

Disciplinary Removal of Students with Disabilities - Administrative Procedure

These procedures shall govern disciplinary removals of students with disabilities from their regular school program. These procedures shall be interpreted in a manner consistent with state and federal special education laws and regulations.

A. School administrators may suspend students with disabilities for up to 10 cumulative school days in the school year under the same terms and conditions as students without disabilities are suspended, subject to the limitations set forth below:

1. In the event that a disabled student's Individualized Education Plan (IEP) specifically lists a school response other than a suspension that must be followed for a particular type of misconduct, the school administrator shall follow the requirements of the IEP in responding to that misbehavior.
2. When calculating the 10 cumulative school day total, school administrators shall include school days spent in an in-school suspension or removal, unless during that removal the student continued to have access to the general curriculum, to the special education services in his/her IEP, and also continued to participate with non-disabled students to the extent he/she would have in the student's regular program.
3. Portions of a school day that a student has been suspended would be included in determining whether the student has been removed for more than 10 cumulative school days.

B. In the event that a school administrator must remove a disabled student from his/her school program for more than 10 cumulative school days in the school year, the administrator shall ensure that the following steps are followed:

1. After consulting with the student's special education teacher, the school administrator shall arrange for the student to receive an appropriate level of educational services during the removal in question so as to ensure that the student is able to continue to progress in the general curriculum and appropriately advance toward the goals and objectives listed in the student's IEP during that removal.
2. The administrator shall arrange for a meeting of the student's Pupil Evaluation Team (PET), which should meet within 10 business days of commencing the removal in excess of 10 cumulative school days in the school year.
3. At the PET meeting referenced above, the PET shall undertake all the responsibilities established by state and federal special education laws, including reviewing or ordering as appropriate a functional behavior assessment and a behavior intervention plan.

4. The PET may also undertake a manifestation determination of the behaviors of concern, and must undertake that manifestation determination if the student has been removed with sufficient frequency to constitute a “change of placement” as that term is defined by state and federal law.

5. Nothing in these procedures shall prevent the PET from undertaking functional behavior assessments, manifestation determinations, or the development of behavior plans at earlier points in time, as determined appropriate by the PET.

C. Should school officials believe that the student should remain out of his/her regular program for a sufficient length of time so as to be a “change of placement” under state and federal law, school officials shall schedule a PET meeting to consider that removal. At that meeting, the following things must occur:

1. The PET shall review or order, as appropriate, a functional behavior assessment and/or a behavior intervention plan for the student. The PET shall also undertake a manifestation determination of the behaviors prompting the need for the extended removal time.

2. If the PET chooses to remove the student from his/her regular program for a period of time that would be a change of placement, the PET shall decide upon the appropriate services for the student to receive during that removal. Those services must be calculated to ensure that the student is able to continue to progress in the general curriculum and appropriately advance toward the goals and objectives listed in the student’s IEP during that removal.

3. When such a removal is ordered by the PET, the family shall receive the special education statement of procedural rights as part of that decision. If possible, the chair of the PET meeting should also attempt to inform the student’s parent/guardian at the meeting that if he/she does not believe the service package ordered by the PET is appropriate, then the parent/legal guardian may request a due process hearing challenging the appropriateness of those services.

D. For the purpose of these procedures, a “change of placement” shall be any removal from the student’s regular school program that is for more than 10 consecutive school days in a school year, or any series of removals that constitute a pattern because they accumulate to more than 10 school days in a school year and are considered a change of placement 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 one another.

E. In any situation where the PET determines that misconduct is not a manifestation of the student’s disability, then the relevant disciplinary procedures applicable to students without disabilities may be applied to the student in the same manner as they would be applied to students without disabilities, up to and including possible expulsion of the student in question. During any permissible disciplinary removal in excess of 10 cumulative school days in the school year, including expulsions, the school shall provide that student with services sufficient to ensure that the student is able to continue to progress in the general curriculum

and appropriately advance toward the goals and objectives listed in the student's IEP during that removal. The PET shall determine the services that meet that standard for removals sufficiently long as to constitute a change of placement.

F. Following any disciplinary removal in excess of 10 cumulative school days in the school year, the PET should meet to review the student's most recent functional behavior assessment, or if one has not been done, to order that such an assessment occur, as appropriate. Following the completion and/or review of the functional behavior assessment, the PET shall develop and/or review, as necessary, the behavior intervention plan and order changes in such a plan, if appropriate, to address the behaviors of concern.

G. In those circumstances where a student brings a weapon to school, to a school function, on school transportation, or where a student possesses, uses, sells or attempts to sell illegal substances at school, a school function, or on school transportation, school officials may place that student out of school for up to 45 days, shall provide educational services for the student, and shall schedule a PET meeting to occur within 10 business days of the removal. At that PET meeting, the Team shall undertake all necessary actions discussed in these procedures for responding to removals that constitute a change of placement for the student. Determinations regarding what should happen with the student after the 45- day removal shall be made by the PET, consistent with these procedures and state and federal law.

Legal References:

34 CFR § 300.121; .521-.529 (July 2010)

Me. Spec. Ed. Reg. Ch. 101 § XVII (July 2013)

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