

FREDERICK COUNTY PUBLIC SCHOOLS	Reg. No. 400-17
Subject: SUSPENSION and EXPULSION - STUDENTS WITH DISABILITIES	Date of Issue: 9/1/80
Preparing Office: Office of the Superintendent	Amended: 12/6/06

I. Policies 403 and 408

II. Procedures

A. Purpose

All schools will have a safe, healthy, and inviting climate where desired learning and development can occur. It is the responsibility of everyone associated with the school to proactively promote student self-discipline and preserve the quality of the educational environment, in accordance with FCPS regulation 400-8 "Discipline".

In the case of students with disabilities, additional disciplinary procedures must be implemented in accordance with federal and state regulations.

B. Definitions

1. Behavior Intervention Plan (BIP) - written, proactive plan designed to address problem behaviors exhibited by a student in the educational setting through the use of positive behavioral interventions, strategies, and supports.
2. Change of placement - removal of a student from the current placement (as reflected in the student's IEP) for more than 10 consecutive school days, or a series of removals that constitutes a pattern (as determined by the IEP team). A pattern is based on the following factors: the behavior is substantially similar to previous behaviors in the school year, the length of each removal, the total amount of time of the removal, and the proximity of removals to one another.
3. Free, Appropriate Public Education (FAPE) - the instructional setting, as determined by the IEP team, where the student can access the general education curriculum, receive educational benefit, and progress toward meeting the goals set forth in the student's IEP.
4. Functional Behavioral Assessment (FBA) - the systematic process of gathering information to guide the development of an effective and efficient BIP for the problem behavior. This includes the identification of the functions of the problem behavior, as well as the description of the behavior exhibited in the educational setting and the identification of environmental and other factors and settings that contribute to or predict the occurrence, nonoccurrence and maintenance of behavior over time.

5. Interim Alternative Education Setting (IAES) - a setting determined by the IEP team, to which a student may be removed for up to 45 school days, due to any of the following behavioral violations: (1) carries or possesses a weapon, (2) knowingly possesses or uses an illegal drug, (3) sells or solicits the sale of a controlled substance, or (4) inflicts serious bodily injury upon another person. (*Serious bodily injury is defined as that which involves 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.*)
 6. Placement - a continuum of educational settings where a student's IEP may be carried out, such as general education classrooms, special classrooms, and special schools. The educational placement decision must be made by a team and in conformity with LRE requirements.
 7. Procedural Safeguards - protections established by the individuals with disabilities education improvement act (IDEA 2004) and afforded to the parents of students with disabilities.
- C. Suspension for not more than 10 school days
1. Students with disabilities may be suspended for a cumulative total of ten (10) school days in a school year for any violation of school rules. The suspension shall be in accordance with Regulation 400-4 (Suspension and Expulsion).
 2. Educational services are not required during this period of removal.
- D. Suspension for more than 10 school days
1. Students with disabilities may be suspended for separate incidents of misconduct, beyond the ten (10) days on a case-by-case basis. The school principal must confer with the director of special education or designee, prior to the decision to suspend the student, to determine if the student meets the criteria for receiving additional short-term days of suspension. The student must continue to receive FAPE during this time. For purposes of disciplinary removal, FAPE cannot be provided in the student's home.
 2. On the date that the principal removes the student from the current placement for violation of a school rule, the principal shall:
 - Notify the parents of the decision, in writing
 - Provide the parents with the procedural safeguards notice, and
 - File the discipline-related documentation in the special education discipline folder
 3. The principal, in consultation with the special education teacher, will determine which services are needed in order to provide FAPE.
 4. Within ten (10) days of removing the student for additional days of suspension, the school IEP team must meet.

