

Use of isolation, restraint and restraint devices:

A. Definitions

1. **Imminent:** The state or condition of being likely to occur at any moment or near at hand, rather than distant or remote.
2. **Isolation:** Restricting a student alone within a room or any other form of enclosure, from which the student may not leave. It does not include a student's voluntary use of a quiet space for self-calming, or temporary removal of a student from his or her regular instructional area to an unlocked area for purposes of carrying out an appropriate positive behavior intervention plan.
3. **Likelihood of serious harm:** A substantial risk that physical harm will be inflicted by a student: upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself;
 - a. upon another, as evidenced by behavior that has caused such harm or that places another person or persons in reasonable fear of sustaining such harm;
 - b. upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others; or
 - c. after the student has threatened the physical safety of another and has history of one or more violent acts.
4. **Positive behavioral intervention:** Strategies and instruction that can be implemented in a strategic manner in order to provide alternatives to challenging behaviors, reinforce desired behaviors, and reduce or eliminate the frequency and severity of challenging behaviors. Positive behavioral interventions include the consideration of environmental factors that may trigger challenging behaviors and teaching a student the skills to manage his or her own behavior.
5. **Restraint:** Physical intervention or force used to control a student, including the use of a restraint device. It does not include appropriate use of a prescribed medical, orthopedic or therapeutic device when used as intended, such as to achieve proper body position, balance or alignment or to permit a student to safely participate in activities.
6. **Restraint device:** A device used to assist in controlling a student, this definition is consistent with RCW 28A.600.485(1)(c), and is not intended to endorse or encourage the use of such devices or techniques with district students.

B. Practices presumed to be unreasonable when correcting or restraining any student under the age of 18: See RCW 9A.16.100, for the non-exclusive list.

C. Conditions specific to use of isolation:

1. The isolation must be discontinued as soon as the likelihood of serious harm has dissipated;
2. The enclosure will be ventilated, lighted and temperature controlled from inside or outside for purposes of human occupancy.
3. The isolation enclosure will permit continuous visual monitoring of the student from outside the enclosure.

4. An adult responsible for supervising the student will remain in visual or auditory range of the student at all times.
 5. Either the student shall be capable of releasing himself or herself from the enclosure, or the student shall continuously remain within view of an adult responsible for supervising the student.
 6. Any staff member or other adults using isolation must be trained and certified by a qualified provider in the use of isolation, unless trained personnel are not immediately available due to the unforeseeable nature of the emergency.
- D. Conditions specific to use of restraint and restraint devices:**
1. The use of restraint or a restraint device must be discontinued as soon as the likelihood of serious harm has dissipated;
 2. The restraint or restraint device will not interfere with the student's breathing;
 3. Any staff member or other adults using restraint or restraint devices must be trained and certified by a qualified provider in the use of such restraint or restraint devices, unless trained personnel are not immediately available due to the unforeseeable nature of the emergency.
 4. In the case of a restraint device, either the student will be capable of releasing himself or herself from the restraint device or the student shall continuously remain within view of an adult responsible for supervising the student.
- E. Prohibited practices involving restraint, use of force, and discipline:**
The following practices are prohibited with students eligible for special education services:
1. A student may not be excluded from his or her regular instructional or service area and isolated within a room or any other form of enclosure, except under the conditions set forth in WAC 392-172A-02110;
 2. A student must not be physically restrained or immobilized by binding or otherwise attaching the student's limbs together or by binding or otherwise attaching any part of the student's body to an object, except under the conditions set forth in WAC 392-172A.02110.
- F. Documentation and Reporting Requirements**
Districts must follow the documentation and reporting requirements for any use of isolation, restraint, or a restraint device consistent with RCW 28A.600.485 and the parental notification requirement of RCW 28A.155.210. See Policy and Procedure 3246. *Staff submit an incident report within 5 days to the Director of student support to be reviewed.*

TRANSFER STUDENTS

Students who transfer from one District to another within the state continue to be eligible for special education and any necessary related services. When an eligible student transfers into the District, the building principal will notify the building's Social Service Coordinator, who in consultation with parents will review the student's IEP to ensure the District provides services comparable to those in the previous IEP until the District adopts the previous IEP or develops, adopts and implements a new IEP.

