

# REGULATION GUIDE

PROGRAM  
R 2460.8/page 1 of 5  
Special Education - Free and Appropriate  
Public Education  
Jan 19  
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## 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: (List school officials/designees by district organizational level.)
  - a.  Grades Nine – Twelve Principal/Vice Principal or designee;
  - b.  Grades Six – Eight Principal/Vice Principal or designee;
  - c.  Grades Pre-Kindergarten – Five 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:



# REGULATION GUIDE

PROGRAM  
R 2460.8/page 2 of 5  
Special Education - Free and Appropriate  
Public Education

- a. Student's name;
  - b. The infraction;
  - c. Time suspended; and
  - 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.



# REGULATION GUIDE

PROGRAM  
R 2460.8/page 3 of 5  
Special Education - Free and Appropriate  
Public Education

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 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



# REGULATION GUIDE

PROGRAM  
R 2460.8/page 4 of 5  
Special Education - Free and Appropriate  
Public Education

- 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 and Appropriate Public Education to Preschool Age Students with Disabilities

To ensure that preschoolers with disabilities who are not participating in an early intervention program have their initial IEP's in effect by their third birthday, a written request for an initial evaluation shall be forwarded to the district.

The following procedures will be followed:

1. A parent of a preschool-age student suspected of having a disability, who requests a Child Study Team (CST) evaluation by telephone, will be advised to submit a written request for an evaluation to the Preschool Coordinator or Director of Special Education.
2. Upon receipt of the written request, the request shall be dated and signed by the recipient.
3. The district will respond to referrals of preschoolers according to N.J.A.C. 6A:14-3.3(e).
4. A file will be initiated for the potentially disabled preschooler:
  - a. The Child Study Team will convene a referral/identification meeting within twenty calendar days (excluding school holidays but not summer vacation) of the date recorded on the request;
  - b. A "Notice of Referral/Identification Meeting" will be sent to the parent(s);



# REGULATION GUIDE

PROGRAM

R 2460.8/page 5 of 5

Special Education - Free and Appropriate  
Public Education

- c. The notice will contain “Parental Rights in Special Education” (PRISE) Booklet;
- d. The meeting will be attended by the CST, including a speech language specialist, the parent(s), and a teacher who is knowledgeable about the district’s program; and
- e. A program shall be in place no later than ninety calendar days from the date of consent.

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

The Director of Special Education, 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.

Adopted:

