

Morgan Hill Unified School District  
Department of Special Education

Discipline Procedures for IDEA and 504 Students  
And  
Procedures for IDEA/504 Students Recommended for Expulsion

**I. Procedures for tracking Special Education/504 students**

Each school site shall color code Student Behavior files **RED** for Special Education students (includes students receiving DIS services only) and 504 students.

**II. BEHAVIORAL SUPPORT PLAN (BSP)**

• **For Special Education and 504 Students**

Special Education students and 504 students shall have a Behavioral Support Plan (BSP) developed when the following occurs:

1. Student receives ten (10) Level A Referrals or
2. Student receives two (2) Level B Referrals or
3. Student receives one (1) Level C Referrals [if a formal recommendation not to expel is made, a BSP is required]

Once a BSP has been developed for any of the reasons above, it must be reviewed or considered for review should the student receive additional referrals, especially for repeated behaviors, for those behaviors that may result in a recommendation for expulsion, or if the BSP has been unsuccessful or requires revision.

• **Always notify your school psychologist and the Special Education Department.**

The school site should have documentation accrued for at least 3 to 6 weeks of interventions implemented and corresponding results, prior to the development of a BSP, unless a single incident warrants possible or future recommendation for expulsion (e.g., violent acts, sexual acts)

The school site administration will be responsible for notifying Department of Special Education staff if assistance is needed to develop an appropriate BSP or Functional Behavioral Assessment. It is recommended that the BSP be developed within 10 days of the 10<sup>th</sup> level A referral, 2<sup>nd</sup>, level B referral, or 1<sup>st</sup> level C referral.

- **If the behavior in question is considered an offense for which a repeated incident will not necessitate a recommendation for expulsion, the BSP may be delayed; however, there must be total agreement from the site administration, parent, special education teacher, general education teacher, and school psychologist (with coordination with the Department of Special Services Director). This decision will need to be documented at and IEP meeting or 504 meeting.**

The school site shall notify parents of the BSP meeting using the IEP notice of meeting form or the 504 notice of meeting form, including the 10 day waiver of notification for IDEA students, and always provide a copy of the Parent Rights/Procedural Safeguard for Special Education Students or the Parent Rights/Procedural Safeguards for 504 Students.

- If the student is at least age 18 (reached the age of majority), parents may be noticed only if they have a conservatorship for the student or if the student consents; otherwise, we must deal directly with the student.

Parents must be notified of the BSP meeting; however, the meeting may occur in the absence of the parents. It is the school's responsibility to mail the results of the meeting to the parent, if the parent does not attend. The original copy of the BSP/IEP or BSP/504 must be given to the Department of Special Education to be kept in their official file.

### **III. Manifestation Determination Meetings for Student Recommended for Expulsion**

#### **A. Definition**

- A Manifestation Determination IEP/504 meeting must be held for students who qualify for services under IDEA or Section 504. Under IDEA, this would include students receiving Designated Instruction Services only (e.g., speech, APE, vision, hearing).
- The expulsion recommendation may not proceed, until the IEP/504 Meeting has been held and a determination made that the discipline was **neither a direct or substantial manifestation of the student's disability nor a result of the IEP/504 not being implemented.**

#### **B. Notice of Disciplinary Action for IDEA/504 students recommended for expulsion or the 10<sup>th</sup> day of suspension**

- For IDEA students who are recommended for expulsion, the law requires that the parent/guardian receive "NOTICE" **on the date the decision is made to take disciplinary action (the date the referral is written or the date in which the determination was made to recommend expulsion).** The school site shall complete the Notification of Disciplinary Action form and attach the appropriate Procedural Safeguards/Parent Rights.

#### **C. Purpose of Manifestation Meeting**

- To determine if the IDEA or 504 student's behavior was a direct and substantial manifestation of the student's disability/handicap.
- To determine that the IEP (including the BSP, except for single incidents) or the 504 Accommodation Plan was in place and being implemented.
- To develop a Behavioral Support Plan (BSP) or review existing plan.
- To determine if the child understood his/her behavior and could control the behavior.

#### **D. Notice of Manifestation Meeting and Procedures**

- A Manifestation Determination meeting shall be held no later than 10 school days after the date the decision to take disciplinary action is made.