When a student, who was identified as eligible for special education, transfers from out of state into the District, the building's Student Support team will review the evaluation, eligibility documentation and IEP to

determine whether or not the student meets state eligibility criteria. If the student meets the state eligibility criteria, the District will follow the procedures described in the previous paragraph to provide comparable services until the District develops an IEP for the student. If the student needs to be evaluated to determine eligibility in this state, the Social Service Coordinator or case manager will notify the parents, obtain consent and evaluate the student for eligibility within 35 school days of the receipt of the parent's consent. The District, in consultation with the parents, will continue to provide special education services comparable to the services on the student's IEP, pending the results of the initial evaluation.

The District must take reasonable steps to promptly obtain records, including IEP supporting documents and any other records related to special education or related services, from the previous school. The Social Services Coordinator is responsible for obtaining records and ensuring follow-up if the records are not provided.

PLACEMENT

No student may receive special education and related services without being determined eligible for services, and thus the evaluation process and IEP development precedes the determination of the special education placement. When a student has been evaluated and the evaluation team and parent have determined student eligibility and the need for special education and related services, programming decisions must occur. These decisions are made on the basis of information generated through the evaluation and IEP processes. The actual program is considered within the context of least restrictive environment (LRE) and the continuum of placement alternatives (reviewed below). When determining initial eligibility for special education, including determination of the appropriate placement, the parent or adult student must provide written consent for services before the student receives special education services. If the parents do not consent to the provision of special education and related services, the District will not provide special education services to the student. The District will notify the parents that the student is eligible for services and that the District is willing to provide the services when the parent provides written consent. The notification will also inform parents that the District has no FAPE obligation to the student when parents refuse to provide consent.

When program decisions are addressed by the IEP team, proper consideration must be given to the LRE. Within the educational setting, the student should be placed, whenever possible:

- In the school the disabled student would normally attend; and,
- With non-disabled students in the general educational setting to the maximum extent possible.

Special classes, separate schools or removal of students with disabilities from the general education environment occurs only when the nature or severity of the disability is such that education in the general education classroom with use of supplementary aids and services cannot be satisfactorily achieved.

If the IEP team believes that the student will not be successful within the general education classroom, the team will consider:

- The educational benefits of full-time placement in a regular classroom;
- The non-academic benefits of such a placement;
- The effect the student will have on the teacher and other students in the regular classroom; and,
- The costs of placing the student in the regular classroom.

The degree to which the student is to be integrated into the general classroom setting is dependent upon the identified needs of the student. This placement is to occur unless the nature of the need is so severe that this cannot be satisfactorily achieved, even with supplementary aids and services. If the placement is in another building, the appropriate educational placement will be as close to the student's home as is reasonably possible.

Within the nonacademic setting, students will be provided nonacademic and extracurricular activities with non-disabled students, which include counseling services, athletics, transportation, health services, recreational activities, clubs, etc. Limits on nonparticipation or conditions of participation must be designated in the IEP.

The District will also make opportunities available for students eligible for special education to participate with non-disabled students in the District's non-academic offerings, such as art, music, industrial arts, computer, horticulture, consumer classes and home economics classes. Within the District, a continuum of alternative placement options exists spanning within a class, resource room, self-contained and out-of-District provisions. These options are intended to address the individual needs of students, and they are considered according to the following process:

The placement of each student with a disability will be determined annually, or sooner if appropriate, by the IEP team.

The appropriateness of placement options will be based upon various decisions including:

- Data-based judgments in IEP development;
- Judgments (data-based) in determining LRE;
- The reasonable probability of the placement option(s) assisting the student to attain annual goals and objectives and the quality of services needed; and
- The consideration of potentially harmful effects upon the student or on the quality of services needed.

Placement options along the continuum must include alternative placement options identified in the definition of special education and make provisions for supplementary services such as resource room or itinerant instruction to be provided in concert with the general education placement.

STUDENTS UNILATERALLY ENROLLED IN PRIVATE SCHOOLS BY PARENTS

On December 1st of each year, the District will conduct an annual count of the number of private elementary and secondary school students eligible for special education who are unilaterally enrolled by their parents in a private school located within District boundaries. The appropriate Special Education Director will have timely and meaningful consultation with appropriate representatives of private schools and representatives of parents of private school students and make determinations about who will receive services and what services will be provided. The purpose of the child count is to determine the proportionate amount that the District must spend on providing special education and related services, including transportation, to private elementary or secondary school students in the next fiscal year.

