

I – 50 DISCIPLINE FOR STUDENTS WITH DISABILITIES

Students with disabilities are subject to the discipline rules adopted by the Board and therefore, may be suspended or expelled for a violation(s) of the rules for which nondisabled students could also be suspended or expelled. In accordance with IC 20-33-8 and 511 IAC 7-44-1 through 511 IAC 7-44-10, administrators may take the following actions:

Suspension

A suspension is defined as a unilateral, temporary removal of a student from the student's current placement. A short-term removal of a student pursuant to the student's individualized education program is not a suspension. An in-school suspension is not considered a suspension as long as the student is provided both general education and special education services consistent with the student's individualized education program and the student is allowed to participate with nondisabled students as the student would have in the student's current placement.

A student with disabilities may be suspended up to ten (10) consecutive instructional days for a violation of school rules. Additional suspensions of up to ten (10) consecutive instructional days for each separate act of misconduct are permissible in the same school year as long as the suspensions do not constitute a pattern of removals from the student's current placement. Before a student with disabilities can be suspended, the student must be afforded the same due process procedures provided to a nondisabled student.

Educational services do not have to be provided to a student with disabilities during the first 10 cumulative instructional days of suspension if educational services are not provided to nondisabled students who have been similarly suspended. Beginning on the eleventh (11th) cumulative instructional day of suspension in a school year, a student with disabilities shall be provided educational services. The principal and the student's special education teacher shall determine the services that will be provided to the student.

Whenever a student with disabilities has been suspended for more than the (10) cumulative instructional days in a school year, a case conference committee meeting must be convened for the purpose of reviewing the students behavior and developing a Functional Behavioral Assessment (FBA) and a Behavior Improvement Plan (BIP). If a Behavior Improvement Plan already exists, the plan and its implementation must be reviewed.

Expulsion

An expulsion is defined as the temporary removal of a student from the student's current placement for more than ten (10) consecutive instructional days. An expulsion also includes a series of suspensions totaling more than ten (10) cumulative instructional days that constitutes a pattern of removal for the student's current placement.

Before a student with disabilities can be expelled from school, the case conference

committee must meet to review the student's behavior and develop a behavioral intervention plan or review an existing plan and its implementation. The case conference committee must also review the relationship between the student's disability and the misconduct. If the case conference committee determines the student's behavior was a manifestation of the student's disability, the student may not be expelled. If the committee determines the behavior of the student was not a manifestation of the student's disability, the superintendent may appoint an expulsion examiner who will conduct the same expulsion proceedings afforded to nondisabled students. The parent of the student with disabilities may request a Due Process Hearing, Mediation, or both in accordance with Article 7 to challenge the manifestation determination of the case conference committee.

While expulsion (or a challenge to the Manifestation Determination) proceedings are pending, a student with disabilities must remain in the student's current placement unless the parent of the student agrees to a removal of the student from the current placement.

If a student with disabilities is expelled, the student must be provided educational services during the period of expulsion. The case conference committee determines the extent of the educational services that will be provided during the expulsion period and where the services will be provided.

Expulsion for Weapons or Illegal Drugs

If a student with disabilities either carries a weapon (including a firearm) to school or a school function or knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function, the student may be placed in an interim alternative educational setting for no more than forty-five (45) instructional days. A case conference committee must determine the appropriate alternative educational setting for the student and the educational services the student will receive in the alternative educational setting. A parent of a student with disabilities may request a Due Process Hearing, Mediation or both under Article 7 to challenge the interim alternative educational setting, but pending the determination of the hearing officer; the student must remain in the alternative setting. A student may not be placed in an alternative setting for longer than forty-five (45) instructional days unless the parents and the school agree to a shorter or longer period of the alternative placement.

The case conference committee must review the student's behavior and develop a Behavior Intervention Plan or review an existing plan and its implementation. The committee must also review the relationship between the student's disability and the misconduct. If the case conference committee determines the student's behavior was a manifestation of the student's disability, the student may not be expelled. If, however, the committee determines the behavior of the student was not a manifestation of the student's disability, the superintendent may appoint an expulsion examiner who will conduct the same expulsion proceedings afforded to the nondisabled students. The parent of the student with disabilities may also request a Due Process Hearing or Mediation or both in accordance with Article 7 to challenge the manifestation determination of the case conference committee.

If a student with disabilities is expelled, the student must be provided educational services during the period of expulsion. The case conference committee determines the

extent of the educational services that will be provided during the expulsion period and where the services will be provided.

Removal from Placement Because of Likely Injury

If a student with disabilities has been suspended or expelled and the school believes returning the student to the educational placement the student was in prior to the suspension or expulsion is substantially likely to result in injury to the student or others, the school may request a Due Process Hearing under Article 7 to determine an appropriate placement for the student. An Independent hearing officer may order a change in the student's current placement to an interim alternative educational setting for up to forty-five (45) instructional days.

Injunctive Relief

School officials may seek injunctive relief from a court to remove a student with disabilities from school or to change a student's placement if the school believes that maintaining the student in the student's current placement is substantially likely to result in injury to the student or others.

Legal Reference: 511-IAC 7-44-1 through 511 IAC 7-44-10; IC 20-33-8

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