

## 21<sup>st</sup> Century Public Academy

### Discipline for Special Education Students

In accordance with the law, students with disabilities are treated differently when it comes to discipline. However, when IDEA 2004 was enacted “Congress removed a requirement that the IEP team meet within 10 days of a disciplinary removal to conduct an Functional Behavior Assessment (FBA) or review and modify any existing Behavior Intervention Plan (BIP), regardless of whether or not the behavior in question was a manifestation of the student’s disability”, (p. 25, Student Discipline for Students with Disabilities, a Technical Assistance Manual). Typically, however, if a student with a disability demonstrates a pattern of behavior that interferes with his/her learning or that of others, an IEP meeting will be called as soon as possible to address the issue. Although not required by law, the same may be true if a student should commit a single offense that significantly violates the school’s code of conduct and for which suspension is appropriate. At this meeting, the school shall obtain consent from parent/guardian to conduct a Functional Behavioral Assessment. Depending on the information obtained from the FBA, the IEP team will determine the next step. In some cases, the IEP team may address the behavior through the addition of appropriate functional goals to the child’s IEP. More often, however, a BIP will be developed and put into place along with relevant functional goals. The student’s behavior will be monitored and data collected to determine if the BIP is sufficiently addressing the issue. Behavior Intervention Plans are reviewed every semester unless there are questions about their effectiveness in which case they will be reviewed and revised as soon as possible. If a student with a disability (that already has a BIP in place) commits offenses that result in suspension, the BIP may need to be reviewed as soon as possible and changes made if appropriate. Initiating the FBA process or reviewing an existing BIP is generally best practice in the above scenarios. However, there will always be exceptions to the rule.

ANY special ed. student can be suspended for up to 10 cumulative days in a school year. Because more than 10 days of suspension may be considered a change in placement, certain protections are triggered if another suspension is being considered. At this point in time, a Manifestation Determination Review (MDR) will be conducted within 10 days of the offense. The MDR will typically involve members of the student’s IEP team (including student’s parents if they choose to attend), administration and any relevant persons that the parents choose to include. At the MDR, the team will make a decision as to whether or not the student’s behavior was a manifestation of his/her disability. The MDR must answer two questions: “Was the conduct caused by, or did it have a direct and substantial relationship to, the student’s disability?” and “Was the conduct in question the direct result of the district’s failure to implement the student’s IEP?” (p.32, Student Discipline for Students with Disabilities, a Technical Assistance Manual). If the answer to either of these questions is yes, the school may not initiate long-term suspension or expulsion. If the MDR decides that the behavior in question is NOT a manifestation of the student’s disability and NOT due to the failure of the district to

implement the IEP, a due process hearing will be scheduled. If the school recommends long term suspension and the hearing officer agrees, an Interim Alternative Educational Setting (see following page) will be provided by the school so that the student continues to receive special education services.