5. School IEP team procedures (attachment SE:7B)
 - a. Section I - the IEP team will document the services the student receives during the period of removal.
 - b. Section II – the IEP team will review the current behavior that led to disciplinary removal and document previous disciplinary actions and the student’s attendance for the current school year.
 - c. Section III - the IEP team will consider other relevant behavior including: diagnostic results and evaluations, teacher observation, parent input, the student’s IEP, and the student’s current educational placement.
 - d. Section IV - the IEP team will document whether the current removal constitutes a “change in placement”. The IEP team will consider the length of each removal, the total amount of time the student is removed, the proximity of the removals to one another, and the similarity of the student’s behavior to previous behaviors in the school year.
 - e. Section V - the IEP team will complete the “manifestation determination” process. The team must consider two factors in determining the relationship between the student’s disability and the behavior subject to disciplinary action: (1) was the behavior caused by or had a direct and substantial relationship to the disability, or (2) was the behavior a direct result of the school’s failure to implement the IEP?
 - f. Section VI & VII - When the student’s behavior IS a manifestation of the disability, the student shall: (1) return to the current educational placement, and (2) have a review by the IEP team to determine if the student’s program continues to be appropriate. If determined not to be appropriate, the IEP shall be revised and implemented as soon as possible.

When the student’s behavior IS NOT a manifestation of the disability, the student may be suspended for additional short-term days. The student shall continue to receive educational services so as to participate in the general education curriculum (although in another setting) and to progress toward meeting the goals in the IEP (FAPE).
 - g. Section VIII- Regardless of whether the behavior is or is not a manifestation of the student’s disability, the IEP team must review the student’s IEP in its entirety, and conduct, as appropriate, a FBA and BIP to determine if changes are needed in an attempt to address the behavior violation and prevent its recurrence.
6. The IEP team shall give the student’s parents written notice of the IEP team decision and of all applicable procedural safeguards.

E. Removal to an Interim Alternative Educational Setting (IAES)

The school principal, in consultation with the director of special education, may order the removal of a student with disabilities to an IAES, for up to 45 school days, for any of the following reasons: (1) carries or possesses a weapon, (2) knowingly possesses or uses an illegal drug, (3) sells or solicits the sale of a controlled substance, or (4) inflicts serious bodily injury upon another person. The IEP team shall determine the appropriate IAES setting.

F. Court-ordered removal

If the IEP team determines that maintaining the student in his or her current placement is substantially likely to result in injury to himself or herself or to others and the parents do not agree to a change of placement, the school district may seek a temporary injunction from a court to remove the student for more than ten (10) days.

G. Appeals

1. Reasonable efforts shall be made through the meeting process to resolve the disagreement(s) between parents and other IEP team members concerning the student's program, services and recommendations. Parents disagreeing with the final IEP team decision may meet informally with the building principal and appropriate special education coordinator in an attempt to resolve the disagreement(s).
2. If the disagreement(s) cannot be resolved at the school level, an appeal may be made to the supervisor of special education to initiate further attempts toward resolution.
3. If resolution cannot be reached, formal mediation and/or a due process hearing may be requested through the coordinator for due process hearings. The appeal process will be initiated upon receipt of the written request.
4. Stay Put provisions - If parents request a hearing, the student will remain in the disciplinary setting pending a decision by an administrative law judge. An expedited hearing will be requested. The student will also remain in the disciplinary setting when a court has temporarily enjoined the student from returning to his/her current educational placement, or the student has been placed in an interim alternative educational setting (IAES) due to weapons, drugs, or serious bodily injury.

Approved:

original signed by

Linda D. Burgee
Superintendent

**Frederick County Public Schools
Individualized Education Program (IEP) Team Meeting Report
MANIFESTATION DETERMINATION WORKSHEET
(For Students Suspended in EXCESS of 10 Days)**

Student's Name:

Meeting Date:

School:

DOB:

Current Grade:

Disability:

The purpose of this meeting is to determine whether the conduct, which resulted in a disciplinary action, was or was not a manifestation of the student's disability.

The parent/guardian of the student was provided with the Procedural Rights Parental Safeguards Booklet and reminded of the right to appeal decisions of the IEP team to the Supervisor of Special Education at 301-644-5295.

