

***Owens-Whitney Elementary School District #6***

**Discipline Policy and Procedure**

**POLICY**

A child with a disability may be disciplined for a violation of the student code of conduct, including removal from his or her current placement to an appropriate interim alternative educational setting, another setting, suspension, or expulsion in accordance with IDEA Regulations §§300.530 through 300.536.

**PROCEDURES**

**§300.530 Authority of School Personnel**

- 1) On a case-by-case basis and in consideration of any unique circumstances, school personnel may remove a child with a disability who violates a student code of conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change of placement under §300.536.
- 2) After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, during any subsequent days of removal, the public agency must provide services to the extent required to:
  - Enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting his/her IEP goals; and
  - Receive, as appropriate, a functional behavioral assessment, behavioral intervention services, and modifications that are designed to address the behavior violation so that it does not recur.
- 3) ***Owens-Whitney Elementary School District #6*** is only required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for 10 days or less in that school year, if it provides services to nondisabled children similarly removed.
- 4) After a child with a disability has been removed from his or her current placement for 10 school days, and the current removal is for not more than 10 consecutive school days and not a change of placement, school personnel, in consultation with at least one of the child's teachers, determine the extent to

which services are needed, so as to enable the child to continue to participate in the general education curriculum and to progress toward meeting the IEP goals.

- 5) If the removal is a change in placement, the child's IEP Team determines the appropriate services.
- 6) 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, ***Owens-Whitney Elementary School District #6***, parent, and relevant members of the IEP Team must review all relevant information in the student's file, the IEP, teacher observations, and any relevant information to determine:
  - a. If the conduct was caused by, or had a direct and substantial relationship to, the child's disability; or
  - b. If the conduct in question was the direct result of ***Owens-Whitney Elementary School District #6*** failure to implement the IEP.
- 7) The conduct must be determined to be a manifestation of the disability if either (6) (a) or (b) occurred, and if the IEP was not implemented, ***Owens-Whitney Elementary School District #6*** must take immediate steps to remedy that deficiency.
- 8) If ***Owens-Whitney Elementary School District #6***, parent, and relevant members of the IEP Team determine that the conduct was a manifestation of the child's disability, the child must be returned to the placement from which the child was removed, unless the parent and ***Owens-Whitney Elementary School District #6*** agree to a change of placement. The IEP Team must either:
  - a. Conduct a functional behavioral assessment unless one has already been done, and implement a behavioral intervention plan; or
  - b. If a behavioral intervention plan has already been developed, review the plan and modify it, as necessary, to address the behavior.
- 9) School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to manifestation of disability if the child:
  - a. Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of a state or public education agency;
  - b. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of a state or public education agency; or

- c. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of a state or public education agency.

- 10) ***Owens-Whitney Elementary School District #6*** will notify parents and provide notice of procedural safeguards on the day the ***Owens-Whitney Elementary School District #6*** determines the student has violated the code of conduct and the violation constitutes a change of placement (i.e., interim alternative education setting).

#### **AAC R7-2-401.P Suspension and Expulsion**

- 1) ***Owens-Whitney Elementary School District #6*** shall establish, implement, and make available to personnel and parents written procedures for the suspension and expulsion of students with disabilities.
- 2) ***Owens-Whitney Elementary School District #6*** shall require all school-based staff involved in the disciplinary process to review the policies and procedures related to suspension and expulsion on an annual basis. ***Owens-Whitney Elementary School District #6*** shall maintain documentation of staff review.
- 3) Procedures for such suspensions and expulsions shall meet the requirements of the IDEA and its regulations, and state statutes.

#### **§300.531 Determination of Setting**

The child's IEP Team determines the interim alternative educational setting for services.

#### **§300.532 Appeal**

- 1) The parent of a child with a disability who disagrees with any decision regarding placement under §§300.530 and 300.531 or the manifestation determination may appeal the decision by requesting an expedited due process hearing in conformance with §§300.310 through 300.314 and AAC R7-2-405.I.
- 2) If ***Owens-Whitney Elementary School District #6*** believes that maintaining the current placement of the child is substantially likely to cause injury to the child or others may appeal the decision by requesting an expedited due process hearing in conformance with §§300.310 through 300.314 and AAC R7-2-405.I.

### **§300.533 Placement during Appeals**

The student must remain in the interim alternative educational setting pending the decision of the hearing officer or expiration of the interim setting, whichever comes first, unless the parent and public agency agree otherwise.

### **§300.534 Protections for Children Not Determined Eligible for Special Education and Related Services**

- 1) A student who has not been determined eligible and who engaged in a behavior that violated a code of student conduct may assert protections if ***Owens-Whitney Elementary School District #6*** had knowledge that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred. ***Owens-Whitney Elementary School District #6*** must be deemed to have such knowledge if:
  - a) The parent of the child expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the child, that the child is in need of special education and related services;
  - b) The parent of the child requested an evaluation of the child pursuant to §§300.300 through 300.311; or
  - c) The teacher of the child, or other personnel of ***Owens-Whitney Elementary School District #6*** expressed specific concerns about a pattern of behavior demonstrated by the child directly to the director of special education or to other supervisory personnel of ***Owens-Whitney Elementary School District #6***.
- 2) ***Owens-Whitney Elementary School District #6*** would not be deemed to have knowledge if the parent of the child:
  - a) Has not allowed an IDEA evaluation of the child;
  - b) Has refused special education services for the child; or
  - c) The child has been evaluated and determined to not be a child with a disability under IDEA.
- 3) If ***Owens-Whitney Elementary School District #6*** does not have knowledge that a child is a child with a disability prior to taking disciplinary measures against the child, the child may be disciplined as other children without disabilities who engage in comparable behaviors.

- 4) If an evaluation is requested during the time in which a child is subjected to disciplinary measures, the evaluation must be conducted in an expedited manner.
  - a) Until the evaluation is completed, the child remains in the educational placement determined by ***Owens-Whitney Elementary School District #6***, which can include suspension or expulsion without educational services.
  - b) If the child is determined to be a child with a disability, ***Owens-Whitney Elementary School District #6*** must provide special education and related services in accordance with this part, including the requirements of §§300.530 through 300.536.

#### **§300.535 Referral to and Action by Law Enforcement and Judicial Authorities**

- 1) ***Owens-Whitney Elementary School District #6*** may report a crime committed by a child with a disability to appropriate authorities to enable them to exercise their responsibilities.
- 2) ***Owens-Whitney Elementary School District #6*** reporting a crime committed by a child with a disability will ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime, but only to the extent permitted by FERPA.

#### **§300.536 Change of Placement Because of Disciplinary Removals**

- 1) A change of placement occurs if:
  - a) The removal is for more than 10 consecutive school days; or
  - b) The child has been subjected to a series of removals that constitute a pattern:
    - i) because the series of removals total more than 10 school days in a school year;
    - ii) because the child's behavior is substantially similar to the behavior in previous incidents that resulted in a series of removals; and
    - iii) 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.

**2) Owens-Whitney Elementary School District #6** will determine on a case-by-case basis whether a pattern of removals constitutes a change of placement, and such determinations are subject to review through due process and judicial proceedings.