

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 January 2018

Title **Students Receiving Special Education Services: Consequences for Misbehavior**

**1. Intent**

- 1.1 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. The application of policies, regulations and rules may be adjusted for students receiving special education services as required by federal and state laws and regulations, and by the student's individual education plan (IEP).
- 1.2 Whenever possible, staff will develop positive interventions to manage the behavior of students receiving special education services rather than administer a punishment.
- 1.3 Described below are responses to student misbehavior for students receiving special education services.

2. **In-School Suspension** – 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. In school suspensions of a half-day or more are required to be reported through the State's Disciplinary Incident Reporting System (DIRS) for students receiving special education services.

**3. Out-of-School Suspension**

- 3.1 A student receiving special education services shall be provided alternative educational services to the extent a suspension exceeds five consecutive school days. A special education student may not receive out-of-school suspension for more than 10 school days except as permitted by applicable law described below.
- 3.2 When a student receiving special education services has been suspended for six-ten consecutive school days or more than ten cumulative school days in the same school year, and that suspension does not involve a recommendation for expulsion or exclusion or other change of placement under federal law, relevant members of the student's individualized education program team, including at least one of the student's teachers, shall meet and determine the extent to which the student needs service in order to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in the student's individualized education program. That meeting must occur as soon as possible, but no more than ten days after the sixth consecutive day of suspension or the eleventh cumulative day of suspension.
- 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 A manifestation determination must be conducted for a suspension that is expected to be for more than 10 consecutive school days. A manifestation determination must also be conducted for all disciplinary removals, once a student has accumulated more than 10 days of suspension in a school year when the current removal is one in a series of removals constituting a change of placement.
  - 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 meet and document whether misbehavior is a manifestation of the student's disability.
  - 3.4.4 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 with the agreement of the student's parent(s) or guardian(s), or as otherwise permitted by law. The IEP team must conduct a functional behavioral assessment and develop a behavioral intervention plan or, as applicable, review and modify an existing plan. If the student's conduct was determined to be a direct result of a failure to implement the IEP, the team must take immediate steps to remedy the failure.
  - 3.4.5 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, however the IEP team must determine the extent to which services are needed to enable the student to continue to participate in the general education curriculum and progress toward meeting IEP goals. A functional behavioral assessment may be conducted if determined appropriate by the IEP team.
- 3.5 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.
- 3.6. All out-of-school suspensions are required to be reported through the State's Disciplinary Incident Reporting System (DIRS).

#### 4. **Expulsion/Exclusion**

- 4.1 Before proceeding with an expulsion or exclusion, the district must conduct a manifestation determination review and follow the requirements of section 3.4<sub>above</sub>.
  - 4.1.1 If the IEP team determines that the incident is a manifestation of the student's disability, 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 in the circumstances described in section 5 below.

- 4.1.2 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. The IEP team must determine the services to be provided during the period of expulsion. A functional behavioral assessment may be conducted if determined appropriate by the IEP team.
- 4.1.3 All expulsions and exclusions are required to be reported through the State's Disciplinary Incident Reporting System (DIRS).

**5. 45-Day Interim Alternative Educational Placement**

- 5.1 In accordance with the federal Individuals with Disabilities Education Act (IDEA), a student with an IEP may be placed in an appropriate interim 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 Carries or possesses a dangerous weapon (as defined in federal law) to or at school, on school premises or to or at a school function;
  - 5.1.2 Knowingly possesses or uses illegal drugs or sells or solicits the sales of a controlled substance while at school, on school premises or at a school function; or
  - 5.1.3 Inflicts serious bodily injury (as defined in federal law) upon another person while at school, on school premises or at a school function.
- 5.2 School administration has the power to require the 45-day placement; however, the student's IEP team must determine the appropriate interim alternative 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 propose a change in placement for the student, subject to the parent(s)' or guardian(s)' right to due process procedures.

**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.

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- 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.40- 121A.575, Pupil Fair Dismissal Act
  - Minnesota Statute 121A.61, Discipline and removal of students from class
  - Minnesota Statute 121A.67, Aversive and Deprivation Procedures.