

R 2460.7 SPECIAL EDUCATION - FREE AND APPROPRIATE
PUBLIC EDUCATION

A free and appropriate public education is available to all pupils with disabilities between the ages of three and twenty-one including pupils with disabilities who have been suspended or expelled from school.

Procedures regarding the provision of a free and appropriate public education to pupils with disabilities who are suspended or expelled are as follows:

1. School officials responsible for implementing suspensions/expulsions in the district are the following: (List school officials/designees by district organizational level.)
 - a. 6-8 Principal/designee;
 - b. K-5 Principal/designee
2. Each time a pupil with a disability is removed from his/her current placement for disciplinary reasons, notification of the removal is provided to the case manager by the Principal or designee. (Notification must be in written format for documentation - Attach form)
3. Each Principal or designee will ensure that a system is in place to track the number of days a pupil with disabilities has been removed for disciplinary reasons. Documentation will include: (Attach form)
 - a. Pupil's name;
 - b. The infraction;
 - c. Time suspended; and
 - d. The cumulative days suspended for the same type of offense including removal for a portion of the school day which is counted proportionately.

4. When a pupil is suspended from transportation:
 - a. Suspension from transportation is not counted as a day of removal if the pupil attended school.
 - b. Suspension from transportation is counted as a day of removal if the school district does not make available an alternate means of transportation and the pupil does not attend school.
 - c. Suspension from transportation may be counted as a day of absence rather than a day of removal if the district made available an alternate means of transportation and the pupil does not attend school.
5. When a pupil with a disability participates in an in-school suspension program, the Principal or designee shall ensure that participation in the program is not counted as a day of removal if the program meets the following criteria:
 - a. The pupil has the opportunity to progress in the general curriculum,
 - b. Services and modifications specified in the pupil's IEP can be provided in the in-school suspension program,
 - c. Interaction with non-disabled peers to the extent they would have in the current placement, and
 - d. The pupil is counted as present for the time spent in the in-school suspension program.
6. When a series of short-term removals accumulate to more than ten school days in the year:
 - a. The Principal/Vice Principal or designee and the case manager will consult to determine whether the removals create a change of placement according to N.J.A.C. 6A:14-2.8(b)2. Written documentation of the consultation shall be maintained by the case manager.

- b. If it is determined that there **is no** change in placement, the Principal/Vice Principal or designee and the case manager, and special education teacher will consult to determine the extent to which services are necessary to:
- (1) Enable the pupil to progress appropriately in the general education curriculum;
 - (2) Advance appropriately toward achieving the goals set out in the pupil's IEP; and
 - (3) Written documentation of the consultation and services provided is maintained in the pupil's file.
 - (4) The case manager will schedule a meeting of the IEP team to review and if indicated, revise the pupil's behavior intervention plan (BIP).
 - (a) If the pupil does not have a BIP, a functional behavior assessment (FBA) will be conducted.
 - (b) A BIP will be developed based on the outcome of the FBA and all relevant staff will receive training regarding its requirements.
- c. If it is determined that there **is** a change in placement, the case manager will schedule an IEP Team meeting to conduct a manifestation determination.
- (1) If the manifestation determination concludes that the pupil's behavior was not related to his disability, the pupil may be suspended per 6(b) 1-4 above.

- (2) If the pupil's behavior is deemed to be a direct result of his/her disability, he/she may not be suspended and the following must occur:
 - (a) The case manager will schedule an IEP Team meeting to:
 - i. Review the pupil's BIP or if the pupil does not have one, conduct an FBA and then develop a BIP.
 - ii. The IEP Team will review the pupil's current placement and identify possible changes that may more appropriately meet the pupil's needs.
7. All suspensions of more than ten **consecutive days** are automatically considered a change in placement and the following must occur:
 - a. A meeting of the Principal/Vice Principal or designee and the IEP Team (including the parent or guardian) must be scheduled prior to the suspension.
 - (1) A manifestation determination must be conducted.
 - (a) If the behavior is deemed related to the pupil's disability, the pupil may not be suspended and the IEP Team can discuss changes to the pupil's program at the meeting.
 - i. The IEP Team must also review the pupil's BIP or conduct an FBA.
 - (b) If the behavior is deemed unrelated to the pupil's disability, he/she may be suspended per 6(b) above.

8. Per IDEIA 2004, under the following circumstances, a district may remove a pupil to an Interim Alternative Education Setting (IAES) for up to forty-five school days regardless of whether his/her behavior is related to his disability:
 - a. Offenses involving the use or distribution of illegal drugs on school property;
 - b. Offenses involving weapons; and
 - c. Offenses in which the pupil inflicts serious bodily injury.
9. An office of Administrative Law Judge may also order a pupil to an IAES for up to forty-five days if the pupil's behavior is likely to inflict harm to himself/herself or others.
10. For both 8 and 9 above, the district must still follow the steps outlined in 6(c) 1-2 above.

The case manager will document the date and the outcome of the meeting (Attach any relevant forms).

The documentation will be placed in the pupil's file.

Procedures Regarding the Provision of a Free and Appropriate Public Education to Preschool Age Pupils with Disabilities

To ensure that preschoolers with disabilities have their initial IEP's implemented no later than age three, a written request for an initial evaluation shall be forwarded to the district at least one hundred twenty days prior to the child's third birthday per N.J.A.C. 6A-14:3.3(e)2.

The following procedures will be followed:

1. A parent of a preschool-age pupil suspected of having a disability, who requests a Child Study Team (CST) evaluation by telephone, will be advised to submit a written request for an evaluation to the Supervisor of Special Education;

2. Upon receipt of the written request the request shall be dated and signed by the recipient and forwarded to the Supervisor of Special Education;
3. A file will be initiated for the potentially disabled preschooler (Attach any forms used to open a case);
 - a. The case manager will convene a planning meeting within twenty calendar days (excluding school holidays but not summer vacation) of the date recorded on the request;
 - b. A "Notice of Planning Meeting" (Identification Meeting) will be sent to the parent(s) (Identify Form);
 - c. The notice will contain "Parental Rights in Special Education" (PRISE) Booklet;
 - d. The meeting will be attended by the CST, including a speech language specialist, the parent(s), and a teacher who is knowledgeable about the district's program; and
 - e. If the child is eligible for special education and related services, a program shall be in place no later than ninety calendar days from the date of consent.

Procedures Involving Procedural Safeguards to Pupils Not Yet Eligible For Special Education

Disciplinary procedural safeguards will apply to pupils not yet eligible for special education. Parent(s) or legal guardian(s) and/or adult pupils may assert any of the protections of the law if the district had knowledge the pupil was a pupil with a disability before the behavior that precipitated the disciplinary action occurred.