REMOVAL OF SPECIAL EDUCATION STUDENTS FROM CLASSES

School personnel may remove a student with a disability who violates a code of student conduct from his/her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 days in a school year to the extent such alternatives are applied to students without disabilities. Each situation will be determined on a case-by-case basis when determining whether to require a change in placement for a student with a disability who violates the student code of conduct. However, the student must continue to receive a free appropriate public education (FAPE) in the disciplinary alternative educational (DAEP) setting. The student with a disability may not be required to be in the DAEP longer than another student without disabilities for the same or similar offense.

The removal may be effected immediately by the Principal and is not to exceed three school days.

If the removal is for more than 10 days in a school year or constitutes a change in placement, an Admission Review and Dismissal (ARD) Committee shall determine if the student’s behavior in question is manifested in the student’s disability or is not manifested in the student’s disability. If the ARD determines the student’s behavior in question was not a manifestation of the disability, then the student is subject to all regular discipline procedures, including expulsion. If the ARD determines the student’s behavior was a manifestation of the student’s disability, the ARD shall review the IEP, conduct a Functional Behavior Assessment (FBA) if one has not been conducted previously, implement a behavioral intervention plan or review the behavioral intervention plan, and modify it, as necessary to address the behavior and return the student to the placement from which the student was removed, unless the parent and the district agree to a change in placement as part of the modification of the behavioral intervention plan.

School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student’s disability in cases where the student: carries or posses a weapon to or at school, on school premises, or to or at a school function or knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function, or inflicts serious bodily injury upon another person while at school, on school premises or at a school function.

When an appeal has been requested, the student must remain in the alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided whichever occurs first, unless the parent and the school agree.

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