- Sent to parent
- Parent given copy at IEP meeting
- Parent declined copy

SECTION I: Documentation of FAPE

The IEP team reviews the services provided to the student while suspended as determined by the following school staff familiar with the student's educational program:

Name	Position:

Documentation of educational services provided during the period of suspension to enable the student to continue to participate in the general curriculum, although in another setting, and to progress toward meeting the goals in the student's IEP.

Documentation of special education services to be provided during suspension:

SECTION II: Review student's behavior

Document incident leading to the current suspension:

Review of discipline and attendance records: (Attach reports)

Document total suspension days for current school year, in-school or out of school (Aug. through June):

Other disciplinary actions:

Parent input relevant to current incident:

SECTION III: Relevant information that must be considered:

- Diagnostic results & evaluations
- Teacher observation
- Parent input
- Student's IEP
- Student's current educational placement

Documentation of discussion:

SECTION IV: Change in Placement Determination

The removal constitutes a change in placement when:

- The student has been removed from the current placement for more than **10 consecutive** school days; **or**
- The student has been subjected to a series of removals that constitutes a pattern of removal that accumulates to more than 10 school days in a year based on factors below.

When determining whether or not the series of removals constitutes a pattern resulting in a change of placement, consideration must be given to each of the following:

- Proximity to removals to one another

Documentation:

- Length of each removal

Documentation:

- Total amount of time the student has been removed for suspensions

Documentation to support:

- Similarity of student's behavior in previous incidents that resulted in removals

Documentation:

This series of removals constitutes a pattern of behaviors.

Yes No

This disciplinary removal constitutes a change of placement.

Yes No

Documentation to support decision and of services needed, if any:

SECTION V: Manifestation Standard

The IEP Team shall consider the following two questions:

1. Was the behavior caused by, or was it in direct and substantial relationship to, the child's disability? (Consider characteristics of the disability and whether the behavior occurs across time and settings.)

- Yes
- No

Documentation to support the decision:

2. Was the behavior a direct result of the school's failure to implement the IEP?

- Yes
- No

Documentation to support the decision:

SECTION VI: Manifestation Determination (If the team answers "**Yes**" to either of the above questions, the behavior must be considered a manifestation of the student's disability.)

The behavior is a manifestation of the student's disability.

- Yes
- No

If **Yes**, the behavior **IS** determined to be a manifestation of the student's disability. The student **must be** returned to the placement from which he/she was removed. **Complete Sections VII and VIII.**

If **No**, the team determines the behavior is **NOT** a manifestation of the student's disability. The school may follow regular discipline procedures and continue to provide educational services (FAPE) as documented in Section I. **Complete Section VIII.**

SECTION VII: Behavior is a manifestation (Select one)

- The IEP team shall conduct an FBA in relation to the current behavior and develop a BIP for implementation.
- If a BIP has been developed, review the BIP to determine if it **addresses the current behavior in an attempt to prevent recurrence**, and revise BIP as needed.

SECTION VIII: Review IEP and components

Goals/Objectives: (select one)

- Appropriate
- Document revisions/additions made

Revisions/additions:

Instructional and Testing Accommodations considered: (select one)

- No instructional and testing accommodations are required at this time
- Current instructional and testing accommodations are appropriate
- Document revisions/additions made

Revisions/additions:

Supplementary Aids and Services considered: (select one)

- No supplementary aids and services are required at this time
- Current supplementary aids and services are appropriate
- Document revisions/additions made

Revisions/additions:

Review Behavior Intervention Plan (BIP): (select one)

- No BIP is in place. Consider need for Functional Behavior Assessments (FBAs) for current behavior if this behavior is part of a pattern for development of a BIP.
- BIP is in place and FBAs address the current behavior.
- BIP is in place and FBAs do not address the current behavior. Collect FBAs, review the plan, modify it as needed to address current behavior.

Actions needed:

Action:	By Whom:	By When:

Meeting Participants:

Name	Position: