

Monroe 2-Orleans BOCES Policy
Series 7000 – Instruction
Policy #7121 – DISCIPLINE OF STUDENTS WITH DISABILITIES

Generally, should a student with a disability infringe upon the established rules of BOCES, disciplinary action shall be in accordance with procedures set forth in the Student Conduct and Discipline Code and in conjunction with applicable law and the determination of the Committee on Special Education which could include removal from school.

If such removal is in excess of ten (10) cumulative days or otherwise constitutes a change in placement because it is for more than ten (10) consecutive school days or constitutes a pattern, of a student with a disability, or disciplinary action is contemplated against a student with a disability as a result of a student's possession of a weapon or drugs, or inflicts serious bodily injury upon another person while at BOCES or on BOCES premises or at a BOCES function, the Committee on Special Education (CSE) shall, to the extent required by current applicable federal and state law, conduct a review of the relationship between the child's disability and the behavior subject to the disciplinary action. The home district will determine if a pattern of removals constitutes a change in placement which is subject to due process and judicial reviews. If it is determined, as a result of this review, that the student's behavior is not a manifestation of his/her disability, the relevant disciplinary procedures applicable to students without disabilities may be applied to the student in the same manner in which they would be applied to students without disabilities, subject to the parent/guardian's right to request a hearing objecting to the manifestation determination and the home school district's obligation to provide a free, appropriate public education to such student.

If it is determined that the student's behavior is a manifestation of his/her disability, the student may not be removed from the current placement unless in accordance with law. If the team determines the conduct in question, was the direct result of failure to implement the IEP, the home district must take immediate steps to remedy those deficiencies. The student shall be referred to the CSE for program modification. The CSE will conduct a functional behavioral assessment if one has not been conducted.

Provision of Services Regardless of the Manifestation Determination

Regardless of the manifestation determination, students with a disability shall be provided the services necessary for them to continue to participate in the general education curriculum and progress toward meeting the goals set out in their IEP, as determined and implemented by the home district. They must also receive, as appropriate, a functional behavioral assessment, behavioral intervention services and modifications designed to address the behavior violation so it does not recur:

- a) For suspensions for up to ten (10) school days in a school year that do not constitute a change in placement;
- b) For subsequent suspensions for periods of ten (10) consecutive school days or less in the aggregate total more than ten (10) school days in a school year, but do not constitute a disciplinary change in placement;
- c) For suspensions for periods in excess of ten (10) school days in a school year which do not constitute a disciplinary change in placement.

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- d) For suspensions or other disciplinary removals in excess of ten (10) school days in a school year which do constitute a disciplinary change in placement the IAES and services will be determined by the CSE.

Interim Alternative Educational Setting (IAES)

Students with disabilities who have been suspended or removed from their current placement for more than ten (10) school days may be placed in an IAES which is a temporary educational setting other than the student's current placement at the time the behavior precipitating the IAES placement occurred.

Additionally, an Impartial Hearing Officer in an expedited due process hearing may order a change in placement of a student with a disability to an appropriate IAES for up to forty-five (45) school days if the Hearing Officer determines that maintaining the current placement is substantially likely to result in injury to the students or others.

NOTE: Refer also to Policies #6210 -- Student Conduct, #6212 -- Student Suspension and #6216 -- Student Discipline.

Education Law Section 3214
8 New York Code of Rules and Regulations
(NYCRR) Section 100.2(1)

Policy References:

Refer also to Policies #6210 -- Student Conduct, #6212 -- Student Suspension and #6216 -- Student Discipline.

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