

## **CHILD FIND**

In accordance with the requirements of the Individuals with Disabilities Education Act, the State Department of Education, Section 504 of the Rehabilitation Act, and Title II of the Americans with Disabilities Act, this policy addresses the district's Child Find system responsibility to identify, locate, and evaluate students suspected of having a disability, ages 3 through 21, who may need special education and related services, regardless of the severity of the disability or whether the student is advancing from grade to grade. As part of its child find duties, the district will be responsible for coordinating with the SoonerStart Early Intervention Program regarding the Child Find system for children ages birth to 3 years of age. The district's Child Find system includes the district coordinating with other agencies and promoting public awareness.

The district's Child Find system includes all children within the district's geographical boundaries including students who are:

- Enrolled in public school;
- Enrolled in charter schools, virtual charter schools, and alternative schools;
- Enrolled in home school;
- Enrolled in private elementary and secondary schools (including religious schools) located in the LEA; including out-of-state parentally-placed private school students with disabilities even if the students are not legal residents of the LEA;
- Enrolled in educational programs in correctional facilities located in the LEA;
- Enrolled in Head Start;
- Enrolled in state institutions;
- Enrolled in other child care or treatment facilities;
- Not enrolled in elementary or secondary school, including children ages 3 through 5;
- Highly mobile students, such as migrant and homeless as defined by the McKinney Vento Homeless Assistance Act; and
- Wards of the state.

The district will take appropriate and necessary steps to ensure that its staff and the general public are informed of:

- The availability of special education services;
- A student's rights to a free and appropriate public education;
- Confidentiality protections; and
- The special education referral process.

The district may accomplish this by a variety of methods, including but not limited to distributing brochures or flyers throughout the community, including information in school or district publications, disseminating articles and announcements to newspapers, arranging for radio and television messages and appearances, speaking at faculty meetings

or district professional developments, and making presentations, as well as electronic forms of communication.

In the identification process, the district may use screening or coordinated early intervention services. The district's general education interventions will not delay the initial evaluation for special education services of a student suspected of having a disability. The procedural rights under the Individuals with Disabilities Education Act and Section 504/Title II are afforded when the student is referred for a special education evaluation by the parent or the district.

If, through Child Find activities, a child is identified as possibly having a disability and needing special education services, the district may seek parent consent to evaluate the child. Special education referrals may be made for a variety of reasons, including but not limited to academic and/or behavioral concerns. All necessary evaluations will be conducted in compliance with federal and state laws and regulations.

**INCLUDING STUDENTS WITH DISABILITIES  
IN DISTRICTWIDE ASSESSMENTS**

School districts are required to assess students with disabilities as frequently and in the same manner as they do students without disabilities. Therefore, to the extent the district or state requires student participation in assessment, students with disabilities will be included in the assessment or provided an alternative method of assessment.

The Section 504 / Title II team for each student with a disability (collectively referred to as the "Team") will make the decision regarding his or her participation in regular districtwide assessment on an individual basis, considering his or her unique needs.

Generally, an IEP Team shall meet to make such a determination after providing notification to the student's parent/guardian at least five days in advance (or earlier if mutually agreed by the district and parent/guardian). Such notification must indicate the purpose, date, time and location of the meeting and who, by title or position, will attend the meeting. The determination is based on criteria determined by the Oklahoma State Department of Education (OSDE).

**Regular Districtwide Assessment**

To make these determinations, the Team members will be knowledgeable about the child's present level of educational performance and measurable annual goals; the general or alternate curriculum; the format and content of the assessment; and the alignment between the curriculum and the academic content standards assessed by the assessment.

Based on a review of relevant information, the Team will determine whether and how the student will participate in the regular assessment. For those students who are identified as needing accommodations, the Team will document in either the IEP or Section 504 / Title II Plan which accommodations are necessary for the child to participate in the assessment. The Team may determine that the student can participate in some portions of the assessment without accommodations and identify accommodations for other portions of the assessment.

**Alternate Assessment**

. The Team will not determine that participation in an alternative assessment is necessary based primarily upon poor attendance; English language learner status; social, cultural or economic differences; disruptive behavior; student reading level; expectations of poor performance; amount of time receiving special education services; low achievement in general education; categorical disability label; performance tied solely to a level, label or cut score; or the location where the child receives services. If the Team determines that student participation in an alternate assessment is necessary, the team will specifically identify the alternate assessment to be utilized on the IEP or Section 504 / Title II Plan. The

Team will select a mode of alternate assessment that measures the same content area(s) as the districtwide assessment.

A parent has the right to opt out of the Oklahoma Alternate Assessment Program (OAAP) by declining parent consent on an OSDE form. In such an event, the student will not be assessed using the OAAP, and the student will be administered the assessment given to regular education students for that grade level.

Students will not be required to participate in OAAP without a completed parental consent form as adopted by the Oklahoma State Department of Education. The district may proceed in requiring the student to participate in OAAP without parental consent in the following cases:

1. After documenting reasonable efforts to obtain parent/guardian consent and the parent/guardian has failed to respond; or
2. The district obtains approval through a due process hearing in accordance with 34 CFR § 300.506 et seq.

Reference: OKLA. STAT. tit, 70, § 16-114.6.

**EDUCATIONAL SERVICES FOR STUDENTS  
UNDER SECTION 504 AND TITLE II OF THE ADA**

The district recognizes its responsibilities to children who are or may be qualified persons with disabilities under Section 504 of the Rehabilitation Act of 1973 ("Section 504") and Title II of the Americans with Disabilities Act ("Title II"). In an effort to ensure that district employees understand and implement the requirements of Section 504 and Title II, the board of education adopts the following policy.

