

Book: Luzerne Intermediate Unit

Section: 100 Programs

Title: Discipline of Students With Disabilities

Code: 113.1

First Adopted: November 20, 2002

Last Revised: December 18, 2024



Purpose

The Intermediate Unit, in coordination with the student's school district of residence, 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.[\[1\]](#)[\[2\]](#)[\[3\]](#)

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.[\[1\]](#)[\[4\]](#)[\[5\]](#)[\[6\]](#)[\[7\]](#)

Definitions

Students with disabilities - school-aged children 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.[\[2\]](#)

Suspensions from school - disciplinary exclusions from school for a period of one (1) to ten (10) consecutive school days.[\[7\]](#)[\[8\]](#)

Expulsions from school - disciplinary exclusions from school by the Board for a period exceeding ten (10) consecutive school days and may include permanent exclusion from Intermediate Unit programs. The Intermediate Unit shall coordinate actions involving expulsions from Intermediate Unit programs with the student's school district of residence, as required by law.[\[7\]](#)[\[8\]](#)

Interim alternative educational settings - removal of a student with a disability from the student's current placement. Interim alternative educational settings 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.[\[5\]](#)[\[9\]](#)

Authority

The Board directs that the Intermediate Unit 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 Intermediate Unit 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. However, under certain circumstances a student with a disability may be placed in an interim alternative educational setting by school personnel or the IEP team could, if appropriate, change the student's educational placement to one which is more restrictive than the placement where the misconduct occurred. The Intermediate Unit shall assist the student's school district of residence in determining changes in educational placement as a member of the IEP team, or upon request.[\[4\]](#)[\[5\]](#)[\[9\]](#)

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.[\[5\]](#)[\[8\]](#)[\[10\]](#)

While the student's school district of residence is responsible for providing education during expulsion, the Intermediate Unit shall assist in planning for or providing such services, as appropriate.

Guidelines

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.[\[4\]](#)[\[5\]](#)[\[8\]](#)[\[9\]](#)[\[11\]](#)

Changes in Educational Placement/Manifestation Determinations

For disciplinary exclusions which constitute a change in educational placement, the Intermediate Unit, in coordination with the student's school district of residence and IEP team, 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 suspensions for substantially identical behaviors constitute changes in educational placements requiring a manifestation determination. For students with intellectual disability, any disciplinary suspension or expulsion is a change in educational placement.[\[4\]](#)[\[5\]](#)

A student with a disability whose behavior is not a manifestation of the student's disability may be disciplined in accordance with Board policy, Intermediate

Unit rules and regulations in the same manner and to the same extent as students without disabilities.[\[4\]](#)[\[5\]](#)[\[6\]](#)[\[7\]](#)

Parent/Guardian Appeals From Disciplinary Actions/Request for Hearing by Intermediate Unit for Students Who Are a 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 the Intermediate Unit, in coordination with the student's school district of residence, if the Intermediate Unit believes that the current placement is substantially likely to result in injury to the student or others. On parent/guardian appeal, or when the Intermediate Unit, in coordination with the student's school district of residence, 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.[\[9\]](#)[\[12\]](#)

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 Intermediate Unit, school district of residence and the parent/guardian agree otherwise.[\[9\]](#)[\[13\]](#)

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 Intermediate Unit 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 Intermediate Unit shall coordinate with the student's school district of residence, and the evaluation shall be expedited.[\[9\]](#)[\[14\]](#)

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:[\[5\]](#)[\[9\]](#)

1. Carries a weapon to or possesses a weapon at school or Intermediate Unit programs, on Intermediate Unit property or at school functions under the jurisdiction of the Intermediate Unit. 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 pocket knife with a blade of less than two and one-half (2 ½)

inches in length.[\[5\]\[9\]\[15\]\[16\]](#)

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 or Intermediate Unit programs, on Intermediate Unit property or at school functions under the jurisdiction of the Intermediate Unit.[\[5\]\[9\]\[17\]\[18\]](#)
3. Has inflicted serious bodily injury upon another person while at school or Intermediate Unit programs, on Intermediate Unit property or at school functions under the jurisdiction of the Intermediate Unit. 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.[\[5\]\[9\]\[19\]](#)

The Intermediate Unit shall work with the student's school district of residence as a member of the IEP team, or upon request, to plan for or provide the interim alternative educational setting when it is determined that a student must be removed for a qualifying reason.

