

**JDD(1)-R Suspension/Expulsion of Disabled Students**

7/25/16

GSBA Reference: JDD (Student Suspension)

**RATIONALE/OBJECTIVE:**

The Cobb County School District (District) is dedicated to sound discipline practices in order to provide students in the District an effective and safe learning environment, to promote learning, and to encourage maturity during the school day as well as during all school-related activities. Students with disabilities will be disciplined in accordance with Georgia and Federal law.

**RULE:**

Students with disabilities shall be suspended or expelled as outlined below and in Public Law 108-446: The Individuals with Disabilities Education Improvement Act (IDEA 2004):

**A. NOTIFICATION:**

The Principal or designee shall notify the Teaching & Learning Support and Specialized Services office immediately when a student with disabilities violates District Administrative Rules governing student conduct and will be recommended for out-of-school short-term or long-term suspension or expulsion that will cause the student to exceed a total of ten (10) days suspensions in any given school year.

1. Within twenty-four (24) hours of the recommendation for any suspension/expulsion that will exceed ten (10) total school days in any given school year, the principal or designee shall attempt to notify the parent/guardian and student of the proposed action, alleged charges and the scheduled IEP/Manifestation Determination Team meeting to consider the case (specifying the purpose, participants, time and place of the meeting). The parent/guardian shall be notified that the IEP/Manifestation Determination Team (Team) may change the student's IEP. The parent/guardian shall be requested to attend the review and shall be given a copy of Parental Rights Regarding Special Education.
2. The Committee chairperson shall document parent/guardian attendance at the review or document attempts to involve the parent/guardian in the review.

**B. IEP/MANIFESTATION DETERMINATION:**

1. The Teaching & Learning Support and Specialized Services office will arrange and conduct an IEP/Manifestation Determination Team meeting within 10 days school days after the date of the notice.
2. **Series of Short-term Suspensions:**

For a series of short-term suspensions that will exceed a total of ten (10) school days, the Team will make a determination of whether the series of suspensions create a pattern of exclusions that constitutes a significant change in placement.

  - a. A series of suspensions create a pattern:
    - (1) Because the series of removals total more than 10 schools days in a school year;
    - (2) Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and
    - (3) 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. If the Team determines that the series of suspensions do not create a pattern of exclusions that constitute a significant change in placement, the student will serve the recommended suspension.
3. **Long-term Suspension:**

For long-term suspension, expulsion or a series of short-term suspensions that have been determined by the Team to be a significant change in placement:

- a. The Team will review the case to determine whether the misconduct was or was not a manifestation of the disability for which the student is receiving special education services.
- b. The Team shall review the student's present IEP and case history prior to making this determination. This should include, but is not limited to, all relevant information in the student's file, teacher observations, and all relevant parent information.
- c. The Team shall determine:
  - (1) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
  - (2) If the conduct in question was the direct result of the District's failure to implement the IEP.
- d. If the Team determines that the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability; or the conduct in question was the direct result of the District's failure to implement the IEP, the Team must either:
  - (1) Conduct a functional behavioral assessment, unless the District has conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the student; or
  - (2) If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior, return the student to the placement from which the student was removed, unless the parent/guardian and the District agree to a change of placement as part of the modification of the behavioral intervention plan.
- e. If the Team determines that the student's behavior was not a manifestation of the disability, the Team should document its findings and make changes in the IEP if needed. If expulsion or long-term suspension is recommended as a disciplinary action, the Team must also recommend appropriate educational and/or related services to be provided while the student is expelled/suspended. The due process procedures in Administrative Rule JCEB-R (Student Hearing Procedure) will be followed for all recommended long-term suspensions or expulsions.
- f. If the District, the parent/guardian and the relevant members of the student's Team determines the conduct in question was a direct result of the failure of the District to implement the IEP, the District must take immediate steps to remedy those deficiencies.
- g. The Team shall document the committee findings and recommendations.

**C. WEAPONS/DRUGS/BODILY INJURY:**

Students with a disability who possess a weapon, possess or use illegal drugs, or sell or solicit the sale of a controlled substance, or inflict serious bodily injury on another while at school or a school function, either on or off the school's campus (Administrative Rule JCDA-R), may be subject to a change in placement to an appropriate interim alternative educational setting for the same amount of time as a student without a disability would be subject to discipline, but not for more than forty-five (45) school days regardless of whether the conduct is a manifestation of the student's disability for which he or she is receiving special education services. If the conduct is not a manifestation of the student's disability for which he or she is receiving special education services, the student may be removed to an appropriate interim alternative educational setting for the same amount of time as a student without a disability would be subject to discipline. The alternative placement must enable the student to participate in the general curriculum, progress toward meeting IEP goals, and receive any services and modifications stipulated in his/her IEP. In addition, the placement must include services/modifications to address the behavior that led to the student's placement change, and will prevent the behavior from reoccurring.

1. A weapon is defined as any device, instrument, material, or substance, animate or inanimate, that can cause death or serious bodily injury and includes a pocket knife with a blade of 2-1/2 inches or more.
2. Serious bodily injury is defined as a 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.

**D. 45-DAY REMOVAL:**

If maintenance of a student with a disability in his or her current placement is substantially likely to result in injury to the student or others, the student may be removed for up to forty-five (45) school days, but only by decision of an administrative law judge or state or federal court. A decision to request the hearing shall be made by the Teaching & Learning Support and Specialized Services office.

Adopted: 8/26/82

Reviewed: 9/1/04

Revised: 4/13/83; 8/8/84; 7/11/85; 8/27/87; 6/28/90; 5/27/93; 12/8/97 7/24/97; 5/27/99, 9/12/00; 2/24/05; 11/14/07; 11/09/11

Revised and re-coded: 1/7/13 (Previously coded as Administrative Rule JKDD)

Revised: 7/1/13; 7/25/16

Legal Reference

O.C.G.A. 20-2-740	Annual report by LBOE regarding disciplinary and placement action
O.C.G.A. 20-2-751.1	Expulsion policy for students bringing weapons to school
O.C.G.A. 20-2-751.2	Students subject to disciplinary orders of other schools
O.C.G.A. 20-2-751.5	Required provisions for student code of conduct
O.C.G.A. 20-2-751.6	Disciplinary policy for students committing acts of physical violence against school employees
O.C.G.A. 20-2-753	Tribunal following allegations of assault and battery or suspension exceeding 10 days
O.C.G.A. 20-2-1160	LBOE tribunal power to determine local school controversies; appeals; special ed provisions
O.C.G.A. 20-2-154.1	Alternative education programs; intent; description; funding
O.C.G.A. 20-2-735	Adoption of policies by LBOEs to improve student learning environment
O.C.G.A. 20-2-736	Student codes of conduct; distribution
O.C.G.A. 20-2-738	Authority of teacher to remove student from classroom; procedures
O.C.G.A. 20-2-751	Expulsion/Suspension definitions
O.C.G.A. 20-2-752	Establishment of disciplinary hearing officers, panels or tribunals; rules and regs
O.C.G.A. 20-2-765	Notice to parents re: chronic disciplinary problem student
O.C.G.A. 20-2-766	Students returning from expulsion/suspension; notice, conferences
O.C.G.A. 20-2-768	Expulsion/suspension for commission of a felony; alternative education system
Rule 160-4-8-.12	Alternative Education Programs
20 USC 7151	Gun-free requirements