

Part 6: DISCIPLINE

Removal or suspension is a unilateral, temporary cessation of educational services. A student with disabilities may be removed for violations of rules, standards, or policies adopted by the school. Removal is not a change of placement. Removal from general and special education services and related services may not exceed:

- ten (10) cumulative instructional days in a single period of suspension.; or
- More than ten (10) cumulative instructional days.

A school is not required to provide services to a student with a disability during any of the first ten (10) cumulative instructional days of removal in a school year, if services are not provided to a non-disabled student who has been similarly removed.

Removal of a student for part of a day constitutes a day of removal.

An in-school suspension is not a removal if, during the in-school suspension, the student has the opportunity to progress appropriately in the general education curriculum, receive the special education services specified in the student's IEP, and participate with non-disabled students to the extent the student would have in the student's current placement.

DISCIPLINARY CHANGE OF PLACEMENT

The school is not required to provide services to a student with a disability during the first ten (10) cumulative instructional days of removal in a school year when a student violated the code of student conduct, if services are not provided to a nondisabled student who has been similarly removed.

Removal for any part of a day is calculated as a full day of removal/suspension, unless the removal is short-term and is pursuant to the student's IEP.

Out of school suspension is a removal.

If the student receives transportation as a related service and is suspended from transportation, the suspension from the bus is a removal/suspension unless the school provides transportation in an alternative manner or unless the student is provided transportation by the parent.

If a student is removed for more than ten (10) cumulative instructional days per school year, the school must determine if a change of placement has occurred.

The determination of a "change of placement" is made individually for a student. A series of removals is a change in placement when:

- the student is removed for more than ten (10) consecutive instructional days;
- or there is a pattern of removal because:
 - the cumulative removals equal more than ten (10) instructional days per school year; the behavior is substantially similar to the students' behavior in prior incidents that resulted in removals; and additional factors such as the length of each removal, the cumulative amount of time the student has been removed, and the proximity of the removals to one another are involved.

Unique circumstances are considered in the “change of placement” determination, including the student’s disciplinary history, ability to understand consequences, and supports that were provided to the student before the student violated the code of student conduct.

The school does not need parent consent for a disciplinary change of placement. The parent who disagrees with a decision regarding a student’s change of placement may request mediation, a due process hearing, or both. A due process hearing is expedited.

REMOVALS OF MORE THAN 10 CUMULATIVE DAYS THAT DO NOT RESULT IN A CHANGE OF PLACEMENT

When a student has been removed for more than ten (10) cumulative instructional days in the same school year, but the removals do not constitute a change in placement, the principal and special education teacher may determine the extent of special education services provided to the student during removal/suspension. The services must enable the student to continue to participate in the general education curriculum (possibly in another setting) and to progress toward meeting the goals in the student’s IEP. Services may be provided in an interim alternative educational setting.

REMOVALS OF MORE THAN 10 CONSECUTIVE DAYS OR 10 CUMULATIVE DAYS THAT RESULT IN A CHANGE OF PLACEMENT

On the day the decision is made to consider expulsion, notice must be provided to the parent notifying the parent of the decision and providing the parent with the Notice of Parent Rights. If the school is unable to notify the parent on the date a decision is made, notice must be mailed to the parent not later than the following **business** day. This notice is provided at no charge to the parent. A manifestation determination conference is conducted within ten (10) instructional days of any decision to change the placement of a student with a disability for violating a code of student conduct.

MANIFESTATION DETERMINATION

Within ten (10) instructional days of any decision to change the placement of a student with a disability for violating the code of student conduct, the case conference committee meets to determine whether the student’s behavior is a manifestation of the student’s disability.

All pertinent information is reviewed to determine if the conduct in question was caused by, or had a direct and substantial relationship to the student’s disability, or was the direct result of the school’s failure to implement the IEP. The conduct is a manifestation of the student’s disability if either condition is met.

If the behavior is a manifestation of the student’s disability the case conference committee must conduct a functional behavior assessment, or review and revise a previous functional behavioral assessment, implement a behavioral intervention plan, and return the student to the placement the student was removed from, unless the behavioral intervention plan indicates a change in placement as part of the student’s plan.

If the conduct is not a manifestation of the student's disability, school personnel may discipline the student in the same manner and for the same duration as those procedures would be applied to a nondisabled student. The student continues to receive appropriate educational services, as determined by the case conference so that the student:

continues to participate in the general education curriculum, although in another setting; progresses toward meeting the IEP goals; and receives, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior so that it does not recur.

A parent of a student with a disability who disagrees that the student's conduct was not a manifestation of the student's disability may request mediation, a due process hearing, or both. A due process hearing is expedited.