The District is required to spend a proportionate amount of federal special education Part B and Section 619 funds to provide special education and related services to private elementary school students. In order to determine which students will receive services, what services will be provided, how and where the services will be provided, and how services provided will be evaluated, the District will consult with appropriate

representatives and parents of private school students. The District will make the final decision with respect to services to be provided to eligible private school students. The Student Support office will contact each approved private school or preschool operating in the District to arrange for consultation with the District special education staff. Consultations will focus on how to identify students suspected of having a disability, which students will receive services, what services will be provided, how and where services will be provided, and how services will be evaluated.

The Social Services Coordinator and/or related service provider of the Olympia School District school which the student would otherwise attend, is responsible for the coordination of private school involvement and service plan development. A private school student has no individual entitlement to any service or amount of service (s)he would have received if enrolled in a public school to receive FAPE. However, for each private school student receiving special education or related services, the District will initiate and conduct meetings to develop, review and revise a services plan describing the specific special education and related services that the District will provide. The services plan must: (1) meet IEP content requirements with respect to the services to be provided; and (2) be developed, reviewed, implemented and revised annually consistent with the requirements for IEP review. The District will make every effort to include a representative from the private school at each meeting. If the private school representative is not able to attend, the District will use other methods, including individual or conference telephone calls, to assure the representative's participation.

Private school students may receive a different amount of services than special education students in public schools. However, the services provided to special education private school students will be provided by personnel meeting the same standards as personnel providing the services in the District.

Services to students in private schools, including private sectarian schools, may be provided onsite. District personnel may be made available to private schools only to the extent necessary to provide the services required, if those services are not normally provided by the private school. Services will not include payment of private school teachers' or other employees' salaries, except for services performed outside regular private school hours and under public supervision and control.

Equipment and/or supplies may be placed on private school premises for the period of time necessary for the services plan program, but the District will retain and exercise title and administrative control of said equipment/supplies. The District will keep records and make an accounting assuring that said equipment/supplies is/are used solely for the services plan program. Said equipment/supplies will be removed if necessary to avoid its/their use for other purposes or if no longer needed for the services plan program. No District funds will be used for repairs, minor remodeling or construction of private school facilities.

The District will provide services to students in private schools in a manner that: (1) maintains physical and administrative separation between the private and public school programs; and (2) does not benefit the private school at public expense.

PROCEDURAL SAFEGUARDS CONSENT

The District will obtain informed, written parental consent before:

- Conducting an initial evaluation;
- Providing initial special education and related services to a student; and
- Conducting a reevaluation if the reevaluation includes administration of additional assessments.

Parental consent is not required to review existing data as part of an evaluation or reevaluation, or to administer a test or other evaluation that is administered to all students unless consent is required of all students' parents.

Informed consent means that the parent or adult student:

- Has been fully informed of all information that is relevant to the activity for which the District is asking consent, and that the information is provided in his or her native language or other mode of communication;
- Understands and agrees in writing to the activity for which consent is sought and the consent describes the activity and lists any records which will be released and to whom; and,
- Understands that the granting of consent is voluntary and may be revoked at any time. If consent is revoked, the revocation does not negate an action that has occurred after the consent was given and before the consent was revoked.

The District may not use a parent's refusal to consent to one service or activity to deny the parent or child any other service, benefit or activity of the District.

If the District is unable to obtain a parent's consent, the District may use mediation procedures to obtain a parent's consent or request a due process hearing asking the administrative law judge to override the parent's refusal to consent to an evaluation or reevaluation. The District may not request a due process hearing to override a parent's refusal to consent to initial special education services. The District may not use mediation or due process procedures to override a parent's refusal to consent to an evaluation or reevaluation if the student is homeschooled or enrolled in a private school.

REVOCAION OF CONSENT

Parents may revoke consent for the continued receipt of special education and related services. If parents revoke consent, the staff member receiving the revocation will forward the revocation to the Social Services Coordinator.

