

Appendix J: Policy Concerning Student Discipline and Students with Disabilities

All students are expected to meet the requirements for behavior as set forth in this handbook. In addition to those due process protections afforded to all students, the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973 require that additional provisions be made for:

- (a) Students who have been found eligible for special education services under the IDEA.
- (b) A Student who the school knows or has reason to know might be eligible for special education services.
- (c) The school is deemed to have knowledge that a student is a student with a disability if before the behavior that precipitated the disciplinary action occurred: (1) the student's parent/guardian expressed concern in writing to 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/guardian requested an evaluation of the child; or (3) the student's teacher, or other school personnel, expressed specific concerns directly to the director of special education or to other supervisory personnel about a pattern of behavior demonstrated by the student.
 - The school is not deemed to have knowledge of a disability if (1) the parent/guardian has not allowed an evaluation or has refused special education and related services, or (2) the child has been evaluated and determined not to be a child with a disability.
- (d) Students who have been found to have a mental or physical impairment that substantially limits a major life activity, as defined under §504 of the Rehabilitation Act.

These students are generally entitled to increased procedural protections prior to imposing discipline that will result in the student's removal for more than ten (10) consecutive school days or where there is a pattern of short-term removals that exceed ten (10) school days in a given year.

If a request is made for an evaluation of a student's eligibility for special education services during the time period in which the student is subjected to disciplinary measures, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities, which can include suspension or expulsion without educational services beyond those to which the student may be entitled to under M.G.L. c. 76, §21.

The following additional requirements apply to the discipline of students with disabilities:

- (e) Students with disabilities may be excluded from their programs for ten (10) school days or less in the school year to the extent that such disciplinary sanctions would be applied to all students. Within ten (10) school days of any decision to exclude a student with a disability from his/her program for more than ten (10) consecutive days in a given school year or to impose a disciplinary sanction that would result in a disciplinary change in placement for a student with

a disability as defined under applicable federal laws and regulations, building administrators, the parents/guardians and relevant members of the student's IEP or 504 Team will meet to determine the relationship between the student's disability and behavior (Manifestation Determination).

- (f) If building administrators, the parents/guardians, and relevant members of the student's IEP or 504 Team determine that the student's conduct was not caused by or directly and substantially related to the student's disability and did not directly result from a failure on the part of the school to implement the student's current IEP or Section 504 Plan, the school may discipline the student in accordance with the procedures and penalties applicable to all students but will continue to provide a free appropriate public education to those students with IEPs. Under such circumstances, the student's IEP Team will identify the services necessary to provide a free appropriate public education during the period of exclusion, review any existing behavior intervention plan or, where appropriate, conduct a functional behavioral assessment. Eligible Section 504 students shall be entitled to receive alternative education services in accordance with the school's Education Services Plan during any suspension or expulsion in excess of ten (10) consecutive days.
- (g) If building administrators, the parents/guardians, and relevant members of the student's IEP or 504 Team determine that the conduct giving rise to disciplinary action was a manifestation of the student's disability, the student will not be subjected to further removal or exclusion from the student's current education program for the incident of misconduct (except for conduct involving weapons, drugs, or resulting in serious bodily injury to others) until the IEP or 504 Team develops, and the parents/guardians consent to, a new placement, or unless the school obtains an order from a court or from the Bureau of Special Education Appeals (BSEA) or a court authorizing a change in the student's placement. The student's Team shall also review, or modify as appropriate, any existing behavior intervention plan or arrange for a functional behavioral assessment if one does not exist.
- (h) If a student with a disability possesses or uses illegal drugs, sells or solicits a controlled substance, possesses a weapon on school grounds, or causes serious bodily injury to another on school grounds or at a school function, the school may place the student in an interim alternative educational setting (IAES) for up to forty-five (45) school days regardless of whether the conduct was a manifestation of the student's disability. A court or BSEA Hearing Officer may also order the placement of a student who presents a substantial likelihood of injury to self or others in an appropriate interim setting for up to forty-five (45) school days.
- (i) The school will notify the family of the manifestation decision and provide written notice of procedural safeguard before the 10th day of exclusion.