

NOTE: Colorado school districts are required by law to adopt a policy on this subject and the law contains some specific direction as to the content or language. This sample contains the content/language that CASB believes best meets the intent of the law. However, the district should consult with its own legal counsel to determine appropriate language that meets local circumstances and needs.

Discipline of Students with Disabilities

Students with disabilities are neither immune from a school district's disciplinary process nor entitled to participate in programs when their behavior impairs the education of other students. Students with disabilities who engage in disruptive activities and/or actions dangerous to themselves or others will be disciplined in accordance with their Individualized Education Programs (IEPs), any behavioral intervention plan and this policy.

Nothing in this policy shall prohibit an IEP team from establishing consequences for disruptive or unacceptable behavior as a part of the student's IEP and/or behavioral intervention plan.

Suspensions, expulsions and provision of services

Students with disabilities may be suspended for up to 10 school days in any given school year for violations of the student code of conduct. These 10 days need not be consecutive. During any such suspension, the student shall not receive educational services.

A disciplinary change of placement occurs when a student is removed for more than 10 consecutive school days or subjected to a series of removals that constitute a pattern of removal under governing law.

Upon the eleventh school day of suspension or removal when such suspension or removal does not result in a disciplinary change of placement, educational services shall be provided to enable the student to continue 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. School personnel, in consultation with at least one of the student's teachers, shall determine the educational services to be provided to the student during this period of suspension or removal.

When a student is expelled or subject to a removal that results in a disciplinary change of placement, educational services shall be provided as determined by the student's IEP team to enable the student to participate in the general education

curriculum, although in another setting, and to progress toward meeting his or her IEP goals.

Prior to expulsion or other disciplinary change in placement, the student's parents shall be notified of the decision to take such disciplinary action and of their procedural safeguards. This notification shall occur not later than the date on which such decision is made.

Manifestation determination

Within 10 school days from the date of the decision to take disciplinary action that will result in a disciplinary change of placement, relevant members of the student's IEP team, including the student's parents, shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents, to determine whether the student's behavior was a manifestation of the student's disability.

The team shall determine: (1) whether the student's conduct in question was caused by, or had a direct and substantial relationship to, the student's disability; and (2) whether the student's conduct in question was the direct result of the school's failure to implement the student's IEP. If the answer to either of these two questions is "yes," the student's behavior shall be deemed to be a manifestation of the student's disability.

Disciplinary action for behavior that is not a manifestation

If the team determines that the student's behavior was not a manifestation of the student's disability, disciplinary procedures shall be applied to the student in the same manner as applied to nondisabled students. As stated above, the student shall receive educational services during the period of expulsion or other disciplinary change of placement.

Within a reasonable amount of time after determining that the student's behavior is not a manifestation of the student's disability, the student may receive, as appropriate, a functional behavioral assessment ("FBA"). In addition, a behavioral intervention plan ("BIP") may be developed for the student, as appropriate. If a BIP has already been developed, the BIP may be reviewed and modified, as appropriate.

Disciplinary action and/or alternative placement for behavior that is a manifestation

If the team determines that the student's behavior is a manifestation of the student's disability, expulsion proceedings or other disciplinary change of placement will be discontinued. However, the student may be placed in an alternative setting for up to

45 school days as discussed below or the student's placement may be changed for educational reasons as determined by the IEP team or as otherwise permitted by law.

Within a reasonable amount of time after determining that the student's behavior is a manifestation of the student's disability, the student's IEP team shall: (1) conduct an FBA of the student, unless an FBA has already been conducted; and (2) implement a BIP for the student. If a BIP has already been developed, the IEP team shall review it and modify it as necessary to address the student's behavior.

Placement in an alternative setting for 45 school days

School personnel may remove a student with disabilities to an interim alternative setting for not more than 45 school days without regard to the manifestation determination if:

1. the student carried a weapon to school or a school function;
2. the student possessed a weapon at school or a school function;
3. the student possessed or used illegal drugs at school or a school function;
4. the student sold or solicited the sale of a controlled substance at school or a school function;
5. the student inflicted serious bodily injury on another person while at school or a school function; or
6. a hearing officer or court of appropriate jurisdiction so orders.

Such removal to an alternative setting is permissible even if the student's behavior is determined to be a manifestation of the student's disability. The student's IEP team shall determine the educational services to be provided to the student in the alternative setting.

Students not identified as disabled

Students who have not been identified as disabled shall be subjected to the same disciplinary measures applied to students with disabilities if the district had "knowledge" of the student's disability before the behavior that precipitated the disciplinary action occurred.

The district is deemed to have knowledge of the student's disability if:

1. the student's parent has expressed concern in writing to district supervisory or administrative personnel, or the student's teacher, that the student is in need of special education and related services;

2. the student's parent has requested an evaluation; or
3. the student's teacher or other district personnel have expressed specific concerns about the student's pattern of behavior directly to the director of special education or other district supervisory personnel.

If a request for evaluation is made during the period the student is subject to disciplinary measures, the evaluation will be expedited. Until the evaluation is completed, the student shall remain in the district's determined educational placement, which can include suspension or expulsion.

The district shall not be deemed to have knowledge that the student is a child with a disability if the parent has not allowed an evaluation of the student, or the student has been evaluated and it was determined that he or she is not a child with a disability, or the student was determined eligible for special education and related services, but the parent refused services.

Adopted: August 21, 1997

Revised: September 1999, September 2000, December 2005, April 2009

LEGAL REFS.: 20 U.S.C. 1401 *et seq.* (*Individuals with Disabilities Education Improvement Act of 2004*)
34 C.F.R 300.530-300.537 (*IDEIA regulations*)
C.R.S. 22-20-101 *et seq.* (*Exceptional Children's Educational Act*)
C.R.S. 22-33-106 (1)(c)

CROSS REFS.: IHBA, Special Education Programs for Students with Disabilities
JIC, Student Conduct, and subcodes
JK, Student Discipline, and subcodes
JRA/JRC, Student Records/Release of Information on Students

Dolores School District RE-4A, Dolores, Colorado