Upon receipt of the parent's written notice of revocation, the Social Services Coordinator will provide prior written notice for a reasonable time before the district stops providing services. The notice will include information about the effect of revocation and will inform the parent of the date the District will stop providing special education and related services;

Discontinuation of special education and related services in response to the parent's written revocation will not be in violation of FAPE and eliminates the District's requirement to convene an IEP meeting or develop an IEP. However, the district does have a continuing Child Find duty, and staff will follow referral procedures if they believe the student should be referred for special education. In addition, parents may request that the district conduct an initial evaluation for eligibility for special education services after they have revoked consent for continued services.

NOTICE OF PROCEDURAL SAFEGUARDS

In addition to protections provided to parents of eligible students, parents also have procedural safeguard protections when a student's identification, evaluation or placement is at issue. The District will provide a copy of the procedural safeguards notice to the parents and adult students one time a year and:

- Upon initial referral or parent request for evaluation;

- Upon receipt of the parent's first state complaint and first request for due process hearing in a school year;
- Upon a disciplinary action that will result in a disciplinary change of placement; and
- Upon request by the parent.

The procedural safeguard notice used by the District includes a full explanation of all the procedural safeguards relating to independent educational evaluation, prior written notice, parental consent, access to educational records, discipline procedures for students who are subject to placement in an interim alternative educational setting, requirements for unilateral placement by parents of children in private schools at public expense, state complaint procedures, mediation, the child's placement during pendency of due process proceedings including requirements for disclosure of evidence, due process hearings, civil actions and attorney's fees. Copies of the District's special education procedural safeguards are available at the Student Support office located at 1113 Legion Way S.E., Olympia, and from Social Service Coordinators in each school. Procedural safeguards are also available online on the District's website.

PRIOR WRITTEN NOTICE

Written notices are provided to parents when a District makes a decision relating to a student's identification, evaluation, placement or provision of a FAPE. Prior written notices document the decisions made by the IEP teams and evaluation group.

The District will provide prior written notice to the parent of an eligible student or of a student referred for a special education evaluation whenever the District proposes or refuses to initiate or change the identification, evaluation, educational placement or provision of a FAPE to the student.

The prior written notice will include:

- A statement that the parents of a special education student have procedural safeguard protections and if a copy of the procedural safeguards do not accompany the notice, a statement that describes how a copy of the statement of procedural safeguards may be obtained;
- A description of the action proposed or refused by the District;
- An explanation of why the District proposes or refuses to take the action and a description of other options that the District considered and the reasons why the options were rejected;
- A description of any other factors which are relevant to the District's proposal or refusal;
- A description of each evaluation procedure, test, record or report the District used as a basis for the proposal or refusal;
- A description of any evaluation procedures the District proposes to conduct and sources for parents to contact to obtain assistance in understanding the procedural safeguards provision of this chapter.

Prior written notice and the notice of procedural safeguards must be provided in the native language of the parent or other mode of communication used by the parent unless it is clearly not feasible to do so. If the native language or other mode of communication of the parent is not a written language, the District will take steps to ensure that the notice is translated orally or by other means to the parent. This may involve:

- Arranging for an interpreter if English is not the native language of the parent or if the parent has a hearing impairment; or
- Providing notice orally if the written language is not a native language.

The District will document in writing how this information was provided and that the parent understands the content of the notice. The Social Services Coordinator and/or case manager is responsible for sending prior written notices after evaluation, eligibility, IEP team and placement decisions.

TRANSFER OF EDUCATIONAL RIGHTS TO AN ADULT STUDENT

When a student eligible for special education reaches the age of 18, all educational rights under Part B of the IDEA, previously exercised by the parent, transfer to the student, unless the student is determined incapacitated in a guardianship proceeding or the District has appointed an educational representative for the student. When the student turns 18, the District will notify the parent and student that the educational rights have transferred to the student and will send any required notices to both the parent and adult student. The case manager is responsible for providing this notice.

At an IEP meeting occurring one year before the student turns 18, the student's case manager will provide written notice to inform the parents and the student that educational rights under Part B of the IDEA, previously exercised by the parent, will transfer to the student and the District will inform the student about those educational rights.

