

POLICY ON DISCIPLINE OF STUDENTS WITH SPECIAL NEEDS

Discipline of Students with Special Needs

All students are expected to meet the requirements for behavior as set forth in this Handbook, unless otherwise determined through the special education team process. State and federal special education and civil rights laws require that additional provisions be made for students who have been found by an evaluation team to be eligible for special education or Section 504 services and whose program is described in an Individualized Education Plan (IEP) or Section 504 Plan. The IEP or Section 504 Plan will indicate whether the student is able to conform his/her behavior to the regular discipline code or if a modification is required. If a modified disciplinary code is required, it will be written into the IEP or Section 504 Plan.

The Parent's Rights Brochure outlines the special education process and rights for parents and students. These provisions are very similar to those applicable to Section 504 students. The brochure is available through the special education office and is provided annually to parents of special needs students.

When a special needs student violates the school's disciplinary code, the school may suspend or remove the student from the current educational placement for a period not to exceed ten (10) school days. Suspensions or removals beyond ten (10) days must be accompanied by the provision of educational services, such as tutoring, and access to special education services.

When a special needs student, possesses, uses, sells or solicits drugs or other illicit substances on school grounds or at a school-sponsored event, or carries a weapon to school or to a school function, or causes serious bodily injury to anyone at school or at a school sponsored event, the school district may place the student in an interim alternative education setting for up to forty-five (45) school days. Thereafter, the student will return to the previously agreed upon educational placement unless either a hearing officer orders another placement or the team agrees to another placement.

Anytime the school district removes a special needs student from his/her current educational placement for more than ten (10) consecutive school days in any school year, or for more than ten (10) cumulative days when a pattern of removal is occurring, this constitutes a "change in placement". A change in placement invokes certain procedural protections under the IDEA (the federal special education law) and Section 504. These protections include the following:

- a. Prior to any removal that constitutes a change in placement, the school district must conduct a functional behavioral assessment; this assessment will be used as the basis for developing specific strategies to address the problematic behavior written into a behavioral plan. If a behavioral intervention plan has been previously developed, the team shall review its implementation and modify it as necessary.

- b. Prior to any removal that constitutes a change in placement, the school district must send the student and parent a statement of their procedural rights and inform them that the team will consider whether or not the behavior that forms the basis for the removal is related to the student's disability. This consideration is called a "manifestation determination". The parent and student always have the right to participate as members of the team in the manifestation determination meeting.

Consideration of whether the behavior is a manifestation of the student's disability: The law provides that the team must consider evaluation data, observational information and the student's IEP and placement, and must determine whether the behavior prompting the disciplinary removal was a manifestation of the student's disability. The team considers if the conduct in question was caused by or had a direct and substantial relationship to the child's disability, or if the conduct in question was a direct result of the local school district's failure to implement the IEP.

If the team determines that the behavior was related to the student's disability, then the student may not be removed from the current educational placement (except in the case of weapons or drugs) until the team develops a new IEP and decides upon a new placement, and the parent and student consent to that new IEP and placement.

If the team determines that the behavior was not related to the student's disability then the school may suspend or otherwise discipline the student according to the school's code of student conduct, except that for any period exceeding the ten (10) days, the school district must provide the student with a Free Appropriate Public Education (FAPE). The school district must determine the educational services necessary for FAPE and the manner and location for providing those services.

In the case of disagreement with the team's determination:

If the parent or student disagrees with the team's decision on the manifestation determination or with the decision relating to the placement of the student in an interim alternative education setting or any other disciplinary action, the parent has the right to request a due process hearing from the Bureau of Special Education Appeals.