ROD staff will conduct the manifestation relationship case conference and will complete the required documentation.

Expulsion proceedings must wait until the manifestation relationship conference is conducted. **The student remains in the current placement until the manifestation relationship conference is completed.** If the student presents a danger to self or others, or their presence is a substantial disruption to the educational process, the building administrator should contact ROD for assistance.

INTERIM ALTERNATIVE EDUCATIONAL SETTING: WEAPONS, DRUGS, AND SERIOUS BODILY INJURY

The principal may remove a student to an interim alternative educational setting for not more than forty-five (45) instructional days without regard to whether the behavior is determined to be a manifestation of the disability, if the student:

carries a weapon to school or possesses a weapon;
knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance, or has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the department of education of a public agency.

The principal must notify the student's parent and provide the parent with the *Notice of Parent Rights*.

A manifestation determination is conducted within ten (10) instructional days. If the conduct is a manifestation of the student's disability, the student remains in the interim alternative educational setting. The case conference determines that interim alternative educational setting and appropriate services needed to enable the student to continue to participate in the general education curriculum (although in another setting), progress toward meeting the IEP goals, and receive a functional behavioral assessment and behavioral intervention services and modifications that address the behavior violation so that it does not recur.

A parent who disagrees with the interim alternative educational setting and/or services provided may request mediation or a due process hearing, or both. A due process hearing is expedited.

INTERIM ALTERNATIVE EDUCATIONAL SETTING: SUBSTANTIAL LIKELIHOOD OF

INJURY TO STUDENT OR OTHERS When the school believes that maintaining the student in the current educational placement is substantially likely to result in injury to the student or others, the school may request an expedited due process hearing to determine an appropriate placement for the student. The independent hearing officer may order a placement to an appropriate interim alternative educational setting. The school may also seek injunctive relief to remove a student with a disability from school or change a student's current educational placement. If the parent requests a hearing or appeal, the student remains in the interim alternative educational setting pending the decision or until the time period for the disciplinary action expires, whichever occurs first. Contact the director of special education immediately.

REFERRAL TO LAW ENFORCEMENT

Nothing prohibits a school from reporting a crime that allegedly occurred on school property or at a school function or event that was committed by a student with a disability to appropriate authorities. The school must ensure that copies of the education and disciplinary record of the student are transmitted only to the extent the transmission is permitted by the Family Educational Rights and Privacy Act (FERPA), without the prior written consent of the parent or the student of legal age for consideration by the appropriate authorities.

PROTECTIONS FOR STUDENTS NOT YET ELIGIBLE FOR SPECIAL EDUCATION

A student who is not yet eligible for special education and related services who engaged in behavior that violated the code of conduct of the school may assert protection from disciplinary action.

The school is deemed to have knowledge that a student is a student with a disability if any of the following occurred:

The parent of the student wrote to licensed personnel, or a teacher of the student, that the student is in need of special education and related services.

The parent of the student or the school has requested an evaluation.

The teacher of the student, or other personnel of the public agency, have expressed specific concern about a pattern of behavior demonstrated by the student directly to supervisory personnel.

The school is not deemed to have knowledge if the parent has not allowed an evaluation of the student or has refused services, or if the school conducted an evaluation, determined the student was not a student with a disability, and appropriately provided notice to the student's parents of that determination.

When the school does not have knowledge that the student is a student with a disability before taking disciplinary measures against the student, the school may use the same discipline measures as they use for nondisabled students.

If referral is made for an initial educational evaluation of a student when the student is suspended, expelled, or placed in an interim alternative educational setting the evaluation is conducted in an expedited manner. The evaluation and case conference are completed within twenty (20) instructional days from the date of the parent's written consent for the evaluation. The student remains in the educational placement determined by school administrators until the case conference committee convenes.

SECLUSION and RESTRAINT

Seclusion and restraint are procedures in which a student is isolated from others (seclusion) or physically held (restraint) in response to significant behaviors which place the student or others at risk of harm. Students and adults may be harmed when seclusion and restraint are used. Seclusion and restraint may inadvertently reinforce or strengthen the problem behavior. They may be used inappropriately as behavioral intervention rather than as a safety procedure, or may be used inappropriately for behaviors that do not rise to a level of putting someone at risk of harm. They should be avoided to the greatest extent possible without endangering the safety of students and staff.

Seclusion

All schools should adopt a school-wide positive behavioral system for all students, all staff, and all settings. This means that trained school staff will use preventative assessments to identify where, under what conditions, with whom, and why specific inappropriate behavior may occur. Likewise, students who demonstrate positive behavioral strategies are rewarded.