APPOINTMENT OF AN EDUCATIONAL REPRESENTATIVE

A student over the age of eighteen is presumed to be capable of making educational decisions and able to provide informed consent unless he or she is determined to be "incapacitated" through a legal guardianship proceeding. If a parent, another interested party, or the District believes that a student over age 18 is unable to provide informed consent or to make educational decisions, and the student does not have a legal guardian, the parent or other interested party may ask the District to appoint an educational representative. This determination will only be made if two separate professionals state that they conducted an examination and interviewed the student, and concluded the student is incapable of providing informed consent. The District will inform the student of the decision and appoint the spouse, the student's parents, another adult or a surrogate educational representative to represent the student. The appointment of the educational representative will continue to one year.

The student or other adult may challenge the certification at any time. If a challenge occurs, the District will not rely on the educational representative until the representative is recertified.

CONFIDENTIALITY AND RECORDS MANAGEMENT

The principal at each building, together with the student's case manager, as well as the records custodian in the Special Education office, is responsible for maintaining the confidentiality of personally identifiable information pertaining to special education and all other students. The records custodian will maintain, for public inspection, a current list of the names and positions of District employees who have access to personally identifiable information of special education students. The District will provide parent and adult students, upon request, a list of the types and locations of educational records collected, maintained or used by the District.

The District will provide training to all new employees collecting or using personally identifiable information on the procedures to protect the confidentiality of personally identifiable information. The training will address the protections outlined in WAC 392-172A, state law and federal regulations implementing the Family Educational Rights and Privacy Act, FERPA, (34 CFR Part 99).

Upon request, the parent(s) of a special education student or adult student will be afforded an opportunity to inspect, review and challenge all educational records which include, but are not limited to, the identification, evaluation, delivery of educational services and provision of FAPE to the student. The District will comply with the request promptly and before any meeting regarding an IEP or hearing relating to the identification, evaluation, educational placement of the student or provision of FAPE to the student, including disciplinary proceedings. In any case, the District will respond no more than 45-calendar days after the date the District received the request. If an educational record includes information on more than one student, the parents (and/or adult student) may only inspect and review information relating to their child. School personnel receiving requests for educational records will immediately forward the request to the records custodian.

If parents believe information in an education record is inaccurate or misleading or violates the privacy or rights of the student, they may request that the District amend the information. Policy and Procedure 3231, Student Records, describes the process and timelines for challenges and hearings regarding student records.

The District follows the guidelines for records retention outlined in the Secretary of State's, *General Records Retention Schedule and Records Management Manual*. The District will inform parents or adult students when personally identifiable information collected, maintained or used is no longer needed to provide educational services to the student. The information will be destroyed at the request of the parent(s) or adult student, or will be provided to the parent or adult student upon their request. However, a permanent record of the student's name, address and phone number, his or her grades, attendance, record, classes attended, grade level completed and year completed will be maintained without time limitation.

Records management is also governed by Policy and Procedure 4040, Public Access to District Records.

SURROGATE PARENTS

A surrogate parent is a person appointed by the school District to act on behalf of a student to help ensure the rights of the student to a FAPE when a parent cannot be identified, the whereabouts of the parent are unknown or the student is a ward of the state and does not have a foster parent. The Special Education Director is responsible for determining the need for appointment of a surrogate parent.

Natural or adoptive parents, foster parents, persons acting in the place of a parent such as stepparents or relatives and persons with legal custody or guardianship are considered parents. Students who are homeless and not living with a parent may need a surrogate parent.

The following is guidance for the District to follow to assist in determining the status of the parent's rights to make educational decisions.

In cases where the student is in out-of-home care the District must determine the legal custodial status of the child.

- Parents who have voluntarily placed their child in state placement still retain legal custody of the child and retain the right to make educational decisions. In this situation the student is not a ward of the state.
- Parents whose children are placed in group care, pending a determination of "dependency" may still retain rights to make educational decisions unless otherwise ordered by the court.

- When a disposition order and order of dependency is issued, the state becomes the legal as well as physical custodian of the child. Parents may no longer have the right to make educational decisions during this stage of dependency.
- Parents whose parental rights are terminated no longer have the right to make educational decisions on behalf their child.

When a student is placed in foster care the foster parent may act as the parent. When a student is placed in group care, the District will work with the parents, case-worker(s), foster parents and others who have knowledge of the student's legal status in order to determine the need for appointment of a surrogate.

