



Disciplinary Removal of Students with Disabilities

Questions and Answers for Career and Technology Education Personnel

1. What should a technology center do when a student with a disability is exhibiting challenging behaviors?

If a student with a disability exhibits behaviors that interfere with his/her learning or the learning of others, a technology center representative should request an IEP/504 meeting to discuss the behavior. The team must consider implementing strategies, including positive behavioral supports and interventions, Functional Behavior Assessments and Behavior Intervention Plans to address the behavior.

2. What is a disciplinary removal?

The term “disciplinary removal” refers to every out-of-school suspension and any other disciplinary consequence that can change the educational placement of a student with a disability. Disciplinary removals can include placement in an in-school setting or suspension from school transportation. A long-term disciplinary removal refers to removal for 10 or more consecutive days in a school year.

3. When does a disciplinary removal constitute a change of placement?

A disciplinary removal constitutes change of placement when the disciplinary removal exceeds 10 consecutive school days or when a series of short-term disciplinary removals constitutes a pattern of exclusion. School personnel determine whether a pattern exists by considering all of the following factors:

- Do the removals total more than 10 school days in a school year?
- Is the student’s behavior substantially similar to his/her behavior in the previous incidents that resulted in the removal?
- How long was each removal?
- What is the total amount of time the student has been removed from school?
- How far apart in time were the removals?

4. Why does it matter whether a disciplinary removal constitutes a change of placement?

It is important because a change of placement is legally permissible only through the team process. The student’s team must act before the local school district or technology center can change the student’s placement.

5. How does the technology center implement a short-term disciplinary removal of a student with a disability?

A technology center determines appropriate discipline for all students according to its Code of Student Conduct. (If the IEP/504 team included specific disciplinary consequences in a student’s IEP/504 plan, then the campus administrator or designee must consult that document.)

A technology center may implement a disciplinary removal of a student with a disability from his or her current educational placement for up to 10 school days in a school year for any violation of its policies, rules or regulations to the same extent it would for any other student.

The campus administrator or designee administers the initial disciplinary process the same way he/she would administer it for a nondisabled student. A student with a disability gets the same due process that a nondisabled student receives.

When a series of short-term disciplinary removals constitutes a pattern of exclusion, as discussed above, the technology center must follow the process described in questions 7, 12 and 13 for a long-term disciplinary removal. The pattern of exclusion constitutes a change of placement for which extra procedural safeguards are necessary.

6. Must the technology center provide educational services during short-term disciplinary removal?

The technology center must provide a student with a disability the same level of services it provides other students when the disabled student is removed from placement for disciplinary reasons for 10 or fewer school days throughout the school year.

During any subsequent removal of 10 or fewer consecutive school days that does not constitute a change of placement, the technology center, in conjunction with the local school district, must provide the student with the necessary services to appropriately progress in the general education curriculum and appropriately advance toward achieving IEP goals. The IEP/504 team, including a representative from the technology center, will decide the extent to which services are necessary in the student's career and technology education program.

7. Can a technology center implement a long-term disciplinary removal of a student with a disability?

Yes. A technology center can implement a long-term disciplinary removal of a student with a disability for behavior that is not a manifestation of the student's disability in the same manner it disciplines nondisabled students. A technology center can also remove a student to an interim alternative educational setting for not more than 45 school days regardless of whether the behavior is a manifestation of the student's disability, if the situation meets any of these criteria:

- a. The student carries or possesses a dangerous weapon at the technology center, on the technology center premises or to or at a technology center function.
- b. The student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance at the technology center, on the technology center premises or at a technology center function.
- c. The student has inflicted serious bodily injury upon another person while at the technology center, on the technology center premises or at a technology center function.

The technology center must notify the student's parent(s) of the disciplinary action and all applicable procedural safeguards under state and federal law and technology center policy no later than the date on which the technology center imposes disciplinary action.

8. What is considered a dangerous weapon?

A dangerous weapon is 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 does not include a pocket knife with a blade of less than 2.5 inches long.

9. What is the definition of illegal use of drugs?

Illegal use of drugs is the unlawful use, possession or distribution of substances identified under the Controlled Substances Act. It does not include the use of a drug taken under supervision of a licensed health care professional.

10. What is considered a controlled substance?

A controlled substance is any drug so designated by law, for instance, by the federal Controlled Substances Act, whose availability is restricted. Included in such classifications are narcotics, stimulants, depressants, hallucinogens and marijuana.



11. What is the definition of serious bodily injury?

Serious bodily injury involves any of the following criteria:

- a. A substantial risk of death.
- b. Extreme physical pain.
- c. Protracted and obvious disfigurement.
- d. Protracted loss or impairment of the function of a bodily member, organ or mental faculty.

