

HILLTOWN COOPERATIVE CHARTER PUBLIC SCHOOL

DISCIPLINING STUDENTS WITH SPECIAL NEEDS

All students are expected to meet the requirements for behavior as set forth in the Hilltown Cooperative Charter Public School (HCCPS) Family Handbook. However, students eligible for special education are entitled to certain additional protections under state and federal law.

The HCCPS shall make appropriate procedures for the discipline of with disabilities and students with Section 504 Accommodation Plans. Specifically, these laws include M.G.L. c. 71B and its implementing regulations (603 CMR 28.00) and 20 USC 1401 et.seq. (“IDEA”) and it’s implementing regulations (34 CFR 300 et. seq.).

Students eligible for special education who violate school rules are subject to removal from their current educational placement for up to ten school days per school year, to the extent that such removal would be applied to students without disabilities, without prior determination as to whether the misconduct is related to the student’s disability.

Any time school personnel seek to remove a student from his or her current educational placement for more than ten school days in a school year, this constitutes a “change of placement” and invokes certain procedural rights including but not limited to a review by the IEP Team of the relationship between the student’s disability and the behavior subject to the disciplinary action, which is referred to as a Manifestation Determination.

If the behavior is a manifestation of the student’s disability the student’s Team will conduct a functional behavior assessment and develop a behavior intervention plan, provided that such an assessment was not already conducted before the behavior occurred. In the situation where an assessment was already conducted and a behavior intervention plan is already in place, the Team will review the plan and revise it accordingly. The student will also be returned to his educational placement unless the parent and the school agree otherwise.

If the behavior is not a manifestation of the student’s disability, then the student may be removed from his educational placement to the same extent that a regular education student would be removed, provided that the special education student must continue to receive educational services to enable the child to continue to receive his special education services in order to participate in the general education curriculum, although in another setting, and to continue to progress toward meeting the goals set out in the student’s IEP. Additionally, the student should receive, as appropriate, a functional behavioral assessment and behavior intervention plan to prevent the behavior from happening again.

There are certain situations in which school personnel may order a change in placement of a special education student without regard to whether the student’s behavior is determined to be a manifestation of the student’s disability. These situations include when a special education student:

1. Carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of a State or local educational agency;
2. 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 under the jurisdiction of a State or local educational agency; or
3. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of a State or local educational agency.

In these situations, school personnel may remove the special education student to an appropriate Interim Alternative Educational Setting (IAES) for not more than forty-five (45) school days without regard to whether the student’s behavior is determined to be a manifestation of the student’s disability. A student may also be placed in such a

setting on the authority of a hearing officer if the officer orders the alternative placement after the HCCPS provides evidence that the student is substantially likely to injure him/herself or others.

If a special education student commits an offense, which causes the student to be expelled from school, the school HCCPS continues to be responsible for providing the student with a free appropriate public education in another educational setting.

For more information regarding the rights of special education students see the Massachusetts Department of Education's Procedural Safeguards Notice, which is available in many languages, at www.doe.mass.edu/sped/prb/. Additionally, copies of the state and federal special education laws are available online at the Massachusetts Bureau of Special Education Appeals website, at www.doe.mass.edu/bzca/ or can be requested from the Director of Special Education at 978-249-2403.

DISCIPLINE OF STUDENTS NOT YET ELIGIBLE FOR SPECIAL EDUCATION

A child who has not been determined to be eligible for special education and related services and who has engaged in behavior that violates the HCCPS Code of Conduct, may assert any of the protections provided for special education students if the school had knowledge (as determined by the IDEA) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred. HCCPS may be considered to have prior knowledge if, before the behavior that resulted in the disciplinary action occurred:

1. The parent of the student expressed concern in writing to supervisory or administrative personnel of the student's school or to a teacher of the student that the student is in need of special education and related services; or
2. The parent requested an evaluation of the student; or
3. HCCPS staff expressed, directly to the special education director or other supervisory personnel, specific concerns about a pattern of behavior demonstrated by the student.

HCCPS may not be deemed to have had knowledge if the parent has not consented to an evaluation of the student or has refused special education services, or if an evaluation of the student was completed and resulted in a determination of ineligibility. If HCCPS had no knowledge that the student is a student with a disability prior to taking disciplinary action, the student may be subjected to disciplinary measures applied to students without disabilities. However, if an evaluation is requested during the time period in which the student is subjected to these disciplinary measures, HCCPS must conduct the evaluation in an expedited manner.

DISCIPLINE OF STUDENTS ON 504 PLAN

School personnel may not suspend a student on a 504 plan for more than ten consecutive school days without a manifestation determination. Procedural protections for eligible 504 students are the same as those afforded to special education students.

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