



SPECIAL EDUCATION REMOVALS FOR DISCIPLINARY PURPOSES

Category 1	Category 2	Category 3	Category 4
Less Than 10 Days	More Than 10 Cumulative Days No Change In Placement	More Than 10 Cumulative Days Change In Placement	More Than 10 Consecutive Days
<p>Disciplinary Action: Disabled student may be disciplined in the same manner as a non-disabled student. 34 C.F.R. § 300.530(d)</p> <p>Educational Services: School district need only provide educational services to a disabled student if the services are offered to non-disabled students. 34 C.F.R. § 300.530(d)</p>	<p>Disciplinary Action: Disabled student may be disciplined in the same manner as a nondisabled student.</p> <p>Educational Services: On the 11th day of removal, school personnel must consult with at least one of the student's teachers to determine the extent to which special education services must be provided to enable the student to continue to participate in general education curriculum (although in a different setting) and progress toward meeting the goals delineated in the student's IEP. 34 C.F.R. § 300.530(d)(4).</p>	<p>Disciplinary Action: If the behavior is not a manifestation of the student's disability, the student may be disciplined as a general education student. 20 U.S.C. § 1415(k)(1)(C); 34 C.F.R. § 300.530(c)</p> <p>If the behavior is a manifestation of the student's disability, the school district must conduct a functional behavioral assessment and implement a behavioral intervention plan (provided that the school district had not conducted such assessment prior to the determination before the behavior resulted in a change of placement), and return the student to the previous placement unless the school district and parent agree to a change of placement or the student is placed in an interim alternative educational setting. If student already has a behavioral intervention plan, the IEP team must review and modify it, as necessary, to address the behavior. 20 U.S.C. § 1415(k)(1)(F); 34 C.F.R. § 300.530(f)</p> <p>Educational Services: On the 11th day of removal, the IEP team must decide on services to (1) enable the student to continue to participate in general education curriculum, (2) progress toward the IEP goals, and (3) receive a functional behavioral assessment, as appropriate, and behavioral intervention services and modifications. 20 U.S.C. § 1415(k)(1)(D); 34 C.F.R. § 300.530(b)(2)</p>	
	<p>Determine Whether Removal Constitutes change in Placement: School district must determine whether a series of removals constitutes a change in placement. Must consider the length of each removal, whether the behavior in each incident is substantially similar, total time removed, and proximity in time of removals. Must be determined on a case-by-case basis. 20 U.S.C. § 1415 (k)(1)(A); 34 C.F.R. §§ 300.530, 300.536.</p> <p>Interim Alternative Educational Setting: School officials may remove a student to an interim alternative educational setting for no more than 45 school days regardless of whether the behavior was a manifestation of the student's disability if the student:</p> <ol style="list-style-type: none"> 1. carried or possessed a weapon on the way to or at school, on school premises, or to/or at a school function; 2. knowingly possessed or used illegal drugs, or sold or solicited the sale of a controlled substance, while at school, on school premises or at a school function; or 3. has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function. <p>The IEP team must determine the interim alternative education setting. 20 U.S.C. §§ 1415(k)(1)(G), 1415(k)(2); 34 C.F.R. § 300.530(g)</p>		
		<p>Manifestation Determination: Within 10 days of the decision to change the student's placement for disciplinary reasons, the school district, parent, and relevant IEP team members must meet to determine whether the student's conduct was:</p> <ol style="list-style-type: none"> 1. caused by, or had a direct and substantial relationship to, the student's disability; or 2. the direct result of the school district's failure to implement the IEP. <p>The parents and the school district determine who qualifies as "relevant IEP team members." The team conducting the manifestation determination must review all relevant information in the student's file, including the student's IEP, teacher observations, and any relevant information provided by the parent. 20 U.S.C. § 1415(k)(1)(E); 34 C.F.R. § 300.530(e)</p>	

Suspendable and Expellable Offenses

Students may be suspended or recommended for expulsion if the student has committed one of the following offenses:

- Caused, attempted to cause, or threatened to cause physical injury to another person.
- Willfully used force or violence upon the person of another, except in self-defense.
- Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object.
- Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, any controlled substance.
- Unlawfully offered, arranged, or negotiated to sell any controlled substance.
- Committed or attempted to commit robbery or extortion.
- Caused or attempted to cause damage to school or private property.
- Stolen or attempted to steal school or private property.
- Possessed or used tobacco or any tobacco product.
- Committed an obscene act or habitual profanity.
- Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia.
- Disrupted school activities or otherwise willfully defied valid authority.
- Knowingly received stolen school or private property.
- Possessed an imitation firearm.
- Committed or attempted to commit a sexual assault or committed sexual battery.
- Harassed, threatened, or intimidated a pupil witness in order to prevent testimony or to retaliate for giving testimony.
- Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.
- Engaged in, or attempted to engage in, hazing.
- Engaged in an act of bullying, including, but not limited to, bullying committed by means of an electronic act, directed specifically toward a student or school personnel.
- Sexual harassment.
- Hate violence, if the student is in grades 4 through 12.
- Intentionally engaged in harassment, threats, or intimidation that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting, creating substantial disorder, or invading rights.
- Made terrorist threats against school officials or school property.

AUTHORITY: Ed. Code §§ 48900; 48900.2; 48900.3; 48900.4; 48900.7

Mandatory Recommendation for Expulsion

Administration must immediately suspend and recommend expulsion of a student who commits one of the following offenses, either on school grounds or at an off-campus school-sponsored event:

- Possessing, selling or furnishing a firearm.
- Brandishing a knife at another person.
- Unlawfully selling a controlled substance.
- Committing or attempting to commit a sexual assault or committing sexual battery.
- Possessing an explosive.

The governing board shall order a pupil expelled upon finding that the pupil committed one of these acts.

AUTHORITY: Ed. Code § 48915(c).

Mandatory Unless Inappropriate Recommendation for Expulsion

Administration must recommend expulsion of a student who commits one of the following offenses unless it believes the expulsion is inappropriate due to the particular circumstance:

- Causing serious physical injury to another person, except in self-defense.
- Possession of a knife or other dangerous object.
- Unlawful possession of any controlled substance (except the first offense of possession of less than one ounce of marijuana).
- Robbery or extortion.
- Assault or battery upon a school employee.

The governing board may order a pupil expelled upon finding that the pupil committed one of these acts if it finds that (1) Other means of correction are not feasible or have repeatedly failed to bring about proper conduct; or (2) Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

AUTHORITY: Ed. Code § 48915(a).