



## **POLICY 7:230AP**

### **Administrative Procedure – Misconduct by Students with Disabilities**

SD 308 shall comply with the provisions of the Individuals With Disabilities Education Act of 2004 (IDEA) when disciplining students. No special education student will be expelled if the student's particular act of gross disobedience or misconduct is a manifestation of his/her disability.

Any special education student whose gross disobedience or misconduct is not a manifestation of his/her disability may be expelled pursuant to the same expulsion procedures that apply to a regular education student, except that such child shall continue to receive educational services as provided in IDEA during the period of expulsion. A special education student may be suspended for periods of no more than 10 consecutive school days each in response to separate incidents of gross disobedience or misconduct, regardless of whether the student's gross disobedience or misconduct is a manifestation of his/her disability, as long as the repeated removals do not constitute a pattern that amounts to a change in placement (considering factors such as the length of each removal, the total amount of time the child is removed, and the proximity of the removals to one another) and provided that such child receives educational services to the extent required by IDEA during such removals.

Any special education student may be temporarily excluded from school by court order or by order of a duly appointed State of Illinois impartial due process hearing officer changing the student's placement to an appropriate interim alternative educational setting for up to 45 school days, if SD 308 demonstrates that maintaining the child in his/her current placement is substantially likely to result in injury to the child or others.

A special education student who has carried a weapon to school or to a school function or who knowingly possesses or uses illegal drugs or sells or solicits the sale of controlled substance while at school or a school function or who has inflicted serious bodily injury upon another person while at school or at a school related activity may be removed from his/her current placement. All such children shall be placed in an appropriate interim alternative educational setting for no more than 45 school days in accordance with IDEA. The length of time a child with a disability is placed in an alternative educational setting must be the same amount of time that a child without a disability would be subject to discipline.

Upon the occurrence of any act that may subject the student either to expulsion from school or suspension resulting in more than ten cumulative days of suspension during any one school year, SD 308 shall convene a meeting of the IEP Team to review the student's behavioral intervention plan or, if a behavioral intervention plan has not yet been developed, to develop one.

## **A. Behavioral Interventions Committee**

As required by 105 ILCS 5/14-8.05, SD 308 shall maintain a Behavioral Interventions Committee to develop policies and procedures on the use of behavior interventions for students with disabilities who require behavioral intervention. The policies and procedures shall be developed with the advice of parents with students with disabilities, other parents, teachers, administrators, advocates for persons with disabilities and individuals with knowledge or expertise in the development and implementation of behavioral interventions for persons with disabilities. The Behavioral Interventions Committee will meet at least once per academic year.

In developing the policies and procedures for behavioral interventions, the Committee shall:

- Emphasize positive interventions that are designed to develop and strengthen desirable behaviors;
- Incorporate procedures and methods consistent with generally accepted practice in the field of behavioral interventions;
- Include criteria for determining when a student with disabilities may require a behavior intervention plan;
- Reflect that the guidelines of the State Board of Education have been reviewed and considered, and provide the address of the State Board of Education so that copies of the state guidelines may be requested; and
- Include procedures for monitoring the use of restrictive behavioral interventions.

Once developed, the policies and procedures shall be distributed to parents and guardians of all students with IEPs within 15 days after the policies and procedures have been adopted by the Board of Education, or within 15 days after the Board of Education has amended its policies and procedures, or at the time an IEP is first implemented for the student.

## **B. Levels of Restrictiveness of Interventions**

If there is a pattern of using nonrestrictive or restrictive interventions, a functional assessment of behavior and a behavioral intervention plan must be developed and documented in the student's IEP.

Parents must be involved in the development of behavioral intervention plans. This involvement includes participating in the IEP in which the written behavioral intervention plan is developed and documented.

