

SELPA Administrative Regulation**Suspension/Expulsion**

These procedures are designed to provide support to Local Education Agencies in the Glenn County SELPA in determining appropriate options in the discipline of students with disabilities. This policy does not supersede district policies and procedures with respect to Board Policies on Discipline, Suspension or Expulsion. It is designed to provide guidance to school districts in applying suspension and expulsion.

A student identified as an individual with disabilities pursuant to the Individuals with Disabilities Education Act (IDEA) is subject to the same grounds for suspension and expulsion which apply to students without disabilities.

Procedures for Students Not Yet Eligible for Special Education Services

A student who has not been officially identified as a student with disabilities pursuant to IDEA and who has violated the district's code of student conduct may assert the procedural safeguards granted under this administrative regulation *only if* the district had knowledge that the student had a disability before the behavior that precipitated the disciplinary action occurred. (34 CFR 300.534 (a))

The district shall be deemed to have had knowledge that the student has a disability if before the behavior that precipitated the disciplinary action: (34 CFR 300.534 (b))

1. The parent/guardian expressed concern to supervisory or administrative personnel of the district, or a teacher of the child in writing, that the student is in need of special education or related services; or
2. The parent or guardian requested an evaluation of the student for special education eligibility; or
3. The teacher of the student or other district personnel, expressed specific concerns directly to the district's director of special education or other supervisory district personnel about a pattern of behavior demonstrated by the student.

The district would be deemed to not have knowledge that a student is disabled if the parent/guardian has not allowed the student to be evaluated for special education services or has refused services. In addition, the district would be deemed to not have knowledge if the district had conducted an evaluation and determined that the student was not an individual with a disability. When the district is deemed to not have knowledge of the disability the student shall be disciplined in accordance with procedures established for students without disabilities. (34 CFR 300.534 (d))

If a request is made for an evaluation of a student during the time period in which the student is subject to disciplinary measures, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities. (34 CFR 300.534 (d))

SELPA Administrative Regulation**Procedures for Identified Special Education Students****Suspension**

The Superintendent or designee may suspend a student with a disability for up to 5 consecutive school days for a single incident of misconduct, and for up to 20 school days in a school year, as long as the suspension(s) does not constitute a change in placement pursuant to federal regulations. If, for the purpose of adjustment, a pupil enrolls in or is transferred to another regular school, an opportunity school or class, or a continuation school or class, the total number of days of suspension shall not exceed 30 days. (EC 48903; EC 48911(a))

Removal of a student **for disciplinary purposes** is considered a change of placement if the removal is for more than 10 consecutive school days or 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 child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; AND
3. Because of factors such as the length of each removal, the total amount of time removed and the proximity of the removals to one another.

The principal or designee shall monitor the number of days, including portions of days, which students with valid individualized education programs (IEP) have been suspended during the school year. The principal or designee will determine on a case by case basis whether a suspension beyond 10 cumulative days constitutes a change of placement. (34 CFR 300.536)

Changing the placement of a special education student from a comprehensive school site to a community day school requires an IEP team meeting and parental consent unless it is done as a result of placement post-expulsion or an interim alternative educational setting.

Services During Suspension

The district will treat special education students in the same manner as general education students during the first 10 cumulative school days of suspension in a school year. Any student suspended for more than 10 school days in a school year shall continue to receive services during the term of the suspension. The extent and location of services provided will be dependent on whether the removal constitutes a change of placement as defined above. (34 CFR 300.530(d))

If a student with disabilities is excluded from school bus transportation, the student shall be provided with an alternative form of transportation at no cost to the student/parent/guardian, provided that transportation is specified in the student's IEP. (EC 48915.5)

SELPA Administrative Regulation**Requirements When Removals for More than 10 School Days DO NOT Constitute a Change of Placement**

For days of suspension in excess of 10 school days in a school year, the principal or designee, in consultation with at least one of the child's teachers, will determine the extent to which services are needed during days of suspension so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in the child's IEP. The principal or designee, child's teacher and relevant members of the IEP team, will consider the need to develop or review the child's behavior plan and, if necessary, schedule an IEP meeting for this purpose. (34 CFR 300.530(d))

Requirements When Removals DO Constitute a Change of Placement**Manifestation Determination**

On the date on which the decision is made to make a removal for disciplinary reasons which constitutes a change in placement, the district must notify the parents of that decision and provide the parents with a notice of procedural safeguards. Within 10 school days of the decision to make the change in placement, the district, parent and relevant members of the IEP Team (as determined by the district *and* the parent) shall meet and review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parent to determine:

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

If either of the previous conditions is found to be true, the behavior shall be determined to be a manifestation of the student's disability. If neither condition is met, the behavior is not a manifestation of the student's disability.

Procedures if the Behavior IS NOT a Manifestation of the Student's Disability

If the manifestation determination review team determines that the student's behavior was not a manifestation of his/her disability, the student may be disciplined in accordance with the procedures for students without disabilities. The student shall continue to receive services to the extent necessary 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. The decision regarding the extent and location of services during the removal will be determined by the IEP Team. The IEP team will also review the child's behavior plan and in the case where there is no behavior plan consider the need for developing one. If the parents disagree with the findings of the IEP Team, they may file for a due process hearing as described in the Due Process Appeals section of this policy.