- The school site shall notify the Department of Special Services and set a date when the psychologist/director, service providers, special education teachers, general education, and parent can attend the Manifestation Determination meeting.
- The school administrator shall ensure the behavior record or incident warranting the decision for a recommended expulsion has been inputted in SASI.
- At least 48 hours before the meeting date, parents should receive the following:
  - a. Notice to Parent of Manifestation Determination meeting
  - b. Parent Rights/Procedural Safeguards
  - c. Student Behavior Record that initiated the recommendation for expulsion
- Prior to the scheduled Manifestation Determination meeting, the psychologist and/or nurse (or DIS specialist) shall observe the student and review records of the student.
- Required team members at a Manifestation Determination meeting shall be the following:
  - a. Parent or representative
  - b. Site administrator
  - c. School Psychologist (and Director if needed)
  - d. General education teacher
  - e. Other resource personnel as needed (e.g., Speech therapist, nurse)
  - f. Special education teacher (if the child is receiving RSP or SDC services)
- Unless the parent has requested a postponement for up to three (3) days, the meeting may be conducted without the parent's participation, provided written notification of the meeting has been sent to the parent. If a postponement has been requested by the parent, the principal shall notify the Department of Special Education to reschedule the meeting.
- The school site principal may extend the suspension, if the student continues to pose an threat to the safety of himself or others, and the principal notifies the parent provided the extension does not exceed beyond ten (10) cumulative school days.

#### **E. Documentation**

- The following documentation at the Manifestation Determination meeting is required:
  - a. Manifestation Determination form
  - b. For IEP students, a copy of the most recent IEP and BSP, including the appropriate IEP pages for IEP/Manifestation Determination
  - c. For 504 students, a copy of the most recent 504 Plan and BSP.
  - d. Originals must be forwarded to the Department of Special Education immediately following the meeting.

#### **IV. Suspensions of IDEA/504 Students**

- IDEA or 504 students may not be suspended more than 10 cumulative days in a school year. Any suspension longer than 2 consecutive days requires prior approval by the Director

of Special Education.

- Special Circumstances (Requires approval from the Department of Special Education Director)

If the student poses an immediate threat to the safety of him/herself or others, a suspension may exceed ten (10) cumulative school days, or the student's placement may be changed, or both, **if the parent/guardian agrees or if a court order so provides**. Students who are suspended beyond ten (10) cumulative days will be offered a program of appropriate educational services while on suspension.

#### V. Interim Alternative Education Settings (IAES) - IDEA only

- A. After consultation with the Director of Special Education, an IDEA students may be immediately suspended by an IEP team decision or court order and considered for placement in an Interim Alternative Educational Setting for not more than 45 calendar days, or until the conclusion of a due process hearing requested by the parent/guardian if the following Education Code violation occurs:

- 1) possession of a weapon in school or at a school function
- 2) possession or use of illegal drugs
- 3) sale or solicitation of a controlled substance
- 4) serious bodily injury sustained

The student's alternative educational setting shall be determined by the student's IEP team. An IAES must:

- 1) enable student to continue to participate in general curriculum, although in another setting;
- 2) provide services and modifications described in current IEP;
- 3) provide services to address the behavior so that it does not recur.

- B. A school district may seek a hearing officer order placing a student in an IAES for up to 45 days if the district has demonstrated by substantial evidence that maintaining the current placement is substantially likely to result in injury to the student or others.

#### VII Reporting a crime committed by a Special Education child with a disability

- School districts must ensure copies of the special education and disciplinary records of a child who commits a crime are transmitted for consideration by the appropriate authorities to whom it reports the crime. The "crimes" that require the transmittal of the documents are:
  - a. Controlled substance or illegal drug
  - b. Dangerous weapon (means 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, except that such term does not include a non-locking blade of less than 2 1/2 inches in length.

#### VIII Opportunity Transfers for Special Education/504 Students

Opportunity Transfers for Special Education or 504 students may be appropriate with special consideration and concurrence from the Director of Education.

#### **IX Bus Discipline for Students With Disabilities or Handicaps**

IDEA students should be treated the same as regular education students for violation of a bus regulation UNLESS:

1. Mandatory transportation is indicated on their IEP. In this case, the student shall be provided alternative transportation to school at no cost to the pupil or his parents (EC 48915.5(j)).
2. Pupil is attending SDC not in their attendance area
3. Pupil has been suspended from the bus five consecutive days or more.

If 1, 2 or 3 are answered yes, the student shall be provided alternative transportation to school at no cost to the pupil or his parents (EC 48915.5(j)).

#### **X Protection for Children Not Yet Eligible for Special Education and Related Services**

A pupil who has not been determined to be eligible for special education related services, who engages in behavior that violates any rule or code of conduct, may assert any of the protections in this section when the school had knowledge that the child was a child with a disability before the behavior that precipitated the disciplinary action.

Knowledge is defined as one or more of the following:

1. The parents expressed concerns in writing to the school site
2. The behavior or performance of the child demonstrates the need for such services and has been documented
3. The parent requests an evaluation
4. The teacher or other personnel expressed concerns in writing about the behavior or performance of the child to the Director of Special Education or other administrative personnel.

If any of the conditions above exist, the school site shall notify the Department of Special Education and provide written documentation or a narrative of the conversation that includes the date and content of communication of all parties involved.

The Department of Special Services shall contact the parent to secure a proposed assessment plan. All procedures in this section shall be followed.

#### **XI In-House Suspension**

IDEA and 504 students may be assigned In-House suspension. However, all suspension days including In-house, may not exceed ten (10) days.