



Memorandum

To: District Administrators
Licensed Special Educators and Related Services Providers
Special Education - Education Support Professionals (ESPs)

From: Marci Elliott, Director of Special Education and 504

Date: August 1, 2023

Subject: Obligations Under Section 504 and Title II

Section 504 prohibits discrimination on the basis of disability in programs or activities that receive federal funds from the U.S. Department of Education. Title II prohibits discrimination on the basis of disability by state and local governments. Logan City School District has an obligation to locate, identify, and evaluate students residing within the boundaries who may have a disability. This memorandum is a summary of the essential components. If, at any time, you have questions or concerns, please reach out to me for clarification or support.

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Child Find

Child Find requires that all students with disabilities residing within the jurisdiction of Logan City School District, including students with disabilities ages 3 through 21 years of age and those attending private schools, regardless of the severity of their disability, and who are in need of or believed to need special education and related services, are identified, located, and evaluated.

The requirements apply to:

- Students who are highly mobile (such as students who are migrant or homeless),
- Students who have been suspended or expelled from school,
- Students who have not graduated from high school with a regular diploma,
- Students who are suspected of having a disability who are in need of special education and related services, even though they are advancing from grade to grade,

- Students who are home-schooled and students enrolled in private schools within the school district's boundaries,
- Students who are in state custody/care,
- Students who are in nursing homes.

The determination that a student has a disability must be made on an individual basis by a team consisting of the parent or adult student and school personnel who have knowledge of the student.

When a student exhibits behavioral but not academic challenges, the school team should first consider the use of positive behavioral interventions and support to address the behavior. This may trigger the district's obligation to evaluate to determine if the student requires special education and related services or an accommodation plan under Section 504.

When a school team has concerns that a student is not meeting academic benchmarks or is showing a pattern of misconduct, the team has an obligation to provide necessary supports – both academic and behavioral.

All students have a right to instruction and supports in the least restrictive environment. Behavior expectations must be established, explicitly taught, reinforced, and behavior errors must be corrected systematically. If a student continues to demonstrate a pattern of behavior challenges, the team must consider the need for special education and related services.

The mission of Logan City School District is to ensure our students leave our schools ready to create a positive future for themselves and their community. Educators in Logan City School District participate in professional learning communities (PLC). Through PLCs, educators work collaboratively to improve teaching skills and student's performance. When a student is not making progress or being successful - academically or behaviorally - the team should consider the possibility of a disability. The team should not delay a referral and evaluation for special education and related services for a specific period in order to attempt interventions and/or collect intervention data.

Identifying and Serving Limited English Proficient (LEP) Students with Disabilities

Students who are English learners must be appropriately referred and evaluated when there is a suspected need for special education and related services. Referral and evaluation decisions must be made by a team that includes a participant knowledgeable about the student's language needs. The team must consider all relevant information such as:

- The student's English language screener score,
- The student's English language proficiency assessment scores,
- Information on student's educational history within and outside the United States,
- Information on current and previous participation in the ESL program,
- Information on progress in the ESL program with respect to entry-level skills.

Delaying special education referral and evaluation of EL students for a specified period of time based on EL status is impermissible.

When an EL student is evaluated for special education, in order to avoid inappropriate identification based on limited English proficiency, the team must consider the English language proficiency of the student. The student must be evaluated in an appropriate language based on the

student's needs and language skills. Assessments should be given in the language or other mode of communication and in the form most likely to yield accurate information of what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so. When possible, results of assessments done in the primary language will be compared to assessments done in English on the same tests. If test administration is modified in any way, the examiner(s) must describe and document in the evaluation report the effects of the adjustments on the reliability, validity, or interpretation of results.

If it is determined that the student is eligible for special education services, an Individualized Education Plan (IEP) will be developed, taking into consideration the unique needs of the student. The team creating the student's IEP must include a participant knowledgeable about the student's language needs to ensure that the plan also addresses the student's language-related needs, and knowledgeable about second language acquisition to help the team determine whether there is a disability or whether it is a lack of English language skills. Students must receive both alternative language service and special education services to which they are entitled, and EL students with disabilities are generally entitled to both services.

Services for Students Who are English Learners and Have Disabilities

Students who are English Learners (EL) are required to receive English language assistance based on their level of English proficiency. If not proficient in reading, writing, speaking, and listening English skills, then EL students are to receive English language development instruction. Logan City School District provides sheltered instruction within classrooms and small group differentiated instruction when appropriate to provide access to content instruction.

When the primary home language is other than English (PHLOTE, student's language development is assessed with the World-Class Instructional Design Assessment (WIDA).

- In general, WIDA levels 1 and 2 will receive alternate language services (ALS) from the ESL teacher at the school.
- In general, WIDA levels 1 and 2 will not be pulled from Tier 1 instruction on grade level essentials to receive their ALS.
- In general, WIDA levels 3 and 4 will receive services from classroom teachers who are adequately trained in effective English language development, instruction, and strategies.

