



Evergreen Community Charter School

Section: 100 Programs

Title: Discipline of Students with Disabilities

Number: 113.1

Last Revised: September 23, 2021

Purpose

Evergreen Community CS shall develop and implement Positive Behavior Support Plans and programs for students with disabilities who require specific interventions to address behaviors that interfere with learning.

Students with disabilities who violate the Code of Student Conduct, or engage in inappropriate behavior, disruptive or prohibited activities and/or actions injurious to themselves or others, which would typically result in corrective action or discipline of students without disabilities, shall be disciplined in accordance with state and federal laws and regulations and Board policy and, if applicable, their Individualized Education Program (IEP) and Positive Behavior Support Plan.

Definitions

Students with disabilities – school-aged children within the jurisdiction of Evergreen who have been evaluated and found to have one or more disabilities as defined by law, and who require, because of such disabilities, special education and related services.

Suspensions from school – disciplinary exclusions from school for a period of one (1) to ten (10) consecutive school days.

Expulsions from school – disciplinary exclusions from school by the Board for a period of ten (10) or more consecutive school days and may include permanent exclusion from school.

Interim alternative educational settings – removal of a student with a disability from the student's current placement. Interim alternative educational setting may be used by school personnel for up to forty-five (45) school days for certain infractions committed by students with disabilities. The IEP team shall determine the interim alternative educational setting; however, this does not constitute a change in placement for a student with a disability.

Authority

The Board directs that Evergreen shall comply with provisions and procedural safeguards of the Individuals with Disabilities Education Act (IDEA) and federal and state regulations when disciplining students with disabilities for violations of Board policy or district rules or regulations. No student with a disability shall be subjected to a disciplinary change in placement if the student's particular misconduct is a manifestation of the student's disability.

Provision of Education During Disciplinary Exclusions

During any period of expulsion, or suspension from school for more than ten (10) cumulative days in a year, or placement in an interim alternative educational setting for disciplinary reasons, a student with a disability shall continue to receive a free and appropriate public education (FAPE), in accordance with law.

Suspension From School

A student with a disability may be suspended for ten (10) consecutive and fifteen (15) cumulative days of school per school year, for the same reasons and duration as a student without a disability. Such suspension shall not constitute a change in the student's educational placement.

Changes in Education Placement/Manifestation Determinations

For disciplinary exclusions which constitute a change in educational placement, the school shall first determine whether the student's behavior is a manifestation of the student's disability. Expulsion, or exclusion from school for more than fifteen (15) cumulative days in a year, or patterns of suspension for substantially identical behaviors, constitute changes in education placement requiring a manifestation determination. For students with intellectual disability, any disciplinary suspension or expulsion is a change in educational placement.

A student with a disability whose behavior is not a manifestation of the student's disability may be disciplined in accordance with Board policy, Evergreen's rules and regulations in the same manner and to the same extent as students without disabilities.

Request for Hearing by District for Students Who Area Danger to Themselves or Others

A due process hearing may be requested by a parent/guardian of a student with a disability who disagrees with a disciplinary placement or manifestation determination, or by Evergreen if the school believes that the current placement is substantially likely to result in injury to the student or others. On parent/guardian appeal, or when Evergreen requests a due process hearing, the hearing officer may return the student to the placement from which the student was removed or order the student's removal to an appropriate interim alternative educational setting for up to forty-five (45) school days if the hearing officer determines that maintaining the student's current placement is substantially likely to result in an injury to the student or others.

Placement during appeals of disciplinary actions shall be in the interim alternative educational setting pending the decision of the hearing officer or expiration of the time period set for the disciplinary exclusion from the student's regular placement unless the district and the parent/guardian agree otherwise.

Students Not Identified as Disabled/Pending Evaluation

Students who have not been identified as disabled may be subject to the same disciplinary measures applied to students without disabilities if the district did not have knowledge of the disability. If a request for evaluation is made during the period the student is subject to disciplinary measures, the evaluation shall be expedited.

Administrative Removal to Interim Alternative Educational Setting for Certain Infractions

School personnel may remove a student with a disability, including intellectual disability, to an interim alternative educational setting for not more than forty-five (45) school days without regard to whether the behavior is determined to be a manifestation of the student's disability if the student:

1. Carries a weapon to or possesses a weapon at school, on school property, or at school functions under the jurisdiction of the school. For purposes of this provision, weapon is defined as 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 pocketknife with a blade of less than two and one-half (2 ½) inches in length.
2. Knowingly possesses or uses illegal drugs, as defined by law, or sells or solicits the sale of a controlled substance, as defined by law, while at school, on school property, or at school functions.
3. Has inflicted serious bodily injury upon another person while at school, on school property, or at school functions. For purposes of this provision, serious bodily injury means bodily injury which involves 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.

Referral to Law Enforcement and Reporting Requirements

For reporting purposes, the term **incident** shall mean an instance involving an act of violence; the possession of a weapon; the possession, use, or sale of a controlled substance or drug paraphernalia as defined in the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act; the possession, use, or sale of alcohol or tobacco; or conduct that constitutes an offense listed under the Safe Schools Act.

The Director or designee shall immediately report required incidents and may report discretionary incidents committed on school property, at any school-sponsored activity or on a conveyance providing transportation to or from a school or school-sponsored activity by a student with a disability, including a student for whom an evaluation is pending, to the local police department that has jurisdiction over the school's property, in accordance with state and federal laws and regulations, the procedures set forth in the memorandum of understanding with local law enforcement and Board policies. The Director, or designee, shall respond to such incidents in accordance with the student's Positive Behavior Support Plan.

For a student with a disability who does not have a Positive Behavior Support Plan, subsequent to notification to law enforcement, the Evergreen shall convene the student's IEP team to consider whether a Positive Behavior Support Plan should be developed to address the student's behavior in accordance with law, regulations, and Board policy.

When reporting an incident committed by a student with a disability to the appropriate authorities, the district shall provide the information required by state and federal laws and regulations and shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by these authorities. Evergreen shall ensure compliance with the Family Educational Rights and Privacy Act when transmitting copies of the student's special education and disciplinary records.

In accordance with state law, the Director or designee shall annually, by July 31, report to the Office for Safe Schools on the required form all new incidents committed by students with disabilities, including students for whom an evaluation is pending, which occurred on school property, at any school-sponsored activity or on a conveyance providing transportation to or from a school or school-sponsored activity.

- 22 PA Code 14.133
- 22 PA Code 14.143
- 22 PA Code 12.6
- 22 PA Code 10.21
- 22 PA Code 10.22
- 22 PA Code 10.23
- 22 PA Code 10.25

- 29. 22 PA Code 14.104