

EAST STROUDSBURG AREA SCHOOL DISTRICT

SECTION: PROGRAMS

TITLE: DISCIPLINE OF STUDENTS
WITH DISABILITIES

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113.1. DISCIPLINE OF STUDENTS WITH DISABILITIES

1. Purpose

~~Title 22~~~~Sec. 14.133~~~~Pol. 113, 113.2~~~~Title 22~~~~Sec. 14.133,~~~~14.143~~~~34 CFR~~~~Sec. 300.530~~~~Pol. 218, 233~~

The district shall develop and implement positive Behavior Support Plans and programs for students with disabilities who require specific interventions to address behaviors that interfere with learning.[\[1\]\[2\]\[3\]](#)

Students with disabilities who violate the Code of Student Conduct, or engage in inappropriate behavior, disruptive or prohibited activities and/or actions injurious to themselves or others, which would typically result in corrective action or discipline of students without disabilities, shall be disciplined in accordance with state and federal laws and regulations and Board policy and, if applicable, their Individualized Education Program (IEP) and Positive Behavior Support Plan.[\[1\]\[4\]\[5\]\[6\]\[7\]\[8\]](#)

2. Definitions

~~Pol. 113~~

Students with disabilities - school-aged children within the jurisdiction of the district who have been evaluated and found to have one or more disabilities as defined by law, and who require, because of such disabilities, special education and related services.[\[2\]](#)

~~Title 22~~~~Sec. 12.6~~~~Pol. 233~~

Suspensions from school - disciplinary exclusions from school for a period of one (1) to ten (10) consecutive school days.[\[7\]\[9\]](#)

~~Title 22~~~~Sec. 12.6~~~~Pol. 233~~

Expulsions from school - disciplinary exclusions from school by the Board for a period exceeding ten (10) consecutive school days and may include permanent exclusion from school.[\[7\]\[9\]](#)

~~20 U.S.C.~~~~Sec. 1415(k)~~~~34 CFR~~~~Sec. 300.530(g)~~

Interim alternative educational settings - removal of a student with a disability from his/her/the student's current placement. Interim alternative educational settings may be used by school personnel for up to forty-five (45) school days for certain infractions committed by students with disabilities. The IEP team shall determine the interim alternative educational setting; however, this does not constitute a change in placement for a student with a disability.[\[5\]\[10\]](#)

<p>3. Authority</p> <p><u>Title 22</u> — Sec. 14.143 — 20 U.S.C. — Sec. 1415(k) — 34 CFR — Sec. 300.530</p>	<p>The Board directs that the district shall comply with provisions and procedural safeguards of the Individuals With Disabilities Education Act (IDEA) and federal and state regulations when disciplining students with disabilities for violations of Board policy or district rules or regulations. No student with a disability shall be subjected to a disciplinary change in placement if the student’s particular misconduct is a manifestation of <u>his/her the student’s</u> disability. However, under certain circumstances a student with a disability may be placed in an interim alternative educational setting by school personnel or the IEP team could, if appropriate, change the student’s educational placement to one which is more restrictive than the placement where the misconduct occurred.<u>[4][5][10]</u></p> <p><u>Provision Of Education During Disciplinary Exclusions</u></p> <p>During any period of expulsion, or suspension from school for more than ten (10) cumulative days in a year, or placement in an interim alternative educational setting for disciplinary reasons, a student with a disability shall continue to receive a Free and <u>A</u>ppropriate <u>Public e</u>ducation <u>(FAPE)</u>, in accordance with law.<u>[5][9][11]</u></p>
<p>4. Guidelines</p> <p><u>Title 22</u> — Sec. 12.6, 14.143 — 20 U.S.C. — Sec. 1415(k) — 34 CFR — Sec. 300.530; — 300.536</p> <p><u>Title 22</u> — Sec. 14.143 — 34 CFR — Sec. 300.530</p> <p><u>Title 22</u> — Sec. 14.143 — 34 CFR — Sec. 300.530(e)</p>	<p><u>Suspension From School</u></p> <p>A student with a disability may be suspended for ten (10) consecutive and fifteen (15) cumulative days of school per school year, for the same reasons and duration as a student without a disability. Such suspension shall not constitute a change in the student’s educational placement. Also, use of interim alternative educational settings permitted by law does not constitute a change in educational placement for these purposes.<u>[4][5][9][10][12]</u></p> <p><u>Changes In Educational Placement/Manifestation Determinations</u></p> <p>For disciplinary exclusions which constitute a change in educational placement, the district shall first determine whether the student’s behavior is a manifestation of <u>his/her the student’s</u> disability. Expulsion, or exclusion from school for more than fifteen (15) cumulative days in a year, or patterns of suspensions for substantially identical behaviors constitute changes in educational placements requiring a manifestation determination. For students with an intellectual disability <u>per IDEA qualification</u>, any disciplinary suspension or expulsion is a change in educational placement.<u>[4][5]</u></p> <p>A student with a disability whose behavior is not a manifestation of his/her disability may be disciplined in accordance with Board policy, district rules and regulations in the same manner and to the same extent as students without disabilities.<u>[4][5][6][7]</u></p>

