

- *Disciplinary Hearing: In serious cases and/or cases in which a student has exhibited a pattern of inappropriate behavior that is disrupting the educational process, the Principal will call for a Disciplinary Hearing. Typically, the hearing is conducted by a Hearing Officer. The disciplinary hearing will occur within 10 days from the first full day of suspension and student is suspended from school until the hearing occurs.

Consequences of Hearing May Include: short or long term suspension, expulsion.

Students or their parents/guardians may waive their right to a hearing by signing a hearing waiver.

A student with an identified disability may not be suspended in excess of 10 days without an IEP review to determine whether the student's IEP is appropriate and whether the behaviors in question are a manifestation of the student's disability.

1. Upon review of disciplinary cases, all state and federally guaranteed due process laws for students will be followed in accordance with New Mexico Statute 22-5-4.3, School Discipline Policies, 'The school's Governing Board ...shall establish student discipline policies and shall file them with the department of education.'

2. All students have the right to a fair hearing and procedure process and an appeal process.

ACE Leadership School Student Dismissal Policy

ACE Leadership High School Code of Conduct:

ACE Leadership's disciplinary approach is built upon the tenets of Positive Youth Development (PYD) and 360 student support. These ideals provide a foundational behavioral construct for staff and students by establishing a community where personal responsibility and team accountability are emphasized. ACE Leadership vows to exhaust every resource in order to provide a safe and nurturing education where all students are respectfully treated as individuals. To this end, it is important that all ACE students are accountable for their behavior. All transgressions that endanger a community member's safety, either emotional or physical, will be dealt with in a firm, constructive manner. It is important to emphasize that school rules are NOT arbitrary and are NOT in place to oppress or punish students. Instead, all school rules reflect ACE professional standards and are designed to promote a harmonious work space where learning and high achievement are paramount. This policy applies when the student is:

1. attending school,
2. on school grounds or at a school sponsored event,
3. traveling to or from school or school sponsored event, or
4. engaged in misconduct this is in any other manner school related or affects the operation of the school.

In all cases of student misconduct, ACE leadership seeks to implement an approach to discipline that is progressive, restorative, respectful, and focused on strategies that address root causes in our approach to intervention.

Safety Language and Conduct Expectations:

ACE Leadership High School embraces its self-created safety language: “We’re a family,” “Protect OUR own,” “Do the right thing,” “Build your reputation.” These sayings express the values, expectations, and ideals of our community. We expect all students to maintain the highest level of personal integrity and community responsibility in order to promote success for themselves and others.

Students Directed Away from ACE Leadership:

ACE Leadership High School acknowledges and conforms to the New Mexico (Public Ed. Department) Safe Schools parameters of appropriate student behavior. ACE Leadership will abide by all federal and state laws and regulations with regard to student safety. In addition, any policies pertaining to student conduct contain clear language with regard to due process and discipline which may include, but is not limited to, any one or any combination of the following: oral reprimand, parent conference, detention, temporary exclusion from the classroom, loss of privileges, withdrawal from class, off campus suspension, dismissal, or behavior intervention plan.

When a student’s behavior is deemed threatening to the emotional or physical safety of members of the community, that student may be dismissed from ACE Leadership High School. The Student Support Team will exhaust all interventions before the recommendation for a student to leave the community is given to the principal. Final decisions lie with the Principal of ACE Leadership High School.

Conduct which jeopardizes the physical, intellectual, and cultural well being of the ACE Leadership Community may include instances of:

- Bullying
- Destruction of property
- Theft from institution
- Fighting
- Possession of weapon
- Possession of drugs
- Theft from other students or staff
- Gang Related Activity

In all cases of major infractions, the ACE student support team will investigate root causes of the misbehavior and assess its capacity to address the issue(s). Based on this analysis and a student’s willingness to reconcile a misdeed, ACE Leadership may make a recommendation for a student’s dismissal from the ACE Leadership community.

