

Exhibit FFK-E2 ~ Suspension and Expulsion of Special Education Students Exhibit

Definitions:

- **Change of Placement:** Occurs if the removal is for more than 10 consecutive school days, or the child is subjected to a series of removals that constitute a pattern because they cumulate to more than 10 school days in a school year, and because of the length of each removal, the total amount of time the child is removed, and the proximity of the removals to one another.
- **Controlled substance** means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).
- **Illegal drug** means a controlled substance; but does not include a substance that is legally possessed or used under the supervision of a licensed healthcare professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.
- **Weapon** has the meaning given the term “dangerous weapon” under paragraph 2 of the first subsection (g) of section 930 of title 18, United States Code.

Suspension:

1. Students with disabilities may be suspended for a period not to exceed ten consecutive school days for any conduct that would warrant suspension for a student who does not have a disability.
2. The designated building administrator will review the student’s educational record to ascertain if the Individual Education Plan (IEP) addresses the behavior in question. If the IEP does address the behavior, the procedure specified in the IEP should be followed.
3. If the IEP does not address the behavior, the suspension may be effected immediately upon the decision of the designated building administrator.
4. Administration must make and document efforts to contact and notify the parent prior to the suspension. In any suspension of a student with a disability, the student's parent or representative shall be given oral or written notice of the charges, an explanation of the evidence supporting the charges, and an informal opportunity to respond to and rebut the charges.

5. A student with disabilities may be suspended for additional periods of up to ten consecutive school days for separate acts of misconduct as long as such removals do not constitute a change of placement.
6. Educational services must be provided in cases of removals (suspensions) in excess of ten days in a school year. The services are to be provided to the extent determined necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals of his/her IEP. The [title] in consultation with the student's special education teacher shall make the service determination.
7. If a child with a disability who has a behavioral intervention plan, has been removed from the child's current educational placement for more than 10 school days in a school year, and is subjected to another removal that does not constitute a change of placement, the IEP team members shall review the behavioral intervention plan and its implementation to determine if modifications are necessary.

Change of Placement:

For any disciplinary change in a special education student's placement, the IEP team must:

1. If the District did not conduct a functional behavioral assessment and implement a behavioral intervention plan for the child before the behavior that resulted in the removal, the District shall convene an IEP meeting to develop an assessment plan. As soon as practicable after developing the plan and completing the assessments required by the plan, the District shall convene an IEP meeting to develop appropriate behavioral interventions to address that behavior and shall implement those interventions.
2. If the child already has a behavioral intervention plan, the IEP team shall meet to review the plan and its implementation, and, modify the plan and its implementation as necessary, to address the behavior.
3. If one or more of the IEP team members believe that modifications are needed to the behavioral intervention plan, the team shall meet to modify the plan and its implementation, to the extent the team determines necessary.

Manifestation Determination:

In addition to the behavioral intervention meeting, the IEP team must make a manifestation determination for disciplinary changes in a special education student's educational placement using the following procedures:

- 1. Not later than the date on which the decision to take alternative placement action is made, the parents must be notified of the placement decision and provided the procedural safeguards notice described in 34 C.F.R. 300.504;**
- 2. Immediately, if possible, but in no case later than 10 school days after the date on which the decision to take that action is made, a review must be conducted of the relationship between the child's disability and the behavior subject to the disciplinary action. The review must be conducted by the IEP team and other qualified personnel in a meeting.**
- 3. In carrying out a review, the IEP team and other qualified personnel may determine that the behavior of the child was not a manifestation of the child's disability only if the IEP team and other qualified personnel:**
 - a. First consider, in terms of the behavior subject to disciplinary action, all relevant information, including: evaluation and diagnostic results, including the results or other relevant information supplied by the parents of the child; observations of the child; and the child's IEP and placement.**
 - b. Then determine that in relationship to the behavior subject to disciplinary action, the child's IEP and placement were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the child's IEP and placement; the child's disability did not impair the ability of the child to understand the impact and consequences of the behavior subject to disciplinary action; and the child's disability did not impair the ability of the child to control the behavior subject to disciplinary action.**
- 4. If the IEP team and other qualified personnel determine that any of the above standards were not met, the behavior must be considered a manifestation of the child's disability and the disciplinary change cannot be imposed.**

5. The review described above may be conducted at the same IEP meeting that is convened to create/review the behavioral intervention plan.
6. If the District identifies deficiencies in the child's IEP or placement or in their implementation, it must take immediate steps to remedy those deficiencies.

Expulsion:

1. An expulsion may be effected for a student with a disability for any conduct which would warrant expulsion for a student without a disability.
2. Prior to expulsion, the IEP Team will meet to create/review the behavioral intervention plan and make a manifestation determination as described above.
3. If the IEP Team determines that the misbehavior is a manifestation of the disability, the student may not be expelled.
4. A student with a disability must continue to receive a free appropriate public education whether or not they are expelled. The District has an obligation to continue to provide educational services during the time of any expulsion of a special education student, with the manner in which the services are provided to be determined by the IEP Team.
5. A student with a disability for whom expulsion has been recommended is entitled to all the due process rights available to a student without a disability for whom expulsion has been recommended. In addition, the student with a disability is entitled to all the due process procedures available to a student with a disability under the Individuals with Disabilities Education Act and applicable state policies and procedures.

Interim Alternative Placement:

A special education student who has carried a weapon to school or to a school function, knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance while at school or a school function under the jurisdiction of a State or local educational agency or has inflicted serious bodily injury upon another person while at school, on school premises or at a school function under the jurisdiction of a State or local education agency may be removed from his or her current placement. Such a student may be placed in an appropriate interim alternative placement for the same amount of time that a child without a

disability would be subject to discipline but for not more than 45 school days.

A continuation of the removal for an additional 45 school days may be granted if returning the student to the original placement is substantially likely to result in injury to the student or others. The IEP Team determines the location of the interim alternative education setting.

EXHIBIT