

INDEPENDENT SCHOOL DISTRICT 196
Rosemount-Apple Valley-Eagan Public Schools
Educating our students to reach their full potential

Series Number 503.3.1AR Adopted July 1995 Revised April 2015

Title Special Education Students: Consequences for Misbehavior

1. Intent

- 1.1 In general, all students in District 196 are expected to comply with district policies, regulations and rules on student behavior, as summarized in the *District 196 Overview of Student Rights and Responsibilities* handbook. However, for special education students the policies, regulations and rules may be adjusted as required by federal and state laws and regulations, and by the student's individual education plan (IEP).
- 1.2 Whenever possible, the staff will develop positive interventions to manage the behavior of special education students rather than administer a punishment.
- 1.3 Described below are responses to student misbehavior which require particular responses for special education students (students with an IEP).

2. **In-School Suspension** – A special education student may receive in-school suspension (be prohibited from attending more than one class or activity period) to continue to benefit from instruction. All in-school suspensions shall be documented as required by Administrative Regulation 503.3.2AR, Process for Removal from Class, Suspension, Exclusion and Expulsion of a Student. In-school suspensions shall not count towards 10 days of removal as long as the student is afforded the opportunity to appropriately progress in the general curriculum, continue to receive the services specified on his or her IEP and continue to participate with non-disabled students to the extent they would have in current placement.

3. Out-of-School Suspension

- 3.1 A special education student may receive out-of-school suspension for no more than 10 consecutive school days in accordance with applicable federal law.
- 3.2 An IEP team meeting to initiate a review of the student's IEP must be held within 10 school days of the beginning of any out-of-school suspension when the student is removed from his or her current placement for more than five or more consecutive school days, or when the student's total days of removal from his or her placement during the school year exceeds 10 cumulative days in a school year.
- 3.3 If a student's total days of removal from school exceeds 10 cumulative days in a school year, the district shall make reasonable attempts to convene a meeting with the student and the student's parent or guardian prior to subsequently removing the student from school and, with the permission of the parent or guardian, arrange for a mental health screening for the student. The district will not pay for the assessment unless it is part of an assessment for special education purposes. The purpose of the meeting shall be to attempt to determine the student's need for assessment or other services and whether the parent or guardian should have the student assessed to determine whether the student needs treatment for a mental health disorder.
- 3.4 After 10 total days of cumulative absence in a school year, a functional behavioral assessment must also take place.
 - 3.4.1 A written notice of the IEP team meeting (Special Education Child Study Form CS-4) and a Notice of Suspension (Procedure 503.3.2P, Notice of Suspension, Grades 6-12 or 503.3.2.1P, Notice of Suspension, Grades K-5) must be sent to student's parent or guardian.

- 3.4.2 The IEP team meeting will include an administrator, a special education teacher, a regular education teacher and the parent or guardian if they choose to attend. The student and any other pertinent people may also be invited.
- 3.4.3 The IEP team will take and document the following actions:
 - 3.4.3.1 Conduct a review of the relationship between the student's disability and the behavior subject to disciplinary action;
 - 3.4.3.2 Determine the appropriateness of the student's education plan, and
 - 3.4.3.3 Review the IEP and amend the goals and objectives or develop an alternative IEP.
- 3.5 If the IEP team determines that the incident is a manifestation of the student's disability, an out-of-school suspension may still take place, or a change of placement may take place with the agreement of the student's parent(s) or guardian(s).
- 3.6 If the IEP team determines that the incident is not a manifestation of the student's disability, action will be taken in accordance with Administrative Regulation 503.3.2AR, Process for Removal from Class, Suspension, Exclusion and Expulsion of a Student.
- 3.7 If at any time (including at the time of an initial assessment) an IEP team determines that a student cannot follow district policies and regulations on student behavior due to his or her disability and that a regulated procedure is necessary, an assessment will be conducted which may lead to writing a Behavior Intervention Plan into an IEP.

4. **Expulsion/Exclusion**

- 4.1 An expulsion or exclusion is initiated with an out-of-school suspension.
- 4.2 Before proceeding with an expulsion or exclusion, the district must initiate a review of the student's IEP, review the relationship between the student's disability and the behavior subject to disciplinary action, determine whether the behavior resulting in proposed expulsion or exclusion was a manifestation of the student's disability and determine the appropriateness of the student's education plan.
 - 4.2.1 A written notice of the IEP team meeting (Special Education Child Study Form CS-4) and a Notice of Suspension (Procedure 503.3.2P, Notice of Suspension, Grades 6-12 or 503.3.2.1P, Notice of Suspension, Grades K-5) will be sent to the student's parent(s) or guardian(s).
 - 4.2.2 The IEP team meeting will include an administrator, parent or guardian, a special education teacher and a regular education teacher. The student and any other pertinent people may also be invited.
 - 4.2.3 The IEP team will take and document the following actions:
 - 4.2.3.1 Determine whether the misconduct is a manifestation of the disability (including reviewing the technical soundness of the student's behavior management plan);
 - 4.2.3.2 Review any assessments and determine the need for further assessment, and
 - 4.2.3.3 Review the IEP and amend the goals and objectives or develop an alternative IEP.