Special Education Students:

Students receiving special education services will be held to the same high standards of good community membership as all other students. ACE Leadership High School will ensure that all Special Education students’ academic needs and progress are addressed and monitored while dealing with any issues of misconduct. In all discipline proceedings, ACE Leadership staff will be aware of any student needs and will determine whether a student’s disruptive behavior is manifestation of his/her disabilities.

Change of Placement Analysis

When a principal or other appropriate administrator recommends disciplinary removal from the student's current IEP placement, conduct a Change of Placement Analysis in order to assure compliance with law.

- (a) Count the days of disciplinary removal from the student's current educational placement.
 1. Portions of a school day from which a child had been suspended are included in determining whether the child has been removed for more than 10 cumulative school days or subjected to a change of placement.
 2. An in-school suspension would not be considered a part of the days of suspension as long as the child is afforded the opportunity to:
 - a. Appropriately progress in the general curriculum,
 - b. Continue to receive the services specified on his or her IEP, and
 - c. Continue to participate with nondisabled children to the extent he or she would have in their current placement
 3. Whether a bus suspension would count as a day of suspension would depend on whether the bus transportation is a part of the child's IEP.
 - a. If the bus transportation is a part of the child's IEP, a bus suspension would be treated as a suspension unless the ACE Leadership provides the bus service in some other way.
 - b. If the bus transportation is not a part of the child's IEP, a bus suspension would not be considered a suspension.
- (b) Determine whether the disciplinary removal(s) constitute(s) a change of placement. A disciplinary change of placement occurs if:
 1. The removal is for more than 10 consecutive school days, or
 2. The student is subject to a series of removals that constitute a pattern because they accumulate to more than 10 school days in a school year and because of factors such as the length of each removal, the total amount of time the student is removed and the proximity of the removals to one another.

A. Less than 10 School Day Removals

- (a) The ACE Leadership is not required to provide services for removal of a student with a disability who has been removed from the current placement for 10 school days or less in that school year, if services are not provided to a student without disabilities who has been similarly removed.
- (b) The ACE Leadership may choose to provide the IEP services to the student with disabilities during any short term removal to ISS in order to prevent counting those days of removal toward the 10 cumulative days.
- (c) In the case of a student whose behavior impedes his or her learning or that of others, convene an IEP Team meeting, if appropriate, to consider completing an FBA/BIP, including positive behavior interventions, strategies, and supports to address that behavior.

Authority: NMAC §6.31.2.11 EDUCATIONAL SERVICES FOR CHILDREN WITH DISABILITIES:

F. Behavioral management and discipline.

- (1) Behavioral planning in the IEP. Pursuant to 34 CFR §300.324(a)(2)(i), the IEP team for a child with a disability whose behavior impedes his or her learning or that of others shall consider, if appropriate, strategies to address that behavior, including the development of behavioral goals and objectives and the use of positive behavioral interventions, strategies and supports to be used in pursuit of those goals and objectives. Public agencies are strongly encouraged to conduct functional behavioral assessments (FBAs) and integrate behavioral intervention plans (BIPs) into the IEPs for students who exhibit problem behaviors well before the behaviors result in proposed disciplinary actions for which FBAs and BIPs are required under the federal regulations.

B. More than 10 School Day Removals

1. Consecutive or Cumulative Days – “Pattern”

§300.536 Change of placement because of disciplinary removals.

- (a) For purposes of removals of a child with a disability from the child's current educational placement under §§300.530 through 300.535, a change of placement occurs if--
 - (1) The removal is for more than 10 consecutive school days; or
 - (2) The child has been subjected to a series of removals that constitute a pattern--
 - (i) Because the series of removals total more than 10 school days in a school year;
 - (ii) Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals, and
 - (iii) Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.
- (b) (1) The LEA determines on a case-by-case basis whether a pattern of removals constitutes a change of placement.
- (2) This determination is subject to review through due process and judicial proceedings.

Beyond 10 cumulative days in a school year, additional short-term removals of 10 consecutive days or less, for separate incidents of misconduct, are permitted to the extent such removals would be applied to nondisabled students and as long as those additional removals do not constitute a Change of Placement pattern described in §300.536, above.