The selection of an intervention should always be based on the individual needs of the student. Because students respond differently to various interventions, some programs will be more or less intense. Analyzing information collected during the functional analysis phase of the program will yield valuable information. The least restrictive intervention which will produce the greatest desired behavioral change should be selected from the continuum of strategies. Regardless of the choice, the pupil's human

dignity and personal privacy, physical freedom, and social interaction must always be considered.

Behavioral interventions shall be categorized into five levels of restrictiveness:

**1. Proactive Nonrestrictive Interventions and Positive Behavioral Supports:**

Nonrestrictive interventions should be used in conjunction with the positive behavioral support model (PBS) and in the development of the Social Emotional Learning Standards set forth by ISBE. Proactive non-restrictive, positive behavioral interventions should always be considered and used first. Proactive nonrestrictive interventions are preferred because of the low risk of negative side effects, and the high priority placed on positive behavioral change rather than behavior control. They may be used without the development of a written behavioral intervention plan and without documentation in the individualized education program (IEP).

But when conducting a functional behavior assessment and in the development of a behavior management plan in a student's IEP, these interventions should be documented.

**2. Reactive non- restrictions interventions:**

Reactive nonrestrictive interventions assist in controlling behaviors and in preventing escalation of inappropriate behaviors.

**3. Restrictive interventions:**

Restrictive interventions may be appropriate in emergency situations or when less restrictive interventions have failed to change behavior. Restrictive interventions are to be used for the minimum amount of time necessary to control the student's behavior. After three restrictive interventions over a 30-day period, a functional assessment of behavior must be completed, and a behavioral intervention plan developed and documented in the student's IEP. Restrictive interventions shall only be used in the following situations:

- a. In emergencies;
- b. After nonrestrictive interventions have been attempted, documented for at least six to eight weeks and failed; and
- c. In conjunction with positive interventions designed to strengthen replacement behaviors.

Data collection should support the choice of restrictive interventions during their use.

#### **4. Highly Restrictive Interventions**

Highly restrictive interventions can be used only as means of maintaining discipline in schools (that is, as means of maintaining a safe and orderly environment for learning) and only to the extent that they are necessary to preserve the safety of students and others. They cannot be used in administering discipline to individual students, i.e., as a form of punishment. They must be documented in a student's behavior intervention plan within the student's IEP. Procedures for using highly restrictive interventions as documented further in these procedures must be adhered to.

#### **5. Prohibited Interventions**

Prohibited interventions including corporal punishment, unwarranted exclusion from extracurricular activities, expulsion without due process or provision of FAPE services, and cessation of services, are illegal and not to be used.

#### **C. Procedures for Data Collection and Monitoring of Behavioral Intervention Program & Development of Functional Behavioral Assessments/Behavior Intervention Plans**

Data collection is an integral and necessary component to monitoring any behavioral intervention program. A functional behavior analysis and a behavior management program require systematic and consistent data collection, as well. Visual representation of data supports the analysis of data and is highly encouraged as part of the process with displaying data that has been collected.

Necessary components of a functional behavior assessment and a behavior intervention plan are as follows:

- Description of the target behavior
- Location, time, other proximal factors
- Purpose/function of target behavior
- Frequency, duration, and or intensity of the target behavior
- Antecedent event
- Pertinent environmental conditions
- Selection of intervention
- Evaluation, monitoring, and achievement/progress schedule
- Method for coordination with parents
- Crisis plan

The effectiveness of intervention strategies shall be determined by evaluation of data which is collected. An analysis of data should consider:

1. A review of baseline data prior to the initiation and following the selection of an intervention (data could include frequency, duration, and/or intensity);
2. A review of antecedent events and environmental modifications;

3. Comparison of data over the course of the intervention phase; and
4. Use and effectiveness of less restrictive interventions.

