Safe Schools Discipline of Students With Disabilities

Discipline of Students with Disabilities

[Note: Most school districts have adopted policies regulating discipline of students with disabilities in conformity with the requirements of IDEA. A school may choose to follow the previously adopted policy, making reference to that policy, rather than including this section in the Safe Schools policy.]

Discipline Procedures for Students with a Disability—

Federal and state laws restrict disciplining a student for conduct which is a manifestation of a disability. Therefore, where a student who has been identified as eligible for special education services engages in conduct which is a violation of school rules or is conduct subject to discipline under this general policy, additional procedures may apply. If the student has not previously been identified as eligible for special education but asserts that he or she should receive the procedural protections, application of the procedural protections will depend on the criteria set forth below. Identified Students with a Disability Change of Placement for Disciplinary

Reasons—

For purposes of removals of a student with a disability from the student's current educational placement, a change of placement occurs if:

1. The removal is for more than ten (10) consecutive school days, including shortened school days.

2. The student is subjected to a series of removals that constitute a pattern because they cumulate to more than ten (10) school days in a school year, including shortened school days, because the student's behavior is substantially similar to behavior in prior incidents resulting in removal, and because of additional factors such as the length of each removal, the total amount of time each student is removed, and the proximity of the removals to one another. The District shall determine whether a pattern of removals constitutes a change in placement on a case-by-case basis.

34 CFR § 300.536

Utah Admin. Rules R277-750-2 (August 22, 2023)

State Board of Education Special Education Rules V.D. Shortened school days occur when a student's school day is reduced by school personnel solely in response to the student's behavior for disciplinary purposes (rather than by the IEP team or placement team for the student to receive a FAPE).

Utah Admin. Rules R277-750-2 (August 22, 2023)

State Board of Education Special Education Rules V.D.2

Removals—

1. Ten (10) School Days or Less

a. Short-term suspension

i. Subject to the provisions above on change of placement, and to the extent removal would be applied to students without disabilities, a principal may remove a student with a disability who violates the code of student conduct found in Policy FHA from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than ten (10) consecutive school days and for additional removals of not more than ten (10) consecutive school days in that same school year for separate incidents of misconduct without implicating any of the additional IDEA safeguards.

Utah Admin. Rules R277-750-2 (August 22, 2023)

State Board of Education Special Education Rules V.B.2.

34 CFR § 300.530

20 U.S.C. § 1415(k)(1)(B) 2. Change in Placement: Removals for More than Ten (10) School Days

a. Long-term suspension or expulsion.

i. Any suspension of a student with a disability for more than ten (10) days constitutes a change in placement, as does a change in the student's educational program (classroom assignment) for disciplinary reasons. Prior to a change in placement, parents of the student must be notified of the proposed change and provided the procedural safeguards notice described in the state's Special Education Rules, and the student's IEP team and other qualified personnel must conduct a manifestation determination review of the relationship between the student's disability and the behavior subject to the disciplinary action. The manifestation determination review must take place immediately, if possible, but in no case later than ten (10) school days after the date on which the decision to take action was made.

34 CFR § 300.530

Manifestation Determination—

Within ten (10) school days of any decision to change the placement of the student with a disability because of a violation of the code of student conduct, the school, the parent or guardian or adult student, and relevant members of the IEP Team (as determined by the parent/guardian or adult student and school) shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided to the parents to determine:

1. If the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability; or

2. If the conduct in question was the direct result of the school's failure to implement the IEP. If the school, the parent or guardian or adult student, and relevant members of the IEP Team determine that the misconduct was the direct result of the school's failure to implement the IEP, the school must take immediate steps to remedy those deficiencies. If the school, the parent or guardian or adult student, and relevant members of the IEP Team determine that either section one (1) or (2) above is applicable to the student, the conduct shall be determined to be a manifestation of the student's disability.

1. If the IEP Team determines that the student's disruptive behavior is a manifestation of the disability, the IEP Team must either (1) conduct a functional behavior assessment (FBA) (unless the school had conducted a FBA before the behavior) and implement a behavior intervention plan (BIP) for the student or (2) if a BIP has already been developed, review the BIP and modify it as necessary to address the behavior. The student must then be returned to the placement from which the student was removed unless the specific conduct provisions below apply or the school and the parent or guardian or adult student agree to a change of placement as part of the modification of the BIP.