An IEP Team will:

- (a.) *consider special education and disciplinary records of the student with a disability prior to the final determination regarding the disciplinary action;*
- (b.) *review the student's BIP and its implementation to determine if accommodations / modifications are necessary;*
- (c.) *consult with one or more of the child's teachers to determine the extent to which services are needed and the location necessary to enable the student to progress in the general curriculum and advance toward achieving the goals set out in the student's IEP.*
- (d.) *If the ACE Leadership initiates disciplinary procedures applicable to all students, the special education and disciplinary records of the student with a disability are transmitted for consideration to the person or persons making the final determination regarding disciplinary action.*

2. Manifestation Determination

If a disciplinary removal constitutes a change in placement, within 10 school days of any decision to change the placement because of a violation of a code of student conduct, the ACE Leadership must convene an IEP meeting to conduct a manifestation determination and address the two questions in §300.530(e)(1) below.

§300.530 Authority of school personnel.

(e) Manifestation determination.

- (1) **Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the child's IEP Team (as determined by the parent and the LEA) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine--**
 - (i) **If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or**
 - (ii) **If the conduct in question was the direct result of the LEA's failure to implement the IEP.**
- (2) **The conduct must be determined to be a manifestation of the child's disability if the LEA, the parent, and relevant members of the child's IEP Team determine that a condition in either paragraph (e)(1)(i) or (1)(ii) of this section was met.**
 - *Previously, any tangential or attenuated relationship between the discipline infraction and the child's disability was sufficient to determine that the infraction was a "manifestation" of the child's disability. In IDEA 2004, the House Committee FAQ stated that to be determined a manifestation, "it is the intention that the conduct in question [is] caused by, or has a direct and substantial relationship to the child's disability, and is not an attenuated association or mere correlation, such as low self-esteem, to the child's disability."*

strategies to address that behavior, including the development of behavioral goals and objectives and the use of positive behavioral interventions, strategies and supports to be used in pursuit of those goals and objectives. Public agencies are strongly encouraged to conduct functional behavioral assessments (FBAs) and integrate behavioral intervention plans (BIPs) into the IEPs for students who exhibit problem behaviors well before the behaviors result in proposed disciplinary actions for which FBAs and BIPs are required under the federal regulations.

- (2) See suspensions, expulsions page 12 of this Chapter.
- (3) FAPE for children removed from current placement for more than 10 school days in a school year. FAPE shall be provided in compliance with all applicable requirements of 34 CFR §300.530(d) and these or other department rules and standards for all children with disabilities who have been removed from their current educational placements for disciplinary reasons for more than 10 school days during a school year, as defined in 34 CFR §300.536.

The Functional Behavioral Assessment (FBA) must be completed when:

- removal is more than 10 school days due to any other violation of code (FBA to prevent recurrence)
- removals due to drugs, weapons or serious bodily injury
- if behavior is a manifestation (unless FBA/BIP is already in place, then review and revise, as needed)

Ensure that relevant members of the IEP Team, including the general education teacher, participate in providing information for the FBA and in developing the BIP:

1. target the specific behavior that is impeding learning by clearly defining and describing the observable behavior(s).
2. obtain information from a variety of sources: including but not limited to: discussions, interviews, records, and direct observation. Also, use any standardized instruments, if available. Determine duration, frequency, and intensity of any patterns of behavior.
3. identify and describe any antecedents - events that logically served as the stimulus for the behavior.
4. identify and describe any consequences - this is the action that is following and causes the student to maintain specific behavior - determine effectiveness of each.
5. determine the purpose of the student's behavior - usually to get something, avoid or escape something, or to control the antecedent event.
6. describe the relationship of the behavior to the event and provide possible variables that can be changed in the setting or the situation.
7. develop the behavioral intervention plan and accommodations (BIP). Teach alternatives to the behavior and include positive reinforcement along with consequences.
8. Implement consistently, allow enough time for the behavioral intervention plan and accommodations to work, and review as needed.