<p>— Pol. 218, 233</p>	<p><u>Parent/Guardian Appeals From Disciplinary Actions/Request For Hearing By District For Students Who Are A Danger To Themselves Or Others</u></p>
<p>— 20 U.S.C. — Sec. 1415(k) — 34 CFR — Sec. 300.532</p>	<p>A due process hearing may be requested by a parent/guardian of a student with a disability who disagrees with a disciplinary placement or manifestation determination, or by the district if the district believes that the current placement is substantially likely to result in injury to the student or others. On parent/guardian appeal, or when the district requests a due process hearing, the hearing officer may return the student to the placement from which s/he<u>the student</u> was removed or order his/her<u>the student's</u> removal to an appropriate interim alternative educational setting for up to forty-five (45) school days if the hearing officer determines that maintaining the child<u>student's</u> current placement is substantially likely to result in an injury to the student or others.[10][13]</p>
<p>— 20 U.S.C. — Sec. 1415(k) — 34 CFR — Sec. 300.533</p>	<p>Placement during appeals of disciplinary actions shall be in the interim alternative educational setting pending the decision of the hearing officer or expiration of the time period set for the disciplinary exclusion from the student's regular placement unless the district and the parent/guardian agree otherwise.[10][14]</p>
<p>— 20 U.S.C. — Sec. 1415(k) — 34 CFR — Sec. 300.534</p>	<p>Students Not Identified As Disabled/Pending Evaluation</p> <p>Students who have not been identified as disabled may be subject to the same disciplinary measures applied to students without disabilities if the district did not have knowledge of the disability. If a request for evaluation is made during the period the student is subject to disciplinary measures, the evaluation shall be expedited.[10][15]</p>
<p>— 20 U.S.C. — Sec. 1415(k) — 34 CFR — Sec. 300.530(g)</p>	<p><u>Administrative Removal To Interim Alternative Educational Setting For Certain Infractions</u></p> <p>School personnel may remove a student with a disability, including those with an intellectual disability <u>per IDEA qualification</u>, to an interim alternative educational setting for not more than forty-five (45) school days without regard to whether the behavior is determined to be a manifestation of the student's disability if the student:[5][10]</p>
<p>— 18 U.S.C. — Sec. 930 — 20 U.S.C. — Sec. 1415(k) — 34 CFR — Sec. 300.530(i) — Pol. 218.1</p>	<p>1. Carries a weapon to or possesses a weapon at school, on school property, or at school functions under the jurisdiction of the district. For purposes of this provision, weapon is defined as 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, except that such term does not include a pocket knife with a blade of less than two and one-half (2 ½) inches in length.[5][10][16][17]</p>

<p>—20 U.S.C. —Sec. 1415(k) —21 U.S.C. —Sec. 812(e) —34 CFR —Sec. 300.530(i) —Pol. 227</p> <p>—18 U.S.C. —Sec. 1365(h)(3) —20 U.S.C. —Sec. 1415(k) —34 CFR —Sec. 300.530(i)</p>	<p>2. Knowingly possesses or uses illegal drugs, as defined by law, or sells or solicits the sale of a controlled substance, as defined by law, while at school, on school property, or at school functions under the jurisdiction of the district.[5][10][18][19]</p> <p>3. Has inflicted serious bodily injury upon another person while at school, on school property, or at school functions under the jurisdiction of the district. For purposes of this provision, serious bodily injury means bodily injury which 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.[5][10][20]</p>
<p>—SC 1303-A —Title 22 —Sec. 10.2 —35 P.S. —Sec. 780-102</p>	<p><u>Referral To Law Enforcement and Reporting Requirements</u></p> <p>For reporting purposes, the term incident shall mean an instance involving an act of violence; the possession of a weapon; the possession, use, or sale of a controlled substance or drug paraphernalia as defined in the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act; the possession, use, or sale of alcohol or tobacco; or conduct that constitutes an offense listed under the Safe Schools Act.[21][22][23]</p>
<p>—SC 1302.1-A —Title 22 —Sec. 10.2, 10.21, —10.22, —10.23, —10.25, —14.104, —14.133 —20 U.S.C. —Sec. 1415(k) —34 CFR —Sec. 300.535 —Pol. 103.1, 113, —113.2, —113.3, 218, —218.1,</p>	<p>The Superintendent or designee shall immediately report required incidents and may report discretionary incidents committed on school property, at any school-sponsored activity or on a conveyance providing transportation to or from a school or school-sponsored activity by a student with a disability, including a student for whom an evaluation is pending, to the local police department that has jurisdiction over the school's property, in accordance with state and federal laws and regulations, the procedures set forth in the memorandum of understanding with local law enforcement and Board policies. The Superintendent or designee shall respond to such incidents in accordance with the district's Special Education Plan and, if applicable, the procedures, methods and techniques defined in the student's <u>Positive Behavior Support Plan</u>.[1][2][3][6][10][17][19][22][24][25][26][27][28][30][31][32][33][34][35]</p>

