be subject to the same disciplinary measures applied to students without disabilities if the district did not have knowledge of the disability. If a request for evaluation is made during the period the student is subject to disciplinary measures, the evaluation shall be expedited.[\[9\]\[15\]](#)

A student who has not been determined to be eligible for special education and related services and who has engaged in behavior that violated the Code of Student Conduct or other inappropriate, disruptive or prohibited activities violating SRC policy or district rules, may assert any of the protections provided for in law and regulations if the district had knowledge that the student was a student with a disability before the behavior that lead to the disciplinary action occurred.[\[9\]\[15\]](#)

Administrative Removal to Interim Alternative Educational Setting for Certain Infractions

School personnel may remove a student with a disability, including an intellectual disability, to an interim alternative educational setting for not more than forty-five (45) school days without regard to whether the behavior is determined to be a manifestation of the student's disability if the student:[\[5\]\[9\]](#)

1. Carries a weapon to or possesses a weapon at school, on school property, or at school functions under the jurisdiction of the district. For purposes of this provision, weapon is defined as 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 (for purposes of this provision) does not include a pocket knife with a blade of less than two and one-half (2 1/2) inches in length.[\[5\]\[9\]\[16\]\[17\]](#)
2. Knowingly possesses or uses illegal drugs, as defined by law, or sells or solicits the sale of a controlled substance, as defined by law, while at school, on school property, or at school functions under the jurisdiction of the district.[\[5\]\[9\]\[18\]\[19\]](#)
3. Has inflicted serious bodily injury upon another person while at school, on school property, or at school functions under the jurisdiction of the district. For purposes of this provision, serious bodily injury means bodily injury which involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or mental faculty.[\[5\]\[9\]\[20\]](#)

Referral to Law Enforcement and Reporting Requirements

For reporting purposes, the term incident shall mean an instance involving an act of violence; the possession of a weapon; the possession, use, or sale of a controlled substance or drug paraphernalia as defined in the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act; the possession, use, or sale of alcohol or tobacco; or conduct that constitutes an offense listed under the Safe Schools Act.[\[21\]\[22\]\[23\]](#)

The Superintendent, Office of School Safety, or designee shall immediately report required incidents and may report discretionary incidents committed on school property, at any school-sponsored activity or on a conveyance providing transportation to or from a school or school-sponsored activity by a student with a disability, including a student for whom an evaluation is pending, to the local police department that has jurisdiction over the school's property, in accordance with state and federal laws and regulations, the procedures set forth in the memorandum of understanding with local law enforcement and SRC policies. The Superintendent or designee shall respond to such incidents in accordance with the district's special education plan and, if applicable, the procedures, methods and techniques defined in the student's Behavior Support

Plan. [\[1\]](#)[\[2\]](#)[\[3\]](#)[\[6\]](#)[\[9\]](#)[\[17\]](#)[\[19\]](#)[\[21\]](#)[\[24\]](#)[\[25\]](#)[\[26\]](#)[\[27\]](#)[\[28\]](#)[\[29\]](#)[\[30\]](#)[\[31\]](#)[\[32\]](#)[\[33\]](#)[\[34\]](#)[\[35\]](#)

For a student with a disability who does not have a Behavior Support Plan, subsequent to notification to law enforcement, the district shall convene the student's IEP team to consider whether a Behavior Support Plan should be developed to address the student's behavior, in accordance with law, regulations and SRC policies. [\[1\]](#)[\[3\]](#)[\[26\]](#)[\[32\]](#)

When reporting an incident committed by a student with a disability to the appropriate authorities, the district shall provide the information required by state and federal laws and regulations and shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by these authorities. The district shall transmit copies of the student's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act. [\[9\]](#)[\[21\]](#)[\[24\]](#)[\[25\]](#)[\[26\]](#)[\[30\]](#)[\[35\]](#)[\[36\]](#)[\[37\]](#)

In accordance with state law, the Superintendent shall annually, by July 31, report to the Office for Safe Schools on the required form all new incidents committed by students with disabilities, including students for whom an evaluation is pending, which occurred on school property, at any school-sponsored activity or on a conveyance providing transportation to or from a school or school-sponsored activity. [\[22\]](#)[\[35\]](#)

Legal References

1. 22 PA Code 14.133
2. Pol. 113
3. Pol. 113.2
4. 22 PA Code 14.143
5. 34 CFR 300.530
6. Pol. 218
7. Pol. 233
8. 22 PA Code 12.6
9. 20 U.S.C. 1415
10. Pol. 810
11. 34 CFR 300.536
12. 20 U.S.C. 1412
13. 34 CFR 300.532

- 14. 34 CFR 300.533
- 15. 34 CFR 300.534
- 16. 18 U.S.C. 930
- 17. Pol. 218.1
- 18. 21 U.S.C. 812
- 19. Pol. 227
- 20. 18 U.S.C. 1365
- 21. 22 PA Code 10.2
- 22. 24 P.S. 1303-A
- 23. 35 P.S. 780-102
- 24. 22 PA Code 10.21
- 25. 22 PA Code 10.22
- 26. 22 PA Code 10.23
- 27. 22 PA Code 10.25
- 28. 22 PA Code 14.104
- 29. 24 P.S. 1302.1-A
- 30. 34 CFR 300.535
- 31. Pol. 103.1
- 32. Pol. 113.3
- 33. Pol. 218.2
- 34. Pol. 222
- 35. Pol. 805.1
- 36. Pol. 113.4
- 37. Pol. 216
- 24 P.S. 510
- 20 U.S.C. 1232g
- 20 U.S.C. 1400 et seq
- 34 CFR Part 300
- 34 CFR Part 99