C. Placement made by IEP Committee

Authority: NMAC 6.11.2.11 DISCIPLINARY REMOVALS OF STUDENTS WITH DISABILITIES:

- F. Determination of setting. The student's IEP Team determines the interim alternative educational setting for services under Subsections B and E of this section. (*Subsections B and E are found in manifestation section*).

IV. REMOVALS OF STUDENTS WITH DISABILITIES

A. ISS – In School Suspension or Detention

Authority: NMAC §6.11.2.10 ENFORCING RULES OF CONDUCT:

- F. Detention, suspension and expulsion: Where detention, suspension and/or expulsion is determined to be the appropriate penalty, it may be imposed only in accordance with procedures that provide at least the minimum safeguards prescribed in Section 6.11.2.12 NMAC, below. Suspensions or expulsions of students with disabilities shall be subject to the further requirements of Subsection G of Section 6.11.2.10 NMAC and Section 6.11.2.11 NMAC.

Authority: NMAC §6.11.2.12 PROCEDURE FOR DETENTIONS, SUSPENSIONS AND EXPULSIONS:

E. In-school suspension.

- (1) In-school suspension may be imposed with or without further restriction of student privileges. Any student who is placed in an in-school suspension which exceeds ten (10) school days must be provided with an instructional program that meets both state and local educational requirements. Student privileges, however, may be restricted for longer than ten (10) school days.
- (2) In-school suspensions of any length shall be accomplished according to the procedures for a temporary suspension as set forth above. A local school board may limit the length of in-school suspensions which may be accomplished under temporary suspension procedures. No in-school suspension student shall be denied an opportunity to eat lunch or reasonable opportunities to go to the restroom.

F. Detention.

- (1) Detention may be imposed in connection with in-school suspension, but is distinct from in-school suspension in that it does not entail removing the student from any of his or her regular classes.
- (2) The authority of the schools to supervise and control the conduct of students includes the authority to impose reasonable periods of detention during the day or outside normal school hours as a disciplinary measure. No detained student shall be denied an opportunity to eat lunch or reasonable opportunities to go to the restroom. Reasonable periods of detention may be imposed in accordance with the procedures for temporary suspension.
 - *The local campus administrator is responsible for maintaining records on student discipline. Students with disabilities must be monitored by the local campus for total number of removals in order to follow state and federal disciplinary requirements outlined in this section.*
 - *Follow section III. Change of Placement requirements.*

B. IAES - (Interim Alternative Educational Setting) Removals for Drugs, Weapons, Serious Bodily Injury

45 School Day Rule *(In three specific situations listed below §300.530 (g), the administrator may remove to IAES regardless of the Manifestation Determination decision.)*

§300.530 Authority of school personnel.

- (g) **Special circumstances.** School personnel may remove a student to an interim alternative educational setting for **not more than 45 school days** without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child--
- (1) Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of the NMPED or the LEA;
 - (2) Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of the NMPED or the LEA; or
 - (3) Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the NMPED or the LEA.
- (h) **Notification.** On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the LEA must notify the parents of that decision, and provide the parents the procedural safeguards notice described in §300.504.
- (i) **Definitions.** For purposes of this section, the following definitions apply:
- (1) **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 USC 812(c)).
 - (2) **Illegal drug** means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.
 - (3) **Serious bodily injury** has the meaning given the term "serious bodily injury" under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.
 - (4) **Weapon** has the meaning given the term "dangerous weapon" under paragraph (2) of the first

- (b) Unless the administrative authority decides a delay is essential to permit a fuller exploration of the facts, this discussion may take place and a temporary suspension may be imposed within minutes after the alleged misconduct has occurred.
- (c) A student who denies a charge of misconduct shall be told what act(s) he or she is accused of committing, shall be given an explanation of the evidence supporting the accusation(s) and shall then be given the opportunity to explain his or her version of the facts. The administrative authority is not required to divulge the identity of informants, although the administrator should not withhold such information without good cause. The administrator is required to disclose the substance of all evidence on which he or she proposes to base a decision in the matter.
- (d) The administrative authority is not required to allow the student to secure counsel, to confront or cross-examine witnesses supporting the charge(s), or to call witnesses to verify the student's version of the incident, but none of these is prohibited.
- (e) The school shall exert reasonable efforts to inform the student's parent of the charges against the student and their possible or actual consequence as soon as practicable. If the school has not communicated with the parent by telephone or in person by the end of the first full day of suspension, the school shall on that day mail a written notice with the required information to the parent's address of record.