**D. Procedures for Using Highly Restrictive Interventions**

In accordance with Section 1.285 of the 23 Illinois Administrative Code, isolated time out and/or physical restraint will only be used when other measures have failed, or under emergency circumstances. Neither isolated time out nor physical restraint shall be used in administering discipline to individual students, i.e. as a form of punishment. Staff will be trained annually in the implementation of these procedures. Written documentation of the use of highly restricted interventions will be completed in a timely manner for each incident and will contain the following information:

- Identifying information (student name, date, location, IEP case manager);
- Primary mode of communication for student;
- Description of incident;
- Antecedent event;
- Name and title of staff involved in the intervention;
- Disposition of student following the intervention;
- Timely parent notification;
- Identification of any injuries or property damage that occurred;
- Supervisor notification and review;
- Duration of time out or physical restraint;
- Description of less restrictive measures that were attempted;
- Description of future plans to address behavior;
- Log of student's behavior in intervention;
- Description of the restraint used; and
- List of school personnel who participated in the implementation, monitoring and supervision of intervention

On the day of the incident, parents must be communicated with that the incident took place. Within 24 hours when a restrictive measure such as isolated time out or physical restraint is used, the parents or guardians will be notified in writing through the **Parent Notification of Physical Intervention Form**. An IEP meeting will be convened to conduct further functional behavior assessments and/or to amend the student's behavior management plan once a student has first experienced three instances of isolated time out or physical restraint.

**Form A: Physical Intervention Incident Form**

- I. First three pages must be completed by the beginning of the school day following the episode of physical intervention ; Within 48 hours the postvention must take place
- II. Administration of school where incident occurred must log incident (google form)

- ///.** A copy of the form must be sent to the Director of Special Education after postvention within 48 hours

#### **E. Procedures for Emergency Use of Highly Restrictive Interventions**

An “emergency” (highly restrictive) intervention may be suddenly necessary to protect the student, other students, the classroom, or other individuals from harm or injury, even though the student has never required it. Implementation of the highly restrict intervention should follow the procedure outlined above.

The following are examples of emergency or crisis situations:

- a. Physical injury to self or others;
- b. Significant verbal or nonverbal treats and gestures with a demonstrated means or intent to carry out such a threat (see section 1.285 d) 2 of 23 Illinois Administrative Code); and
- c. Significant disruption of the school/classroom environment.

If a pattern of “emergency” situations occurs which require the use of restrictive interventions, an IEP meeting must be convened to create or modify a behavior management plan.

#### **F. Procedural Safeguards**

Under no circumstances shall a behavior management plan be implemented for a student with a disability without it being developed as part of an IEP. All procedural safeguards, including rights to administrative remedy, mediation, and impartial due process hearing, as required through the Individuals with Disabilities Education Improvement Act (IDEIA) and the Illinois School Code, shall be applicable to the resolution of disputes involving the behavior management plan and the IEP.

#### **G. Provisions for Training and Professional Development**

Training on the implementation of procedures described in this policy will be provided annually. Staff will have training in the safe administration of highly restrictive interventions. Administrative staff will oversee and advise use of these measures.

#### **H. Special Education Suspension Procedures**

1. All suspension notices and suspension review procedures established by The School Code shall be followed when suspending a special education student. In addition, a special education student who is suspended from school for more than 10 cumulative school days in a school year shall receive educational services in accordance with IDEA.
2. The first time a child is removed for more than 10 cumulative days during the school year, SD 308 shall, no later than 10 school days after the decision to suspend a child is made, convene an IEP meeting to review and, if appropriate, modify the student’s behavioral intervention plan, as necessary, to address the student’s behavior. If no behavioral intervention plan is in place, the IEP Team

shall develop a plan for a functional behavioral assessment that must be used to develop a behavioral intervention plan.

3. For all subsequent removals of the child that do not constitute a change in placement the IEP Team members must review the behavioral intervention plan and its implementation. If any team member indicates that the plan may need to be modified, the IEP Team must be convened to review the plan and revise it, if appropriate. If a subsequent removal does not constitute a change in placement a manifestation determination is required.
4. For all removals that exceed 10 cumulative days during one school year, SD 308 must provide services to the student. School personnel, in consultation with at least one of the child's teachers, shall determine the services to be provided. Such services must be designed to enable the child to progress in the general curriculum and advance toward his/her IEP goals.