2. If the IEP Team determines that the conduct is not a manifestation of the disability or the direct result of a failure to implement the IEP, then the student may be disciplined under the same standards as are applied to non-disabled students. Provided, however, that if the student is suspended for more than 10 days in a given school year, the District still must provide services to the disabled student to the extent necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the student's IEP. The IEP Team shall determine the instructional and related services to be provided during the time of suspension. The student's IEP shall include goals and objectives designed to assist in returning the student to school and preventing significant regression.

3. If the student's parent or guardian disagrees with the IEP Team's manifestation determination, or regarding decisions for the student's placement, the parents may request a due process hearing pursuant to the policies governing students with disabilities.

34 CFR § 300.121

34 CFR § 300.530(e)

Utah Admin. Rules R277-750-2 (August 22, 2023)

State Board of Education Special Education Rules V.E.

Students Not Identified as Eligible for Special Education—

If a student who has not been previously identified as eligible for special education services, or the student's parents, assert that the student is entitled to the

special discipline procedures applicable to students with disabilities, then those procedures shall apply to the student if any of the following conditions are satisfied, subject to paragraph 4 below:

1. The student's parent or guardian or adult student has previously expressed in writing to the student's teacher or to supervisory or administrative personnel of the District that the student needs special education and related services.

2. The student's parent or guardian or adult student has previously requested that the student be evaluated for eligibility for special education services.

3. The student's teacher or other school personnel have previously expressed specific concerns about a pattern of behavior demonstrated by the student directly to the special education director of the school or to other supervisory personnel.

4. If, prior to the conduct for which discipline is contemplated, (a) the student's parent or adult student has not allowed an evaluation of the student for eligibility for special education services, (b) the student's parent or adult student refused special education services for the student, or (c) the District evaluated the student and determined that the student was not a child with a disability, then the special discipline procedures for students with disabilities shall not apply to the student, and the student shall be disciplined in accordance with the procedures for non-disabled students.

If, during the period of time in which a student is subject to disciplinary sanctions, the student's parent or guardian requests that the student be evaluated for eligibility for special education services, an evaluation shall be conducted on an expedited basis. Until the evaluation is complete, the student's educational placement shall remain the same (if the child has been suspended or expelled, for example, the suspension or expulsion shall remain in effect).

34 CFR § 300.534

Utah Admin. Rules R277-750-2 (August 22, 2023)

State Board of Education Special Education Rules V.J.

Removal of Disabled Students for Specific Conduct—

In the following circumstances, regardless of whether the student's action was a manifestation of the student's disability, the student may be placed in an interim alternative educational setting for a period to be determined but not to exceed 45 days.

1. The student carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of the State

Board of Education or the District;

2. The student 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 the State Board of Education or the District;

3. The student has inflicted serious bodily injury on another person while at school, on school premises, or at a school function under the jurisdiction of the State Board of Education or the District. For purposes of determining if the applicable circumstances are present, the following definitions apply:

1. “Controlled substance” means a drug or other substance that cannot be distributed without a prescription, identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. § 812(c)).

2. “Illegal drug” means a controlled substance but does not include a drug controlled, possessed, or used under the supervision of a licensed health- care professional or one legally possessed or used under state or federal law.

3. “Serious bodily injury” means bodily injury that 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. It excludes a cut, abrasion, bruise, burn, disfigurement, physical pain, illness, or a temporary impairment of the function of a bodily member, organ or mental faculty.

4. “Weapon” means 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. It excludes a pocket knife with a blade of less than 2.5 inches.

34 CFR § 300.530(g)

Utah Admin. Rules R277-750-2 (August 22, 2023)

State Board of Education Special Education Rules V.E.5. If the circumstances warranting an interim alternative educational setting are present, then:

1. The appropriate interim alternative educational setting shall be determined by the IEP Team.

2. If the student’s parent or guardian requests a due process hearing, the student shall remain in the alternative educational setting during the pendency of any due process proceedings unless the parents and the special educational coordinator agree otherwise.

3. The IEP Team must convene prior to the end of the period of removal to the alternative educational setting to determine the least restrictive environment in which the student may be placed when the period of removal is concluded.

No separate Millard local provision inserted. The USBA model is retained as the controlling text for this policy.

Source Traceability

USBA Model Policy FHAD. The model text above is from the 2026 USBA Model Policies and is retained as the controlling format for this draft.

Disposition Note

USBA FHAD is retained without a separate Millard local subsection. No distinct adopted Millard student-disability-discipline procedure was identified in the available source set that adds value beyond the current USBA IDEA/Section 504 discipline framework. Related local transportation-discipline coordination was already preserved in transportation and bus-conduct policies.