The instructional team consisting of the principal, ESL teacher, classroom teacher, and instructional coach will make final determination of service delivery. In the case of an EL student with a disability, the team should include special educator(s) who have knowledge of the student and the disability.

EL students with disabilities must receive both alternative language services and special education services. The determination of special education services may not be based on the number of years in the United States, number of years of English language instruction, or score(s) on English proficiency tests.

Suspension of Students with Disabilities

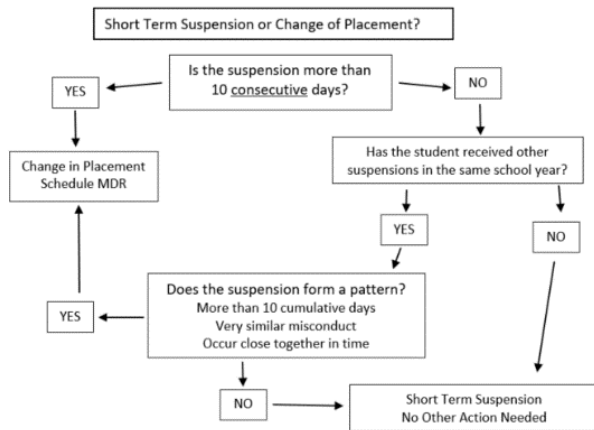
A student with a disability or suspected of having a disability may be removed from their current placement to an alternative educational setting, another setting, or suspension, for not more than

ten consecutive school days. This must be applied to the extent those alternatives are applied to students without disabilities.

If the suspension is less than 10 days, the school must consider *all* other days of removal for the school year, including previous suspension, in-school suspension, and any other removals when the student was denied the opportunity to participate in general education curriculum and receive special education and related services.

If there were no other removals, no further action is needed in regards to a change of placement or Manifestation Determination Review (MDR). The school should consider the student's needs for a functional behavior assessment (FBA) and a behavior intervention plan (BIP) so the misconduct does not occur again.

If there were prior removals, the school must consider if the removals demonstrate a pattern, by either very similar misconduct or occurrences that are close together in time. The determination of a change of placement must be made on a case-by-case basis. School personnel may consider any unique circumstances when determining whether change in placement has occurred.



If there is a pattern or the suspension or other removals are more than 10 days in a year, the team must conduct a Manifestation Determination meeting. The school should conduct a functional behavior assessment (FBA) or review current FBA and

Manifestation Determination

Within ten school days of a change the placement decision, the school must conduct an MDR. This team must consist of an LEA representative, parent(s) or adult student, and relevant members of the student's IEP team. In the case of students who are English learners, the team should include a participant knowledgeable about the student's language needs.

The MDR team must review all relevant information in the student's file, including the student's IEP or 504 Plan, FBA, BIP, any teacher observations, any psychological evaluations related to current behavior, and any relevant information provided by the parent(s) or adult student to determine:

1. If the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability; or
2. If the conduct in question was the direct result of the LEA's failure to implement the IEP or Section 504 plan.

If the MDR team determines the misconduct is not a manifestation of the student's disability, the school may implement disciplinary procedures in the same manner and for the same duration as the procedures would be applied to students without disabilities. After the tenth day of removal that constitutes a change in placement, the LEA must provide services to the student.

If the MDR team determines the misconduct was the direct result of the school's failure to implement the IEP or Section 504 plan, the school must take immediate steps to remedy those deficiencies so the misconduct does not occur again. If the MDR team determines the misconduct was a manifestation of the student's disability, the IEP or Section 504 plan team must either:

1. Conduct a functional behavior assessment (FBA), unless Logan City School District had conducted a FBA before the behavior that resulted in the change of placement occurred, and implement a behavior intervention plan (BIP) for the student; or
2. If a BIP has already been developed, review the BIP, and modify it, as necessary, to address the behavior; and

Unless the misconduct falls under the definition of special circumstances, the student should be returned to the placement from which the student was removed, unless the parent or adult student and the district agree to a change of placement as part of the modification of the behavior intervention plan. Special circumstances include weapons, illegal drugs, and inflicting serious bodily injury.

The school must provide the student's parent or guardian notice of both the manifestation determination meeting and the placement decision in a prompt manner, in a language the parent understands. The student's parent or guardian also must be provided with a copy of the Section 504 or IDEA procedural safeguards. If the parent(s) or guardian disagrees with the manifestation determination, the parent(s) or guardian may request an impartial hearing.

Services

After a student with a disability has been removed from their current placement for ten school days in the same school year, services must be provided to the extent required during any subsequent days of removal. Services will allow the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the individualized IEP goals. Services should be determined on an individualized basis by a multidisciplinary team of individuals knowledgeable about the student, the student's disability, current evaluation data, and placement options.

Logan City School District does not have a policy or practice of providing educational services to students who are suspended for less than 10 school days. This includes students without disabilities, students with disabilities, students on 504 accommodations plans, and students who are English language learners. If services are provided for a suspension greater than 10 days or expulsion, those services will include English language development instruction.