#### **I. Special Educational Procedures for Expulsion or Disciplinary Change in Placement**

1. A disciplinary removal constitutes a "change of placement" if:
  2. A student is removed from the his/her current educational placement for more than 10 consecutive school days; or
  3. The student has been subjected to a series of removals that constitute a pattern:
    - a. Because the series of removals total more than 10 school days in a school year;
    - b. Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and
    - c. Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.
4. SD 308 shall notify the student's Parent(s) of the gross disobedience or misconduct and whether the child shall be recommended for expulsion. All procedural protections pertaining to notice provided under SD 308's discipline policy shall apply to a notice of recommended expulsion in the case of a special education student. The Parent(s) shall also receive a copy of the procedural safeguard and written notification that a manifestation determination review must be made to determine whether the student's act of gross disobedience or misconduct is a manifestation of his/her disability. The manifestation determination review shall take place as soon as possible, but no later than 10 school days after the decision related to the discipline of the child is made.
5. The manifestation determination review must be completed by relevant members of the child's IEP Team, including the Parents and others as determined by SD 308.
6. In carrying out the manifestation determination review, the team shall consider, in terms of the behavior subject to the disciplinary action, all relevant information in the student's file, including:



- a. The child's IEP;
  - b. Any teacher observations of the student; and
  - c. Any relevant information provided by the Parent(s).
7. The conduct must be determined to be a manifestation of the student's disability if it is determined that:
- a. The conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
  - b. The conduct in question was the direct result of SD 308's failure to implement the student's IEP.
8. If, at the manifestation determination review conference, it is determined that the behavior of the child was a manifestation of his/her disability, the authorized administrator shall not continue with his/her recommendation for expulsion. The authorized administrator may request a review of the appropriateness of the educational placement of the child in accordance with the federal and State law. During the period necessary to propose a new placement, the child will remain in his/her then-current placement unless:
- a. The child has not served a full 10 school day suspension imposed for the gross disobedience or misconduct, in which case the child may be required to serve the remaining days of his/her suspension; or
  - b. The Parent(s) and SD 308 agree on an interim placement; or
  - c. SD 308 obtains an order from a court of competent jurisdiction or a State of Illinois impartial due process hearing officer decision changing the then-current placement or providing for other appropriate relief.
9. If, at the manifestation determination review conference, it is determined that the behavior of the child was not a manifestation of his/her disability, the authorized administrator may continue with his/her recommendation that the child be considered for expulsion by the School Board. In addition to issues regularly determined at an expulsion hearing, the authorized administrator must present evidence that the IEP team met and concluded that the student's misconduct was not a manifestation of his/her disability, which shall be duly noted by the Board. The administration shall ensure that relevant special education and disciplinary records of the child are transmitted for consideration by the Board.
10. If a special education student is expelled from school in accordance with the procedures set forth above, the student's IEP shall remain in place and transfer to any new placement. If the student's IEP is not adequate for the change in placement, SD 308 may convene an IEP meeting to develop a new educational plan to deliver educational services to the child during such period of expulsion.