SELPA Administrative Regulation**Procedures if the Behavior IS a Manifestation of the Student's Disability**

When the behavior is found to be a manifestation of the student's disability, the IEP Team must:

1. Either conduct a functional behavior assessment and develop a behavior plan OR, when a behavior plan has already been developed, review the current behavior plan and modify it as necessary; AND
2. Return the student to the placement from which the child was removed, unless the parent and district agree to a change of placement.

Placements in an Interim Alternative Educational Setting (Exceptions to the Manifestation Determination Requirement)

School staff may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, when the student commits one of the following acts:

1. Carries or possesses a weapon, as defined in 18 USC 930 (g)(2), to or at school, on school premises, or to or at a school function under the jurisdiction of the district.
2. Knowingly possesses or uses illegal drugs, as defined in 34 CFR 300.530(i)(2), while at school, on school premises, or at a school function under the jurisdiction of the district.
3. Sells or solicits the sale of a controlled substance as defined in 21 USC 812(c), while at school, on school premises, or at a school function under the jurisdiction of the district.
4. Has inflicted serious bodily injury upon another person as defined in 18 USC 1365 (h)(3), while at school, on school premises, or at a school function under the jurisdiction of the district. Serious bodily injury means:
 - a. Substantial risk of death
 - b. Extreme physical pain
 - c. Protracted/obvious disfigurement
 - d. Protracted loss/impairment of function of a bodily member, organ or mental faculty

The interim alternative educational setting shall be determined by the IEP Team. (34 CFR 300.530 (d)(5)). If the parent does not agree with the decision of the IEP Team, the parent may file for a due process hearing as described in the Due Process Appeals section of this policy.

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Expulsion is a change in placement. Prior to expelling a student with disabilities, the district must conduct a manifestation determination. If the IEP Team determines that the behavior *is* a manifestation of the student's disability, the district must terminate expulsion proceedings and implement the procedures outlined above under suspension. If the IEP Team determines that the behavior in question is not a manifestation of the student's disability, the district governing board may continue with expulsion proceedings. In the event of an expulsion, the governing board will determine the placement and all other aspects of the expulsion for a special education student in the same manner that it does for students who are not disabled. Whenever a special education student is expelled, the IEP Team will meet to determine the extent of services necessary to

enable the student to appropriately progress in the general curriculum, although in another setting, and appropriately advance toward achieving the goals set out in the student's IEP. If the parent does not agree with the decision of the IEP Team, the parent may file for a due process hearing as described in the Due Process Appeals section of this policy.

Services Post-Expulsion

Any student with a disability who is expelled shall continue to receive services during the term of the expulsion to the extent necessary to enable the student to appropriately progress in the general curriculum, although in another setting, and appropriately advance toward achieving the goals set out in the student's IEP. (20 USC 1412(a)(1)(A); 34 CFR 300.530 (d)(5))

Readmission

Readmission procedures for students with disabilities shall be the same as those used for all students. Upon readmission, an IEP team meeting shall be convened.

Suspension of Expulsion

The Governing Board's criteria for suspending the enforcement of an expulsion order shall be applied to students with disabilities in the same manner as they are applied to all other students except that an IEP meeting shall be held to review and amend the existing IEP as appropriate. (EC 48917)

Notification to Law Enforcement Authorities

Prior to the suspension or expulsion of any student, including any student with a disability, the principal or designee shall notify appropriate city or county law enforcement authorities of any act of assault with a deadly weapon which may have violated Penal Code 245. (EC 48902)

Within one school day after a suspension or expulsion of a student with disabilities, the principal or designee shall notify appropriate city or county law enforcement authorities, by telephone or

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other appropriate means, of any act by the student which may violate Education Code 48900 (c) or (d), relating to the possession, use, offering or sale of controlled substances, alcohol or intoxicants of any kind. (EC 48902)

The principal or designee shall notify appropriate city or county law enforcement authorities, by telephone or other appropriate means, of any act by the student which involves the possession or sale of controlled substances or a violation of Penal Code 626.9 or 626.10. (EC 48902)

A district reporting a crime committed by a special education student must ensure that copies of the student's special education and disciplinary records are transmitted for consideration by the appropriate authorities to whom the district reports the crime. These records may only be transmitted to the appropriate authorities as permitted by the Family Educational Rights and Privacy Act (FERPA). In the absence of a subpoena, the reporting district will request written parental consent for the exchange of information prior to transmitting any special education or disciplinary records. (34 CFR 300.535)

Due Process Appeals

If the parent/guardian disagrees with the determination that the student's behavior was not a manifestation of his/her disability or with any decision regarding placement in an interim alternative educational setting, the parent/guardian has a right to appeal the decision to a hearing officer. (20 USC 1415(k)(3); 34 CFR 300.532)

If the student's parent/guardian initiates a due process hearing to challenge the interim alternative educational placement or the manifestation determination, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or the expiration of the 45-school day time period, whichever occurs first, unless the parent/guardian and district agree otherwise. (20 USC 1415 (k)(4); 34 CFR 300.533)

If school personnel maintain that it is dangerous for the student to continue to be placed in the current placement (placement prior to removal to the interim alternative education setting) while the due process proceedings are pending, the Superintendent or designee may request an expedited due process hearing. (20 USC 1415(k)(4); 34 CFR 300.532)