When selecting a surrogate parent, the District will select a person willing to participate in making decisions regarding the student's educational program, including participation in the identification, evaluation, placement of and provisions of FAPE to the student.

If a student is referred for special education or a special education student transfers into the District who may require a surrogate parent, the appropriate Special Education Director will be notified of the potential need. The Special Education Director will then select a trained individual who can adequately represent the student to ensure that all student rights are observed.

The person selected as a surrogate:

- 1) Must have no interest that conflicts with the interests of the student he or she represents;
- 2) Must have knowledge and skills that assure adequate representation of the student; and
- 3) May not be an employee of a school District and/or other agency which is involved in the education or care of the student. This includes OSPI, DSHS, District employees and group care providers.

The District will at a minimum, review with the surrogate parent procedural safeguards, parent involvement in the special education process, parent education publications and special education regulations. The District will also cooperate with other Districts, the ESD or OSPI in training surrogate parents and in establishing a list of persons willing and able to serve as surrogate parents.

MEDIATION

The purpose of mediation is to offer both the parent and the school District an alternative to a formal due process hearing. Mediation is voluntary and requires the consent and agreement of both parties. Mediation cannot be used to deny or delay access by a parent to a due process hearing. Mediation is used to resolve disagreements concerning the identification, evaluation and delivery of educational services or provision of a FAPE to a special education student.

Mediation may be terminated by either party at any time during the process.

The primary participants are the parents, school District representatives and mediator. The process is voluntary, confidential and informal. It is a collaborative process, conducted in a non-adversarial manner. Mediation services will be provided by the Office of Superintendent of Public Instruction (OSPI) at no cost to either party.

The District's Special Education Director is responsible for coordinating requests for mediation. If a parent requests mediation, notify the director and the director will respond to the parent and coordinate with OSPI's contracted agent. Staff members are reminded that discussions that occur during the mediation process are confidential.

One person designated by the District to attend the mediation must have authority to bind the District in any agreement reached through mediation.

DUE PROCESS HEARING

Both parents and Districts may file due process hearings involving the identification, evaluation, placement or provision of FAPE to a student. IDEA requires that specific information be provided as part of a due process hearing request. The requirements are identified in the notice of procedural safeguards. If parents request information about how to file a due process hearing, the District will provide the parent with a due process hearing request that contains the required information. Due process hearing request forms are available from the Student Support office and on the OSPI Special Education and Administrative Resources Website.

If any staff receives a request for a due process hearing, a copy of the request should be immediately forwarded to the appropriate Special Education Director. If the parent has not filed the request for hearing with OSPI, the District will forward the parent request to OSPI Administrative Resources Section. The District may not delay or deny a parent's due process hearing request. Parents are entitled to a copy of the notice of procedural safeguards if this is the first due process hearing in a school year. The District Special Education Director is responsible for providing the parents a copy of the procedural safeguards in this situation and documenting that the safeguards were provided to the parent.

When a parent files a due process hearing, the student remains in the placement at the time of the request for hearing unless the parents and District agree to a different placement. See the discipline section below for placements when a disciplinary action is challenged.

When parents file a request for a due process hearing, the appropriate Special Education Director will immediately schedule a resolution meeting. The meeting must occur within 15 days after a parent files a due process request with the district and provides a copy of the request to OSPI, or, within seven days if the hearing request involves an expedited hearing regarding discipline. The appropriate Special Education Director will determine the appropriate District staff that will attend the resolution meeting. The District will ensure that one of the District representatives attending the resolution meeting has authority to bind the District in any resolution agreement. The District will not bring District counsel to a resolution meeting unless the parent is bringing an attorney to the meeting.

Any resolution agreement reached will be documented in writing and is binding on the parties. The document will inform the parent of their right to void the agreement within three business days of signing the agreement.

DISCIPLINE

Students eligible for special education may be disciplined consistent with the disciplinary rules that apply to all students. The District will determine on a case-by-case basis whether discipline that is permitted under WAC 392-400 should occur. However, students eligible for special education must not be improperly excluded from school for disciplinary reasons that are related to their disability or related to the District's failure to implement a student's IEP. The District will take steps to ensure that each employee, contractor and other agents of the District responsible for education or care of a student is knowledgeable of special education disciplinary rules.