12. How does a technology center implement a long-term disciplinary removal?

The student's team must meet no more than 10 school days after the technology center imposes either of these two things:

- a. A disciplinary removal of more than 10 consecutive school days.
- b. The last short-term disciplinary removal in a series of short-term disciplinary removals that constitutes a pattern of exclusion throughout the school year.

The meeting is required because such disciplinary removals constitute a change of placement for the student. When the technology center imposes such a disciplinary removal, it should ask the local school district to convene a team meeting. If the local school district fails or refuses to do so, the technology center should convene a meeting in compliance with the requirements of Section 504.

At the meeting, the team will develop an FBA plan for the student, if the local school district did not conduct an FBA and develop a BIP before the behavior that resulted in the removal. As soon as possible after developing the assessment plan and completing the assessments, the local school district should convene another IEP team meeting to develop and implement the appropriate behavioral interventions. If the student already has a BIP, the team will meet to review and modify the BIP and its implementation as necessary to address the behavior.

In addition, no later than 10 school days after the technology center imposed the disciplinary removal, the team must meet to conduct a manifestation determination. In the manifestation determination, the team reviews the relationship between the student's disability and the behavior that is the subject of disciplinary action.

Two separate meetings are unnecessary. The team may develop the student's FBA plan or review the student's BIP and conduct the manifestation determination at the same meeting.

13. What educational services must a technology center provide during long-term disciplinary removal?

During long-term disciplinary removal, the student must be able to continue to appropriately progress in the general education curriculum and receive the services and modifications, including those identified in the student's IEP/504, that will enable him or her to achieve goals. An alternative educational setting must also include services and modifications designed to address the behavior that led to the placement change so that the behavior does not recur.

For behavior that is not a manifestation of the student's disability, the technology center, in conjunction with the local school district, must provide services to the extent necessary to enable the student to appropriately progress in the general education curriculum and appropriately advance toward achieving the goals in the student's IEP/504. The team will decide the extent to which services are necessary.

Certain services ordinarily provided to the student by the local school district or technology center may be difficult or even impossible to provide outside the regular education setting. In that case, the team must decide how the entities involved might offer services to the student in an effort to accomplish these objectives.

14. What are the procedures for a manifestation determination?

The team members will meet to consider all relevant information related to the behavior subject to disciplinary action, including the following:

- a. Information supplied by the student's parents.
- b. Teacher observations of the student.
- c. The student's IEP and placement.

The team must determine the following:

- a. Was the conduct in question caused by or have a direct and substantial relationship to the student's disability?
- b. Was the conduct in question a direct result of failure to implement the IEP?

If the team determines that either a or b is applicable, the conduct is a manifestation of the student's disability. If the behavior is a manifestation of the student's disability, then the local school district or technology center cannot impose discipline that constitutes a change of placement.

If the team identifies deficiencies in the student's IEP/504 or its implementation, the technology center and/or local school district must take immediate steps to remedy the deficiencies.

15. What should a technology center do if the team determines that the student's behavior is not a manifestation of his/her disability?

If the team determines that the student's behavior is not a manifestation of his or her disability, the technology center can apply the disciplinary procedures applicable to all students in the same manner they would be applied to nondisabled students, subject to the requirement that the student continue to receive an appropriate public education.

16. If the local school district initiates a disciplinary removal that constitutes a change of placement, what role does the technology center play in the process?

If the local school district initiates a disciplinary removal of a student and schedules an IEP team meeting to discuss the removal, technology center personnel should participate in the meeting. If the technology center reciprocates the removal for the behavior, it may need to provide educational services to the student during the removal, as discussed in Question 13.

17. Is there a legal impediment to a technology center honoring an out-of-school suspension imposed by a local school district for an offense that involved only the local school district?

The debate continues on the legality of reciprocal out-of-school suspensions. Courts have not resolved the issue. A student subject to a reciprocal out-of-school suspension imposed by a technology center under those circumstances, however, could challenge the out-of-school suspension as a violation of his or her procedural due process rights. A better practice is for the technology center to evaluate the misconduct under its own policies and procedures for any out-of-school suspension it may seek to honor.

In special education matters, reciprocal out-of-school suspensions present even more complicated issues. When a technology center honors an out-of-school suspension imposed by the local school district, whether or not the technology center provides the student procedural due process, it might be responsible for providing educational services to the student during the term of the suspension. Each technology center should examine its policy and procedures concerning reciprocal out-of-school suspensions to address these issues and should consult legal counsel.



OKLAHOMA DEPARTMENT OF CAREER AND
TECHNOLOGY EDUCATION

Counseling and Career Development
1500 West Seventh Avenue
Stillwater, OK 74074-4398
800-522-5810