

STUDENTS

Discipline Of Students Requiring Special Education Services

Students with disabilities requiring special education services (hereinafter referred to as "disabled students") are not immune from the District's disciplinary policies. The District shall comply with the applicable provisions of federal law, including the Individuals With Disabilities Education Act ("IDEA"), state law, and state and federal regulations when disciplining disabled students.

Manifestation Determination

A manifestation determination is required wherever, for disciplinary purposes, the District proposes a removal of a disabled student with a disability for more than ten (10) consecutive school days or such student is subjected to a series of removals that constitute a change in placement because they cumulate to more than ten (10) school days in a school year and because of factors such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to each other. No later than the date the decision to take such disciplinary action is made, the parents or guardian will be notified and provided a procedural safeguards notice in accordance with IDEA. A Planning and Placement Team ("PPT") and other qualified personnel shall determine the relationship, if any, between the student's disability and the behavior subject to the disciplinary action.

This manifestation determination will normally be made as soon as possible, and will always be made no later than ten (10) school days after the date on which the decision to take such disciplinary action is made.

The PPT and other qualified personnel may determine that the student's conduct was not a manifestation of his/her disability only if it first considers all relevant information, including evaluation and diagnostic results, observations of the student and the student's program and placement, and then determines that, in relation to the behavior at issue: (1) the student's program and placement are appropriate and the special education services and behavior intervention strategies provided are consistent with such program and placement; (2) the student's disability did not impair his/her ability to understand the impact and consequences of the behavior at issue; and (3) the student's disability did not impair his/her ability to control the behavior at issue.

Disciplinary Action For Behavior That Is Not A Manifestation Of A Student's Disability

Any student with a disability whose misconduct is deemed by the PPT and other qualified personnel to not be a manifestation of his or her disability may be disciplined to the same extent that non-disabled students are disciplined up to and including expulsion, provided that if the disabled student is excluded from school for more than ten (10) school days, cumulative in a school year, but not constituting a change of placement, the student shall continue to receive educational services to the extent necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals of the student's program. If the removal constitutes a change of placement, however, the student will be provided

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(continued)**

special education services constituting a free appropriate education ("FAPE") in accordance with state and federal law.

If a student's parent(s)/guardian(s) disagree with the PPT's determination that the student's behavior was not a manifestation of the student's disability, the parent(s)/guardian(s) may request an expedited hearing. During pendency of the hearing, the disabled student will remain in his or her then existing placement, unless an interim alternative placement is agreed to by the parents and the Board, a hearing officer or court orders to the contrary, or unless the student has been placed in a forty-five (45) day interim alternative placement because the student's conduct at issue involved a weapon or illegal drugs. In that case, the student shall remain in the interim alternative setting during the pendency of the hearing or until expiration of the forty-five (45) day period whichever occurs first, unless the parent(s) or guardian and the Board agree otherwise.

A disabled student whose misconduct is determined to be a manifestation of his or her disability shall not be excluded from school for more than ten (10) consecutive school days, or for more than ten (10) days cumulative in a school year as long as such does not constitute a change of placement. However, the student's misconduct shall be handled in accordance with his or her IEP, and behavioral intervention plan.

Nothing herein shall be construed to limit a PPT's ability to modify a student's IEP as a result of a student's behavior, subject to all procedural safeguards.

Authority of Hearing Officer

A hearing officer may order a change in the placement of a disabled student to an appropriate alternative educational setting for not more than forty-five (45) days if the hearing officer:

1. Determines that the District has demonstrated by substantial evidence that maintaining the student's current placement is substantially likely to result in injury to the student or to others;
2. Considers the appropriateness of the student's current placement;
3. Considers whether the District has made reasonable efforts to minimize the risk of harm in the student's current placement, including the use of supplementary aids and services; and
4. Determines that the interim alternative educational setting, proposed by the appropriate school personnel who have consulted with the student's special education teacher, will enable the student to continue to progress in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the student's current IEP, that will enable the student to meet the goals set out in his or her IEP, and

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includes services and modifications to address the student's behavior so that are designed to prevent the behavior from recurring.

Students Not Identified As Disabled

A student who has not been determined to be eligible for special education and related services and who has committed a disciplinary infraction may be disciplined in the same manner as non-disabled students who have engaged in comparable behavior.

However, the student, or if a minor, the student's parents or guardian, may assert any of the protections provided to students identified as eligible for special education services if the District had knowledge that the student was eligible to receive special education services before the occurrence of the student's behavior that constituted the disciplinary infraction.

The District shall be deemed to have knowledge of a disability if, prior to the conduct in question:

1. The student's parent(s)/guardian(s) have expressed concern in writing (or verbally if they are illiterate or prevented by disability from providing written notice) that the student is in need of special education and related services;
2. The behavior or performance of the student demonstrates the need for such services in accordance IDEA regulations which define "child with disability";
1. The student's parent(s)/guardian(s) have requested an evaluation pursuant to IDEA; or
2. The student's teacher and/or other District personnel have expressed concern about the behavior or performance of the student to the director of special education or to other appropriate District personnel.

If a request is made for an evaluation of a student not yet identified as disabled during the time period in which the student is subjected to a removal greater than ten (10) consecutive school days, or a series of removals totaling more than ten (10) days cumulative in the school year, until the evaluation is completed, the child will remain in the educational placement determined by the District, which can include suspension or expulsion without special education services. If the student is determined to be eligible for special education services, the District shall provide such services in accordance with IDEA. The evaluation shall be conducted in an expedited manner.

Other Disciplinary Actions

Nothing in this policy shall be construed to limit the District's ability and prerogative to discipline students with disabilities in any manner consistent with state and federal laws and regulations.

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Legal References

Connecticut General Statutes Sections

10-4-176e - 4-180a and 4-181a. Formal Hearing Procedure.

10-233a - 10-233g. Student Discipline.

Honig v. Doe, United States Supreme Court (1988).

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REDDING PUBLIC SCHOOLS