- 4.2.4 If the IEP team determines that the incident is a manifestation of the student's disability, an out-of-school suspension may still take place, and expulsion or exclusion may *not* take place. However, the district may use due process procedures to propose a change in the student's IEP and placement. Moreover, even if it is determined that the incident was a manifestation of the student's disability, the district may impose a placement to an interim alternative educational setting for up to 45 school days if the student:
- 4.2.4.1 Carried a weapon to school or school function;
 - 4.2.4.2 Knowingly possesses, uses, sells or attempts to sell, illegal drugs at school or school function, or
 - 4.2.4.3 Has inflicted serious bodily injury upon another while at school or a school function.
- 4.2.5 If the IEP team determines that the incident is not a manifestation of the student's disability, the school may proceed with appropriate procedures to expel or exclude the student, in accordance with Administrative Regulation 503.3.2AR, Process for Removal from Class, Suspension, Exclusion and Expulsion of a Student. An IEP team meeting must be held before the beginning of the expulsion or exclusion to initiate a review of the student's IEP, conduct a review of the relationship between the student's disability and the behavior subject to disciplinary action, and determine the appropriateness of the student's education plan. Educational services must continue during the expulsion period.

5. **45-Day Interim Placement**

- 5.1 In accordance with the federal Individuals with Disabilities Education Act (IDEA), a student with an IEP may be placed in an alternative educational setting for 45 school days if the student engages in the following conduct on school premises or at a school function:
- 5.1.1 Is in possession of a dangerous weapon as defined in federal law;
 - 5.1.2 Has or uses, illegal drugs or solicits sales of illegal drugs or sells controlled substances, or
 - 5.1.3 Inflicts serious bodily injury upon another person.
- 5.2 School administration has the power to require the 45-day placement; however, the student's IEP team must determine the appropriate interim educational setting subject to the parent's right to appeal pursuant federal law.
- 5.3 If the conduct does not meet the criteria in 5.1, the district may request a local due process hearing to seek an order to change the student's current educational placement for up to 45 school days if the district believes that maintaining the student in the current educational placement is substantially likely to result in injury to the student or to others, and/or the district may initiate a change in placement procedures for the student, subject to the parent(s)' or guardian(s)' right to due process.

6. **Involvement of Law Enforcement Officers and Crisis Teams**

- 6.1 Law enforcement officers may not be used to perform educational interventions, including regulated procedures, either on an emergency basis or in accordance with an IEP. Law enforcement officers shall not be involved in an educational decision to remove a student from school as a disciplinary consequence.

- 6.2 School staff members may report a crime suspected to have been committed by a child with a disability to law enforcement and law enforcement will be allowed to exercise its responsibilities to respond to reports of criminal conduct, including the removal of a student from school grounds in appropriate circumstances. School staff members shall neither request nor interfere with a law enforcement decision to remove a student from school for law enforcement purposes; however, reasonable efforts shall be made to inform a student's parent or guardian of the involvement of law enforcement. If a student with an IEP is restrained or removed from a classroom, school building, or school grounds by a law enforcement officer at the request of a school staff person during the school day twice in a 30-day period, the student's IEP team must meet to determine if the IEP is adequate or if additional evaluation is needed.
- 6.3 School staff members will not utilize a county crisis team to remove a student from school grounds except when authorized by a student's IEP or when requested by a parent, guardian or eligible student in an emergency situation.
- 6.4 The school district will seek to establish an agreement with the county regarding procedures to coordinate the implementation of Minnesota Statutes 245.487 to 245.4887, Minnesota Comprehensive Children's Mental Health Act, for students with a serious emotional disturbance or other students who have an IEP whose behavior may be addressed by crisis intervention.

-
- References:**
- Minnesota Department of Education Memo to Directors of Special Education, "Discipline of Students with Disabilities," May 19, 1995, with attached memo to Chief State School Officers from the Office of Special Education and Rehabilitative Services, U.S. Department of Education, "Questions and Answers on Disciplining Students with Disabilities"
 - Individuals with Disabilities Education Act (IDEA)
 - Minnesota Statute 245.487 to 245.4887, Minnesota Comprehensive Children's Mental Health Act
 - Minnesota Statute 121A.61, Discipline and removal of students from class
 - Minnesota Statute 121A.67, Aversive and Deprivation Procedures.