<p>218.2, 222, 227, 805.1</p>	
<p>Title 22 Sec. 10.23, 14.133 Pol. 113.2, 113.3</p>	<p>For a student with a disability who does not have a <u>Positive</u> Behavior Support Plan, subsequent to notification to law enforcement, the district shall convene the student’s IEP team to consider whether a <u>Positive</u> Behavior Support Plan should be developed to address the student’s behavior, in accordance with law, regulations and Board policies.[1][3][27][32]</p>
<p>Title 22 Sec. 10.2, 10.21, 10.22, 10.23 20 U.S.C. Sec. 1415(k)(6) 34 CFR Sec. 300.535 Pol. 113.4, 216, 805.1</p>	<p>When reporting an incident committed by a student with a disability to the appropriate authorities, the district shall provide the information required by state and federal laws and regulations and shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by these authorities. The district shall <u>ensure compliance with the Family Educational Rights and Privacy Act when transmitting</u> copies of the student’s special education and disciplinary records, only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.[10][22][25][26][27][30][35][36][37][38][39]</p>
<p>SC 1303-A Pol. 805.1</p>	<p>In accordance with state law, the Superintendent shall annually, by July 31, report to the Office for Safe Schools on the required form all new incidents committed by students with disabilities, including students for whom an evaluation is pending, which occurred on school property, at any school-sponsored activity or on a conveyance providing transportation to or from a school or school-sponsored activity.[21][35]</p>
	<p>References: 1. 22 PA Code 14.133 2. Pol. 113 3. Pol. 113.2 4. 22 PA Code 14.143 5. 34 CFR 300.530 6. Pol. 218 7. Pol. 233 8. Pol. 832 9. 22 PA Code 12.6 10. 20 U.S.C. 1415 11. 20 U.S.C. 1412 12. 34 CFR 300.536 13. 34 CFR 300.532 14. 34 CFR 300.533 15. 34 CFR 300.534 16. 18 U.S.C. 930 17. Pol. 218.1</p>

18. 21 U.S.C. 812
19. Pol. 227
20. 18 U.S.C. 1365
21. 24 P.S. 1303-A
22. 22 PA Code 10.2
23. 35 P.S. 780-102
24. 24 P.S. 1302.1-A
25. 22 PA Code 10.21
26. 22 PA Code 10.22
27. 22 PA Code 10.23
28. 22 PA Code 10.25
29. 22 PA Code 14.104
30. 34 CFR 300.535
31. Pol. 103.1
32. Pol. 113.3
33. Pol. 218.2
34. Pol. 222
35. Pol. 805.1
36. 20 U.S.C. 1232g
37. 34 CFR Part 99
38. Pol. 113.4
39. Pol. 216
24 P.S. 510
20 U.S.C. 1400 et seq
34 CFR Part 300

~~School Code—24 P.S. Sec. 510, 1302.1-A, 1303-a~~

~~PA Controlled Substance, Drug, Device and Cosmetic Act—35 P.S. Sec. 780-102~~

~~State Board of Education Regulations—22 PA Code Sec. 10.2, 10.21, 10.22, 10.23, 10.25, 12.6, 14.104, 14.133, 14.143~~

~~Crimes Code, Possession of Firearms and Dangerous Weapons—
 —18 U.S.C. Sec. 930~~

~~Crimes Code, Definition, Serious Bodily Injury—18 U.S.C. Sec. 1365(h)(3)~~

~~Individuals With Disabilities Education Act—20 U.S.C. Sec. 1400 et seq.~~

~~Controlled Substances Act—21 U.S.C. Sec. 812~~

~~Individuals With Disabilities Education Act, Title 34, Code of Federal Regulations—~~

113.1. DISCIPLINE OF STUDENTS WITH DISABILITIES - Pg. 7

~~34 CFR Part 300~~

~~Board Policy 103.1, 113, 113.2, 113.3, 218, 218.1, 227, 233, 805.1~~