**J. Misconduct Involving Weapons, Drugs, or Infliction of Serious Bodily Injury.**

1. In accordance with the above procedures, SD 308 may take one or more of the following steps when a child with a disability carries a weapon to school or to a school function, or knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or at a school-related function, or has inflicted serious bodily injury upon another person while at school or a school-related function:
  - a. Suspend the child from school for 10 school days or less.
  - b. Convene an IEP conference to: (a) determine placement in an interim alternative educational setting for up to 45 school days, (b) review and, if appropriate, modify the student's behavior intervention plan, as necessary, to address the student's behavior (if no behavior intervention plan is in place, the IEP Team shall develop a plan for a functional behavioral assessment that must be used to develop a behavior intervention plan), and (c) conduct a manifestation determination review.
    - (1) The child may be placed in an interim alternative educational setting even if the behavior is a manifestation of the student's disability.
    - (2) The interim alternative educational setting must:
      - (a) Enable the child to continue to progress in the general curriculum;
      - (b) Enable the child to receive the services and modifications set forth in his/her IEP; and
      - (c) Include services and modifications designed to address the misconduct to prevent it from recurring.
2. If the Parent(s) disagree with the interim alternative educational placement or with SD 308-proposed placement and initiate a due process hearing, the child must remain in the interim alternative educational setting during the authorized review proceedings, unless the Parent(s) and SD 308 agree on another placement.

**K. Change of Placement if Maintenance of Current Placement Is Likely to Result in Injury**

1. In the event that maintenance of a student's current placement is substantially likely to result in injury to the child or to others, SD 308 may seek an order from a court of competent jurisdiction or a State of Illinois impartial due process hearing officer to change the student's placement to an appropriate interim alternative educational setting for one or more 45 school day periods after convening an IEP meeting to:
  - a. Conduct a manifestation determination review following procedures described under sub-heading "Special Education Expulsion Procedures," above, and
  - b. Determine a proposed interim alternative educational setting that meets the requirements under sub-heading "Misconduct Involving Weapons, Drugs, or Infliction of Serious Bodily Injury," above.

2. The length of time a child with a disability is placed in an alternative educational setting must be the same amount of time that a child without a disability would be subject to discipline.

**L. Protections for Children Not Yet Eligible Under IDEA**

1. Any child who has not been determined to be eligible for special education and related services and who engages in behavior that violates SD 308's code of conduct shall be disciplined in accordance with SD 308's discipline policy for nondisabled students, unless SD 308 had knowledge that the child was a child with a disability.
2. SD 308 will be deemed as having knowledge that a child may be eligible for special education and related services prior to the disciplinary incident, if any one of the following conditions exists:
  - a. The Parent(s) of the child expressed concern in writing (or orally if the Parent(s) does not know how to write or has a disability that prevents a written statement) to supervisory or administrative SD 308 personnel that the child is in need of special education and related services;
  - b. The Parent(s) of the child has requested an evaluation of the child; or
  - c. The child's teacher or other SD 308 personnel expressed specific concerns about a pattern of behavior demonstrated by the child directly to SD 308's Director of Special Education or to other SD 308 supervisory personnel.
3. SD 308 will not be deemed to have knowledge if:
  - a. The Parent(s) of the child has not allowed their child to be evaluated after he/she was referred for such evaluation by SD 308;
  - b. The Parent(s) has refused special education services; or
  - c. Documentation maintained in the school student records affirm that an evaluation to determine the presence of a disability was either conducted and the child was found not eligible for special educational and related services or the Parent(s) was provided with written notice that SD 308 had considered the need to conduct an evaluation and had determined that an evaluation was not warranted.
4. If, following SD 308's decision to discipline a child who has not been determined to be eligible for special education and related services, the child's Parent(s) request a full and individual evaluation, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the child shall remain in the educational placement determined by SD 308, which may include suspension or expulsion without educational services.

**M. Referral to and Action by Law Enforcement and Judicial Authorities**

SD 308 is not prohibited from reporting a crime committed by a child with a disability to appropriate authorities. SD 308 shall ensure that copies of special education and disciplinary records are also transmitted to the authorities in such instances, subject to the requirements of federal and State law.

LEGAL REF.: 20 U.S.C. §§ 1412, 1413, 1415 (Individuals with Disabilities Education Act). 34 C.F.R. §§ 300.101, 300.530-300.535.105 ILCS 5/10-22.6, 5/14-8.05.

23 Ill. Admin. Code §§ 226.50 (requirements for FAPE), 226.75 (definitions), 226.220 (factors in development of the IEP), 226.400 (disciplinary actions), 226.655 (expedited due process hearing).