

ADMINISTRATIVE PROCEDURES OF THE MILWAUKEE PUBLIC SCHOOLS

ADMINISTRATIVE PROCEDURE 8.28 STUDENT DISCIPLINE

(1) ADMINISTRATIVE TRANSFER — EVIDENTIARY CONFERENCE

(a) A principal may make a recommendation for an involuntary transfer of a student (disciplinary transfer). The involuntary transfer of students from one school to another or to a behavior-reassignment school for disciplinary reasons will normally be made only after all intermediate methods have been exhausted or when a breach of discipline is of such a severe nature that the student's continued attendance in school would be detrimental to the child, other members of the student body, or building staff. These intermediate methods should include, but are not limited to, parent-teacher conferences, referral to the school's social worker or psychologist, parent-teacher-administration conferences, suspensions, or new assignment within building.

(b) If a principal recommends a disciplinary transfer, a central services evidentiary conference shall be held by a Student Services supervisor to determine whether the involuntary transfer of the student is appropriate.

(c) The principal shall prepare a report detailing the reasons for his/her recommendation for disciplinary transfer and shall include any concurring or dissenting opinions of other school personnel. The sending school and the student classroom teacher(s) shall also prepare a report detailing the educational progress of the student and shall prepare for the proposed new teacher any suggestions which will aid the student's development.

(d) The Central Services evidentiary conference referred to above shall be conducted according to the following procedures:

1. The parent or guardian shall receive notification at least two days prior to the conference, and the conference shall be private.
2. The parent or guardian shall have the right to be represented by counsel (attorneys or non-attorneys) at his/her own expense.
3. The parent or guardian shall have the right to present evidence and witness statements on the child's behalf.
4. The Student Services supervisor's recommendation shall rest upon evidence produced at the conference.
5. All parts of the child's school record available under Wisconsin law will be made available to the parent prior to the conference. This includes data in paragraph (c), above. Those portions of the record which are not considered a student record under Wisconsin law shall be deleted, and the parent would be advised if any deletions were so made.
6. The principal and other school administrative personnel have the burden of proof in establishing that the student's conduct, based on the student's record, is sufficiently severe to justify disciplinary transfer as the only appropriate educational alternative.

(e) In the event that the parent or guardian does not agree with the Student Services supervisor's concurrence in the recommendation for transfer, the matter may be appealed to the Department of Student Services for a prompt, impartial conference before a specialist of the Department of Student Services. Upon notification of the decision resulting from the conference and of the right to appeal, the parent or guardian shall have the right to appeal in writing within 48 hours. If the parent or guardian does not assert the right to appeal, he/she will be advised of the available schools, and the transfer to the new school will be arranged by a Student Services supervisor in a timely fashion.

(f) In the event that the parent or guardian does not agree with the decision of the specialist on appeal, he/she may further appeal said decision to the senior director of Student Services.

(g) All documentation regarding the transfer will be placed in an electronic file maintained by the Department of Student Services.

(2) DUE-PROCESS PROCEDURES REGARDING DISCIPLINE OF STUDENTS WITH DISABILITIES UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

(a) Statement of General Principles

1. Students with disabilities (i.e., special education and §504 students or students in the referral process) are subject to disciplinary procedures. Discipline of these students is governed by procedural due-process requirements as defined by special education law and IEP team procedures. It is critically important that schools accurately record the number of days of disciplinary removal for students with disabilities, including suspensions, bus suspensions (without alternate transportation), half-days, and early releases. Schools are not allowed to implement “informal” suspensions — with or without parental consent.

2. When a child with a disability exhibits severe behavioral difficulties, schools have a responsibility to focus on positive and proactive approaches rather than relying solely on exclusionary practices (e.g., suspensions or removals). A functional behavioral assessment (FBA) refers to a school-based team that meets in an attempt to examine the child’s problematic behaviors to determine when, where, and why they are occurring. A behavior intervention plan (BIP) provides the school with an action plan so that, when the problematic behavior occurs, teachers and others will know how to respond.

(b) Disciplinary Changes of Placement

1. A disciplinary change in educational placement for a student with a disability occurs when a student is removed from his or her current educational placement, including changing the school assignment or changing the student’s educational services, for more than ten consecutive school days because of a violation of school code. A change of placement also occurs if the student has been subjected to a series of removals that constitute a pattern because:

- the series of removals total more than ten school days in a school year;
- the student’s behavior is substantially similar to the student’s behavior in previous incidents that resulted in the series of removals; and
- there are additional factors, such as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another.

2. School personnel shall consider any unique circumstances on a case-by-case basis when determining whether a disciplinary removal (including suspensions and expulsions) that may result in a change in placement is appropriate for a child with a disability who violates the code of student conduct.

(c) Educational Services during Disciplinary Removals

If a disciplinary removal results in a change of placement, the student must be provided educational services, as determined by the IEP team, to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student’s IEP. Participation in the general curriculum does not mean a school or district must replicate every aspect of the services that a student would receive if in his or her normal classroom. In addition the student must receive, as appropriate, a functional behavioral assessment (FBA) and behavioral-intervention services and modifications designed to address the behavior violation so that it does not recur.

(d) Parental Notification

On the date on which the decision is made to make a removal that constitutes a change of placement of a student with a disability because of a violation of a code of student conduct, the district must notify the parents of that decision and provide the parents with the procedural safeguards notice.

(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, staff at the student’s current school must conduct a manifestation determination. If the student’s behavior was caused by, or had a direct and substantial relationship to, the student’s disability, or if the conduct in question was the direct result of the district’s failure to implement the student’s IEP, then the conduct must be determined to be a manifestation of the student’s disability. If the district failed to implement the student’s IEP, staff at the student’s current school must take immediate steps to remedy the deficiencies.

- 2. If the behavior subject to disciplinary action is a manifestation of the student’s disability:
 - staff at the student’s current school must hold an IEP team meeting to conduct an FBA, unless one was conducted before the behavior that resulted in the change of placement occurred;
 - school staff must implement a behavior-intervention plan for the student. If a behavior-intervention plan already has been developed, staff must review and modify it, as necessary, to address the behavior; and
 - the student must be returned to the placement from which the student was removed, unless the parent and district agree to a change of placement as part of the modification of the behavioral intervention plan.

3. If the behavior subject to disciplinary action is not a manifestation of the student’s disability, disciplinary action may be taken, but the school district must continue to make a free appropriate public education (FAPE) available to the student.

(f) Interim Alternative Education Setting (IAES)

Under special circumstances, school personnel may remove a student to an IAES for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student’s disability. The student’s IEP team shall determine the interim alternative education setting for services.

History:	Adopted 7-27-99; Revised 9-18-14, 5-31-18	
Legal Ref.:	IDEA regulations regarding discipline under 34 C.F.R. §300.121	
Cross Ref.:	Handbook on Student Rights and Responsibility	
	Admin. Policy	8.17 Student Rights Responsibilities and Discipline
		8.19 Student Conduct
		8.22 Alcohol Use by Students/Student Drug Abuse
		8.23 Weapons in the Schools
		8.28 Student Discipline