REMOVAL UP TO TEN DAYS

Principals or assistant principals, in consultation with the student’s case manager, may order the removal of a special education student from a current placement. The District need not provide services to a student who is removed from the current placement for ten school days or less in any school year, if services are not provided to a student without disabilities.

REMOVAL FOR MORE THAN TEN DAYS

Once a student has been removed from placement for a total of ten school days in the same school year, and if the District determines that the removal is not a change of placement, the District must, during subsequent days of removal, provide appropriate services to the extent necessary to enable the student to participate in the general curriculum, although in another setting, and to progress toward meeting the goals set out in the student’s IEP. The student’s case manager, in consultation with one or more of the student’s teachers, will make the determination of such necessary services.

CHANGE IN PLACEMENT

A change of placement occurs when an eligible student is:

- Removed from his or her current placement for more than ten consecutive school days in a school year; or
- Subjected to a series of removals in a school year and which constitute a pattern of removal because: 1) the series of removals total more than ten school days in a year; 2) the student behavior is substantially similar to the student’s behavior in previous incidents that resulted in the series of removals; and 3) because of factors such as the length of each removal, the total amount of time a student is removed, and the proximity of the removals to one another.

Whether a pattern of removal constitutes a change in placement is determined on a case-by-case basis by the building principal and special education director in consultation with the case manager and Social Service Coordinator, and is subject to review through due process and judicial proceedings.

MANIFESTATION DETERMINATION

Within ten school days after the date on which the District makes a decision to change the student’s placement, the District will schedule a “manifestation determination” meeting to determine the relationship between the student’s disability and the behavior subject to the disciplinary action.

The review of the relationship between a student’s disability and the behavior subject to the disciplinary action will occur at meeting that includes the parent and relevant members of the IEP team who are selected by the parent and the District. The Social Service Coordinator will contact the parent to arrange the meeting and to provide written notice of the meeting. The team will review all relevant information in the student’s file, including the IEP, teacher observations and information provided by the parent to determine:

- If the conduct was caused by or had a direct and substantial relationship to the child’s disability; or
- If the conduct in question was the direct result of the District’s failure to implement the student’s IEP.

If the team determines that the behavior resulted from any of the above, the behavior must be considered a manifestation of the student’s disability and the contemplated disciplinary action will not proceed.

The District will take immediate action to remedy the deficiencies, and will:

- 1) Conduct a functional behavioral assessment (unless already completed) and implement a behavioral intervention plan if one is not already in place; or
- 2) Review the existing behavioral intervention plan and modify it to address the behavior; and,
- 3) Return the child to the placement from which he or she was removed from unless the parents and the District agree a change is necessary as part of the behavioral intervention plan, or unless the infraction involves drugs, weapons or serious bodily injury.

SPECIAL CIRCUMSTANCES

School personnel may order a change in placement to an appropriate interim alternative educational setting for the same amount of time that a student without disabilities would be subject to discipline, but for not more than 45 school days, if a special education student:

- Possesses a “dangerous weapon” or carries such a weapon to school or to a school function; or
- Knowingly possesses or uses “illegal drugs” while at school or a school function; or
- Sells or solicits the sale of a “controlled substance” while at school or a school function.
- Inflicts serious bodily injury upon another person while at school or a school function. Serious bodily injury means a substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

Any interim alternative educational setting in which the student is placed is determined by the student’s IEP team and will:

- Be selected so as to enable the student to participate in the general curriculum, although in another setting and to progress toward meeting the goals set out in the student’s IEP; and
- Include services and modifications designed to address the behavior or to prevent the behavior from recurring.

The District may ask an administrative law judge, or seek injunctive relief through a court having jurisdiction of the parties, to order a change in placement to an appropriate interim alternative educational setting for not more than 45 school days or seek injunctive relief through a court having jurisdiction of the parties when: The District believes that maintaining the student’s current placement is substantially likely to result in injury to the student or others. If the student’s IEP team believes that the student may not be maintained in his or her current placement, the IEP team should work with the District’s special education director.

Unless the parent and the District agree otherwise, if a parent requests a hearing to challenge either the manifestation determination or the interim alternative educational setting, the student must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the 45-day period, whichever occurs first.