D. Suspension - Expulsion

§300.101 Free appropriate public education (FAPE).

- (a) **General.** A free appropriate public education must be available to all children residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school, as provided for in §300.530(d).

§300.170 Suspension and expulsion rates. *(as compared to general education population)*

- (a) **General.** The NMPED must examine data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities--
 - (1) Among LEAs in the State; or
 - (2) Compared to the rates for nondisabled children within those agencies.
- (b) **Review and revision of policies.** If the discrepancies described in paragraph (a) of this section are occurring, the NMPED must review and, if appropriate, revises (or requires the affected State agency or LEA to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards, to ensure that these policies, procedures, and practices comply with the Act.

*The *cm will follow the IDEA and NMAC requirements for suspension and expulsion of students with disabilities.*

Authority: NMAC §6.31.2.11 EDUCATIONAL SERVICES FOR CHILDREN WITH DISABILITIES:

F. Behavioral management and discipline

- (2) **Suspensions, expulsions and disciplinary changes of placement.** Suspensions, expulsions and other disciplinary changes of placement for children with disabilities shall be carried out in compliance with all applicable requirements of 34 CFR §§300.530-300.536, and these or other department rules and standards, including particularly §6.11.2.11 NMAC, governing interim disciplinary placements and long-term suspensions or expulsions of students with disabilities.
- (3) **FAPE for children removed from current placement for more than 10 school days in a school year.** FAPE shall be provided in compliance with all applicable requirements of 34 CFR §300.530(d) and these or other department rules and standards for all children with disabilities who have been removed from their current educational placements for disciplinary reasons for more than 10 school days during a school year, as defined in 34 CFR §300.536.
- (4) The ACE Leadership must keep an accurate accounting of suspension and expulsion rates for children with disabilities as compared to children without disabilities to ensure that children with disabilities are not being expelled or suspended at a significantly higher rate than children without disabilities.

The ACE Leadership campus principal is ultimately responsible for an accurate accounting. The principal may collaborate with the assigned special education lead teacher or diagnostician to keep records.

not a change of placement under §300.536, school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed as provided in §300.101(a), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

- (5) If the removal is a change of placement under §300.536, the child's IEP Team determines appropriate services under paragraph (d)(1) of this section.

(e) **Manifestation determination.**

- (1) Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the child's IEP Team (as determined by the parent and the LEA) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine--

(i) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or

(ii) If the conduct in question was the direct result of the LEA's failure to implement the IEP.

- (2) The conduct must be determined to be a manifestation of the child's disability if the LEA, the parent, and relevant members of the child's IEP Team determine that a condition in either paragraph (e)(1)(i) or (1)(ii) of this section was met.

- (3) If the LEA, the parent and relevant members of the child's IEP Team determine the condition described in paragraph (e)(1)(ii) of this section was met, the LEA must take immediate steps to remedy those deficiencies.

(f) **Determination that behavior was a manifestation.** If the LEA, the parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child's disability, the IEP Team must--

- (1) Either--

(i) Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or

(ii) If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and

- (2) Except as provided in paragraph (g) of this section, return the child to the placement from which the child was removed, unless the parent and the public agency agree to a change of placement as part of the modification of the behavioral intervention plan.

(g) **Special circumstances.** School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child--

- (1) Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of the NMPED or the LEA;

- (2) Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of the NMPED or the LEA; or

- (3) Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the NMPED or the LEA.

(h) **Notification.** On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the LEA must notify the parents of that decision, and provide the parents the procedural safeguards notice described in §300.504.

(i) **Definitions.** For purposes of this section, the following definitions apply:

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