The use of seclusion or physical restraint with a student with a disability may be precluded by, or subject to, additional parameters set forth in the student's IEP.

Seclusion means the confinement of a student, within or outside the classroom, with restricted egress, or restricted methods of leaving.

Any enclosure for isolated time out shall have the same ceiling height as the surrounding room(s) and be large enough to accommodate the student but also another individual who is monitoring the student, shall be constructed of materials/objects the student cannot use to harm him/her self or others, and must be designed so the student cannot climb the walls.

Any enclosure for isolated time out shall be designed to allow continuous visual supervision of the student and communication with the student.

Any enclosure for isolated time out shall not use a device that requires a key or special knowledge on a required exit from the room.

Any enclosure for isolated time out shall comply with all applicable health and safety requirements.

An adult must supervise the confined student and must be able to see the student at all times. A student shall be released from isolated time out at least 1 minute after the behavior ceases, or as identified in the behavioral intervention plan or IEP.

A verbal threat, use of profanity, or verbal displays of disrespect for themselves or others does not constitute a physical danger unless a student demonstrates a means or intent to carry out the threat.

Restraint

Physical restraint means holding a student or otherwise restricting his/her movements. Restraint may be employed only when the student poses a physical risk to him/her self or others, other interventions have failed, there is no medical contraindication to its use, and the staff using the restraint have been trained.

The use of seclusion or physical restraint with a student with a disability may be precluded by, or subject to, additional parameters set forth in the student's IEP.

A verbal threat, use of profanity, or verbal displays of disrespect for themselves or others does not constitute a physical danger unless a student demonstrates a means or intent to carry out the threat.

Any application of physical restraint shall take into consideration the safety and security of the student and shall not rely upon pain as an intentional method of control.

In determining whether a student who is being physically restrained should be removed from the area where such restraint was initiated, the supervising adult(s) shall consider the potential of injury to the student, and emotional and educational well-being of other students, and any requirements as stated in the behavioral intervention plan of the IEP.

Schools should not use mechanical restraints to restrict a child's freedom of movement.

Seclusion and Restraint

Physical restraint/seclusion should be stopped when the risk of danger has stopped.

Restraint and seclusion should never be used as punishment or discipline.

An adult must be within sight of the student at all times during the restraint.

Restraint or seclusion should never be used in a manner that restricts a student's breathing or harms the child.

REVIEWING AND REPORTING TO ROD

Each incident of seclusion or restraint shall be documented in writing and faxed to ROD. The documentation shall state the specific data describing the incident, details of the child's dangerous behavior, why this behavior posed an imminent danger of serious physical harm to self or others, possible factors contributing to the dangerous behavior, the effectiveness of restraint or seclusion in de-escalating the situation, and the staff response to the behavior. This documentation includes:

- the start and end times of restraint or seclusion; the location of the incident;
- persons involved in the restraint or seclusion; the time and date the parents were notified;
- possible events that triggered the behavior;
- prevention/de-escalation, re-direction, or pre-correction strategies that were used during the incident;
- a description of restraint or seclusion strategies that were used;

a description of any injuries or physical damage that occurred during the incident;
how the child was monitored during and after the incident;
the debriefing that took place with staff following the incident;
the extent to which staff adhered to procedural implementation guidelines; and
follow-up that will occur to review or develop the BIP.

Restraint and/or seclusion triggers a review by ROD including the school-wide positive behavioral supports, a revision of those supports, and determining methods to prevent behavioral escalation. The student's FBA and BIP will be reviewed.

The parent is to be notified on the day a seclusion/time out or restraint occurs.

Teachers must be currently certified and trained regularly on the appropriate use of effective alternatives to seclusion and restraint.

Parents must be informed of policies on restraint and seclusion at their student's school.

REQUIREMENTS FOR TRAINING

ROD uses Crisis Prevention Intervention (CPI) training. It includes:

- appropriate verbal and physical de-escalation of problematic behavior and alternatives to restraint;
- a description and identification of dangerous behaviors on the part of students that may indicate the need for physical restraint and methods for evaluating the risk of harm in individual situations in order to determine whether the use of restraint is warranted, including compliance with any BIP or IEP requirements;
- the simulated experience of administering and receiving a variety of physical restraint techniques, ranging from minimal physical involvement to very controlling interventions;
- instruction regarding the effects of physical restraint on the person restrained, including instruction on monitoring physical signs of distress and obtaining medical assistance;
- instruction regarding documentation and reporting requirements and investigation of injuries and complaints; and demonstration by participants of proficiency in administering physical restraint.