

# REGULATION GUIDE

**PROGRAM**

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**Special Education - Free and Appropriate  
Public Education**

**Jan 19**

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**[See POLICY ALERT Nos. 95, 101, 104, 108, 112, 119, 129, 132, 138,  
146, 152, 155, 159, 185, 211 and 217]**

## **R 2460.8 SPECIAL EDUCATION - FREE AND APPROPRIATE PUBLIC EDUCATION**

**A free and appropriate public education is available to all students with disabilities between the ages of three and twenty-one including students with disabilities who have been suspended or expelled from school.**

**Procedures regarding the provision of a free and appropriate public education to students with disabilities who are suspended or expelled are as follows:**

- 1. School officials responsible for implementing suspensions/expulsions in the district are the following: Board of Education, Superintendent, Child Study Team, Principal, and Supervisors of Special Education. (List school officials/designees by district organizational level.)**
  - a. Grades Nine – Twelve Principal/Vice Principal or designee;**
- 2. Each time a student with a disability is removed from his/her current placement for disciplinary reasons, notification of the removal is provided to the case manager by the Principal or designee. (Notification must be in written format for documentation.)**
  - a. Removal for at least half of the school day shall be reported via the Student Safety Data System (SSDS).**
- 3. Each Principal or designee will ensure that a system is in place to track the number of days a student with disabilities has been removed for disciplinary reasons. Documentation will include:**
  - a. Student's name;**
  - b. The infraction;**
  - c. Time suspended; and**



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- d. The cumulative days suspended including removal for a portion of the school day which is counted proportionately.
4. When a student is suspended from transportation:
  - a. Suspension from transportation is not counted as a day of removal if the student attended school.
  - b. Suspension from transportation is counted as a day of removal if the student does not attend school.
  - c. If transportation is included in the student's IEP as a required related service, the school district shall provide alternate transportation during the period of suspension from the typical means of transportation.
  - d. Suspension from transportation may be counted as a day of absence rather than a day of removal if the district made available an alternate means of transportation and the student does not attend school.
5. When a student with a disability participates in an in-school suspension program, the Principal or designee shall ensure that participation in the program is not considered removal when determining whether a manifestation determination must be conducted if the program provides the following:
  - a. Opportunity for the student to participate and progress in the general curriculum,
  - b. Services and modifications specified in the student's IEP,
  - c. Interaction with peers who are not disabled to the extent they would have in the current placement, and
  - d. The student is counted as present for the time spent in the in-school suspension program.
6. When a series of short-term removals will accumulate to more than ten school days in the year:
  - a. The Principal/Vice Principal or designee and the case manager will consult to determine whether the removals create a change of placement according to N.J.A.C. 6A:14-2.8(c)2. Written documentation of the



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consultation between the school administration and the case manager shall be maintained by the case manager.

b. If it is determined that there is no change in placement, the Principal/Vice Principal or designee, the case manager, and special education teacher will consult to determine the extent to which services are necessary to:

(1) Enable the student to participate and progress appropriately in the general education curriculum; and

(2) Advance appropriately toward achieving the goals set out in the student's IEP.

c. Written documentation of the consultation and services provided shall be maintained in the student's file.

7. When a disabled student is removed from his/her current placement for more than ten days and the removal does not constitute a change in placement, the case manager shall convene a meeting of the IEP Team and, as necessary or required, conduct a functional behavior assessment and review the behavioral intervention plan according to N.J.A.C. 6A:14 Appendix A, Individuals with Disabilities Education Act Amendments of 2004, 20 U.S.C. §1415(k). The IEP Team shall:

a. Review the behavioral intervention plan and its implementation;

b. Determine if modifications are necessary; and

c. Modify the behavioral intervention plan and its implementation as appropriate. The plan will be modified to the extent necessary if at least one member of the team determines that modifications are necessary.

The case manager will document the date and the outcome of the meeting.

The documentation shall be placed in the student's file.

**Procedures Regarding the Provision of a Free, Appropriate Public Education to Students with Disabilities Who Are Advancing From Grade to Grade**



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The Child Study Team, through in-service training, shall ensure students with disabilities who are advancing from grade to grade with the support of specially designed services, continue to be eligible when as part of a reevaluation, the IEP Team determines the student continues to require specially designed services to progress in the general education curriculum and the use of functional assessment information supports the IEP Team's determination.

## Procedures Involving Procedural Safeguards to Students Not Yet Eligible For Special Education

Disciplinary procedural safeguards will apply to students not yet eligible for special education. The parent and/or adult student may assert any of the protections of the law if the district had knowledge the student was a student with a disability before the behavior that precipitated the disciplinary action occurred.

**1<sup>st</sup> Reading: 28 February 2019**

Adopted:

