

TENNESSEE PUBLIC CHARTER SCHOOL COMMISSION

Students with Disabilities Discipline Procedures

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The purpose of this document is to provide procedural information regarding the discipline of students with disabilities in Commission authorized charter schools. Commission authorized charter schools shall ensure that all requirements of state and federal laws (including, but not limited to the Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act of 1973), rules and policies are followed when disciplining students with disabilities ages 3-21.

Change of Placement. Suspensions/expulsions for more than a total of ten (10) days per school year shall be considered a change of placement for students with disabilities. A change of placement also occurs if the child has been subjected to a series of removals that constitute a pattern

- (a) Because the series of removals total more than ten (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.

Manifestation Determination. Prior to a change of placement as defined above, the student's IEP-Team, as defined in the Individuals with Disabilities Education Act, or Section 504 team as defined by Section 504 of the Rehabilitation Act of 1973 must meet and determine whether the offense is a manifestation of the student's disability based on the criteria set by current state and federal law. If the IEP-Team determines that the offense is a manifestation of the student's disability, the student cannot be suspended or expelled. The IEP team must conduct a functional behavior assessment, unless one has already been conducted, and implement a behavioral intervention plan for the child or review the existing behavioral intervention plan and modify it as necessary to address the behavior.

If the IEP-Team determines that the offense is not a manifestation of the student's disability, the student is treated as if he/she were non-disabled and may be suspended or expelled on the same basis as any student. Either determination is subject to due process procedures and upon challenge; placement shall be frozen pending the outcome of any administrative or judicial proceeding. If the student is covered under IDEA or Section 504, the student continues to receive services under the terms of the last agreed upon accommodations. If a student is suspended or expelled, educational services (as determined by the IEP Team or 504 Team) must be provided during the expulsion period.

Provision of Services. A student with a disability who is removed from their current placement for ten (10) school days in the same school year shall receive for any subsequent removal educational services pursuant to the IEP or 504 plan so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP. The student shall also receive as appropriate a functional behavior assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur.

If the current removal is for not more than ten (10) consecutive school days and is not a change of placement, school personnel, in consultation with at least one of the child's teachers, shall determine the

extent to which services are needed so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP. If the removal is a change of placement, the child's IEP team shall determine the appropriate services needed so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

Special Circumstances. Notwithstanding the above, school personnel may remove a child to an interim alternative educational setting determined by the IEP team for not more than 45 school days regardless of whether the behavior is determined to be a manifestation of the student's disability in cases where the child commits one of the following offenses at school, on school premises, or at a school function under the jurisdiction of the school district:

- (a) Carrying or possessing a weapon;
- (b) Possessing or using illegal drugs or selling or soliciting the sale of a controlled substance; or
- (c) Inflicting serious bodily injury upon another person.

Parent Notification. The school must notify parents of a decision to make a removal that constitutes a change of placement of a student with a disability because of a violation of a code of student conduct on the date the decision is made. The school must provide the parents with a notice of procedural safeguards at the time of notification.¹

¹ 34 CFR § 300.530-300.536