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 products; or conduct that constitutes an offense listed in the school safety and security provisions of School Code.[\[20\]\[21\]\[22\]](#)

The Executive Director or designee shall immediately report required incidents and may report discretionary incidents committed at school or Intermediate Unit programs, on school property of the Intermediate Unit, at any school function under the jurisdiction of the Intermediate Unit, or on a conveyance providing transportation to or from a school function under the jurisdiction of the Intermediate Unit by a student with a disability, including a student for whom an evaluation is pending, to the law enforcement agency that has jurisdiction over the school property of the Intermediate Unit, in accordance with state and federal laws and regulations, the procedures set forth in the memorandum of understanding with law enforcement and Board policies. The Executive Director or designee, in coordination with the student's school district of residence, shall respond to such incidents in accordance with law and regulations and, if applicable, the procedures, methods and techniques defined in the student's Positive Behavior Support Plan.[\[1\]\[3\]\[6\]\[9\]\[16\]\[18\]\[20\]\[21\]\[23\]\[24\]\[25\]\[26\]\[27\]\[28\]\[29\]\[30\]\[31\]\[32\]\[33\]](#)

For a student with a disability who does not have a Positive Behavior Support Plan, subsequent to notification to law enforcement, the Intermediate Unit shall coordinate with the student's school district of residence to 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 policies.[\[1\]](#)[\[3\]](#)[\[26\]](#)[\[30\]](#)

When reporting an incident committed by a student with a disability to the appropriate authorities, the Intermediate Unit 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. The Intermediate Unit, in coordination with the student's school district of residence, shall ensure compliance with the Family Educational Rights and Privacy Act when transmitting copies of the student's special education and disciplinary records.[\[9\]](#)[\[21\]](#)[\[23\]](#)[\[24\]](#)[\[26\]](#)[\[27\]](#)[\[33\]](#)[\[34\]](#)[\[35\]](#)[\[36\]](#)[\[37\]](#)

In accordance with state law, the Executive Director shall annually, by July 31, report to the PA Department of Education on the required form all new incidents committed by students with disabilities, including students for whom an evaluation is pending, which occurred at school or Intermediate Unit programs, on school property of the Intermediate Unit, at any school function under the jurisdiction of the Intermediate Unit, or on a conveyance providing transportation to or from any school function under the jurisdiction of the Intermediate Unit.[\[20\]](#)[\[28\]](#)[\[33\]](#)

Legal

1. 22 PA Code 14.133

2. Pol. 113

3. Pol. 113.2

4. 22 PA Code 14.143

5. 34 CFR 300.530

6. Pol. 218

7. Pol. 233

8. 22 PA Code 12.6

9. 20 U.S.C. 1415

10. 20 U.S.C. 1412

11. 34 CFR 300.536

12. 34 CFR 300.532

13. 34 CFR 300.533

14. 34 CFR 300.534

15. 18 U.S.C. 930

16. Pol. 218.1

17. 21 U.S.C. 812

18. Pol. 227

19. 18 U.S.C. 1365

20. 24 P.S. 1319-B
21. 22 PA Code 10.2
22. 35 P.S. 780-102
23. 22 PA Code 10.21
24. 22 PA Code 10.22
25. 22 PA Code 10.25
26. 22 PA Code 10.23
27. 34 CFR 300.535
28. 24 P.S. 1306.2-B
29. Pol. 103.1
30. Pol. 113.3
31. Pol. 218.2
32. Pol. 222
33. Pol. 805.1
34. 20 U.S.C. 1232g
35. 34 CFR Part 99
36. Pol. 113.4
37. Pol. 216
20 U.S.C. 1400 et seq
34 CFR Part 300