BASIS OF KNOWLEDGE

A student who has not been determined eligible for special education services may assert the protections if the District had knowledge that the student was eligible for special education before the behavior that precipitated disciplinary action occurred.

The District is deemed to have knowledge if:

- The parent expressed concern in writing (or orally if the parent does not know how to write or has a disability that prevents a written statement) to District supervisory or administrative personnel or a teacher that the student is in need of special education and related services;
- The parent requested that the student be evaluated for special education services; or
- The teacher or other school personnel has expressed specific concern about a pattern of behavior demonstrated by the student to the director of the special education department or to other supervisory staff.

If instituting disciplinary action that would exceed ten days and the principal believes that one or more of these events apply to the student, the principal will notify the special education department to determine the appropriate disciplinary procedures.

The District is not deemed to have knowledge if, as a result of receiving the information described above, the District either:

- Conducted a special education evaluation of the student and determined that the student was not eligible for services; or
- The parent of the student has not allowed an evaluation of the child or has refused services.

If the District is not deemed to have knowledge that a student is a special education student, the student may be disciplined as a student without disabilities who engages in comparable behaviors. The District will conduct an evaluation, which is requested during the time period such a student is subjected to disciplinary measures, in an expedited manner. Until the evaluation is completed, such a student shall remain in the educational placement determined by the District, which can include suspension or expulsion without educational services.

Notwithstanding the foregoing, the District may report a crime committed by a special education student to appropriate authorities. In the event of such a report, the District will ensure that copies of the student's special education and disciplinary records are transmitted for consideration by the appropriate authorities to whom the crime is reported, to the extent transmission of the records is permitted by the Family Educational Rights and Privacy Act (FERPA).

STAFF QUALIFICATIONS

All employees of the District funded in whole or part with state or federal excess special education funds will meet the standards established by the State Board of Education (SBE) and defined in WAC 392-172-A-02090.

All employees will hold such credentials, certificates or permits as are now or hereafter required by the SBE for the particular position of employment and shall meet such supplemental standards established by the District.

All special education teachers providing, designing, supervising, evaluating or monitoring the provision of special education shall possess "substantial professional training." This will be shown by the issuance of an appropriate special education endorsement on an individual teaching certificate issued by the Superintendent of public instruction.

In the event a special education teacher does not have a certificate endorsed in special education, a District may apply for a pre-endorsement waiver through the special education section of the OSPI. To qualify for the special education pre-endorsement waiver, the teacher must meet SBE criteria.

If the District must temporarily assign a classroom teacher without a special education endorsement to a special education position, the Human Resources office will document in writing that:

- The District is unable to recruit a teacher with the proper endorsement who was qualified for the position; and/or
- The need for a teacher with such an endorsement could not have been reasonably anticipated and the recruitment of such a classroom teacher at the time of assignment was not reasonably practical; and/or
- The reassignment of another teacher within the District would be unreasonably disruptive to the current assignments of other classroom teachers or would have an adverse effect on the educational program of the students assigned to the other teacher.

If one or more of these criteria can be documented and the District determines that a teacher has the competencies to be an effective special education teacher and the teacher has completed six-semester hours or nine-quarter hours of course work which are applicable to the special education endorsement, the District can assign the teacher to special education in compliance with the process for making out-of-endorsement assignments and reporting them to the state.

Classified staff will present evidence of skills and knowledge necessary to meet the needs of students with disabilities. The District will provide training to classified staff to meet the state recommended core competencies.

PERSONNEL DEVELOPMENT

In order to provide a staff development program to improve the quality of instructional programs, the following procedures will be employed:

- All personnel who use restraint, restraint devices and/or isolation must be certified annually, trained in the use of such restraint, restraint devices and/or isolation.
- In-service training will be based upon the results of input from staff and parents and in support of needs identified through administrator observations;
- Training activities will be conducted for general and special education staff, staff of other agencies and organizations and private school staff providing services for special education student depending on the needs of students; and
- Training for classified staff in the state recommended core competencies will occur through making computer-based training modules available to classified staff.

PUBLIC PARTICIPATION

Any application and any required policies, procedures, evaluations, plans and reports are readily available to parents and other members of the public through the District's special education office and the office of the Superintendent. A notice regarding the availability of such documents will be placed on the District's website and in the District's newsletter.



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