


HOWARD GARDNER MULTIPLE INTELLIGENCE CHARTER SCHOOL

	Special Education	SP21-1001
	Discipline of Students with Disabilities	ADOPTED DATE: October 19, 2021 REVIEWED DATE: January 16, 2024 REVISED DATE:

Purpose

The Board of Trustees recognizes that in accordance with applicable state and federal laws, including Chapter 711 of Title 22 of the Pennsylvania Code and the Individuals with Disabilities Education Act (IDEA), every eligible child has the right to a Free and Appropriate Public Education (FAPE).

The school shall develop and implement positive Behavior Support Plans and programs for students with disabilities who require specific interventions to address behaviors that interfere with learning.

Students with disabilities who violate the Code of Student Conduct, or engage in inappropriate behavior, disruptive or prohibited activities and/or actions injurious to themselves or others, which would typically result in corrective action or discipline of students without disabilities, shall be disciplined in accordance with state and federal laws and regulations and Board policy and, if applicable, their Individualized Education Program (IEP) and Behavior Support Plan.

Authority

The Board directs that the school shall comply with provisions and procedural safeguards of the Individuals With Disabilities Education Act (IDEA) and federal and state regulations when disciplining students with disabilities for violations of Board policy or school rules or regulations. No student with a disability shall be subjected to a disciplinary change in placement if the student's particular misconduct is a manifestation of his/her disability. However, under certain circumstances a student with a disability may be placed in an interim alternative educational setting by school personnel or the IEP team could, if appropriate, change the student's educational placement to one which is more restrictive than the placement where the misconduct occurred.

Provision of Education During Disciplinary Exclusions

During any period of expulsion, or suspension from school for more than ten (10) cumulative days in a year, or placement in an interim alternative educational setting for disciplinary reasons, a student with a disability shall continue to receive a free and appropriate education, in accordance with law.

Guidelines

Suspension From School

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A student with a disability may be suspended for ten (10) consecutive and fifteen (15) cumulative days of school per school year, for the same reasons and duration as a student without a disability. Such suspension shall not constitute a change in the student's educational placement.

Changes in Educational Placement/Manifestation Determinations

For disciplinary exclusions which constitute a change in educational placement, the school shall first determine whether the student's behavior is a manifestation of his/her disability. Expulsion, or exclusion from school for more than fifteen (15) cumulative days in a year, or patterns of suspensions for substantially identical behaviors constitute changes in educational placements requiring a manifestation determination. For students with intellectual disability, any disciplinary suspension or expulsion is a change in educational placement.

A student with a disability whose behavior is not a manifestation of his/her disability may be disciplined in accordance with Board policy, school rules and regulations in the same manner and to the same extent as students without disabilities.

Parent/Guardian Appeals From Disciplinary Actions/Request for Hearing by School for Students Who Are a Danger to Themselves or Others

A due process hearing may be requested by a parent/guardian of a student with a disability who disagrees with a disciplinary placement or manifestation determination, or by the school if the school believes that the current placement is substantially likely to result in injury to the student or others. On parent/guardian appeal, or when the school requests a due process hearing, the hearing officer may return the student to the placement from which s/he was removed or order his/her removal to an appropriate interim alternative educational setting for up to forty-five (45) school days if the hearing officer determines that maintaining the child's current placement is substantially likely to result in an injury to the student or others.

Placement during appeals of disciplinary actions shall be in the interim alternative educational setting pending the decision of the hearing officer or expiration of the time period set for the disciplinary exclusion from the student's regular placement unless the school and the parent/guardian agree otherwise.

Students Not Identified as Disabled/Pending Evaluation

Students who have not been identified as disabled may be subject to the same disciplinary measures applied to students without disabilities if the school did not have knowledge of the disability. If a request for evaluation is made during the period the student is subject to disciplinary measures, the evaluation shall be expedited.

Administrative Removal to Interim Alternative Educational Setting for Certain Infractions

School personnel may remove a student with a disability, including intellectual disability, to an interim alternative educational setting for not more than forty-five (45) school days without regard to whether the behavior is determined to be a manifestation of the student's disability if the student:

1. Carries a weapon to or possesses a weapon at school, on school property, or at school functions under the jurisdiction of the school. For purposes of this provision, weapon is defined as a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than two and one-half (2

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½) inches in length.

2. Knowingly possesses or uses illegal drugs, as defined by law, or sells or solicits the sale of a controlled substance, as defined by law, while at school, on school property, or at school functions under the jurisdiction of the school.
3. Has inflicted serious bodily injury upon another person while at school, on school property, or at school functions under the jurisdiction of the school. For purposes of this provision, serious bodily injury means bodily injury which involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

Referral to Law Enforcement and Reporting Requirements

For reporting purposes, the term incident shall mean an instance involving an act of violence; the possession of a weapon; the possession, use, or sale of a controlled substance or drug paraphernalia as defined in the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act; the possession, use, or sale of alcohol or tobacco; or conduct that constitutes an offense listed under the Safe Schools Act.

The CEO or designee shall immediately report required incidents and may report discretionary incidents committed on school property, at any school-sponsored activity or on a conveyance providing transportation to or from a school or school-sponsored activity by a student with a disability, including a student for whom an evaluation is pending, to the local police department that has jurisdiction over the school's property, in accordance with state and federal laws and regulations, the procedures set forth in the memorandum of understanding with local law enforcement and Board policies. The CEO or designee shall respond to such incidents in accordance with the school's Annual Report and, if applicable, the procedures, methods and techniques defined in the student's Behavior Support Plan.

For a student with a disability who does not have a Behavior Support Plan, subsequent to notification to law enforcement, the school shall convene the student's IEP team to consider whether a Behavior Support Plan should be developed to address the student's behavior, in accordance with law, regulations and Board policies.

When reporting an incident committed by a student with a disability to the appropriate authorities, the school shall provide the information required by state and federal laws and regulations and shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by these authorities. The school shall transmit copies of the student's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.