Qualified Individual with a Disability

All qualified persons with disabilities within the jurisdiction of the district are entitled to a free appropriate public education ("FAPE"), regardless of the nature or severity of the person's disability. Section 504 and Title II define a person with a disability as any person who (a) has a physical or mental impairment that substantially limits one or more major life activities, (b) has a record of such an impairment or (c) is regarded as having such an impairment. The definition of disability shall be construed in favor of broad coverage of individuals, to the maximum extent permitted by Section 504 and Title II.

The term "physical or mental impairment" means (a) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito-urinary; hemic and lymphatic; skin; and endocrine; or (b) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The phrase "physical or mental impairment" includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism. The following are excluded from the term "physical or mental impairment:" (a) an individual who currently engages in the illegal use of drugs; (b) homosexuality and bisexuality; (c) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders; (d) compulsive gambling, kleptomania, or pyromania; and (e) psychoactive substance use disorders resulting from current illegal use of drugs.

The term "major life activities" includes, but is not limited to, functions such as caring for one's self, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working. A "major life activity" also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions.

An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. Also, an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

### Mitigating Measures

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as:

1. medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;
2. use of assistive technology;
3. reasonable accommodations or auxiliary aids or services; or
4. learned behavioral or adaptive neurological modifications.

The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

For purposes of this policy, a "qualified person with a disability" is a person with a disability who is (a) of an age during which it is mandatory under Oklahoma law to provide such services to persons with disabilities; (b) of an age during which persons without disabilities are provided such services; or (c) a person for whom a state is required to provide a FAPE under the Individuals with Disabilities Education Act.

### Appropriate Education

An appropriate education may comprise education in regular classes, education in regular classes with the use of related aids and services, or special education and related services in separate classrooms for all or portions of the school day. Special education may include specially designed instruction in classrooms, at home, or in private or public institutions and may be accompanied by related services such as speech therapy, occupational and physical therapy, psychological counseling and medical diagnostic services necessary to the child's education.

An appropriate education in the district will include:

- Regular or special education and related aids and services designed to meet the individual education needs of students with disabilities as adequately as the needs of nondisabled students are met;
- The education of each student with a disability with nondisabled students, to the maximum extent appropriate to the needs of the student with a disability;
- Evaluation and placement procedures established to guard against misclassification or inappropriate placement of students, and a periodic

reevaluation of students who have been provided special education or related services; and

- Establishment of due process procedures that enable parents and guardians to receive required notices, review their child's records and challenge identification, evaluation and placement decisions, and that provide for an impartial hearing with the opportunity for participation by parents and representation by counsel, and a review procedure.

The district will design education programs for student with disabilities to meet their individual needs to the same extent that the needs of nondisabled students are met. The district will provide the quality of education services to students with disabilities that equals the quality of services provided to nondisabled students. The district will provide teachers for students with disabilities who are trained in the instruction of individuals with disabilities. The district will provide comparable facilities for students with disabilities and make appropriate materials and equipment available. The district will not exclude students with disabilities from participating in nonacademic services and extracurricular activities on the basis of disability. The district will provide persons with disabilities an opportunity to participate in nonacademic services that is equal to that provided to persons without disabilities. These services may include physical education and recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the district, and referrals to agencies that provide assistance to persons with disabilities and employment of students.

#### Educational Setting

The district will place students with and without disabilities in the same setting, to the maximum extent appropriate to the educational needs of the students with disabilities. The district shall place students in the regular education environment unless the district demonstrates that the education of the student in the regular education environment with the use of supplementary aids and services cannot be achieved satisfactorily. Students with disabilities will participate with nondisabled students in both academic and nonacademic services, including meals, recess and physical education, to the maximum extent appropriate to their individual needs.

As necessary, the district will provide specific supplementary aids and services for students with disabilities to ensure an appropriate education setting. Supplementary aids may include, but are not limited to, interpreters for students who are deaf, readers for students who are blind, and equipment to make physical accommodations for students with mobility impairments.

If the district places an individual with disabilities in another school, the district will take into account the proximity of the other school to the student's home.

#### Evaluation and Placement

The district shall annually undertake to identify and locate every qualified child with a disability residing in the district's jurisdiction who is not receiving a public education and take appropriate steps to notify children with disabilities and their parents or guardians of the district's duties under Section 504 and Title II.

Examples of situations in which school personnel may reasonably conclude that a student needs or is believed to need special education or related aids and services includes (a)

when a teacher, based on observation of or work with the student, expresses a view that an evaluation is needed, or (2) when the parent of a student has requested an evaluation.

The district will make evaluation and placement decisions in accordance with appropriate procedures required by law. The district will conduct an individual evaluation before any action is taken with respect to the initial placement of a child who has a disability or before any significant subsequent change in that placement. The district will use tests and other evaluation materials that have been validated for the specific purpose for which they are used. The tests and other evaluation materials will include those tailored to assess the student's specific areas of educational need, not merely those designed to provide a single general intelligence quotient (IQ) score. Trained personnel will administer the tests and other evaluation materials in conformance with the instructions provided by their producer. The district will select and administer tests so as best to ensure that, when a test is administered to a student with impaired sensory, manual or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual or speaking skills, unless those skills are the factors the test purports to measure.

In interpreting evaluation data and making placement decisions, the district will draw upon information from a variety of sources, including but not limited to aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background and adaptive behavior. Grades alone are an insufficient basis upon which to determine whether a student has a disability and may not be the determinative factor in deciding whether a student with a disability needs special education or related aids and services. Grades are just one consideration and do not provide information on how much effort or how many outside resources are required for the student to achieve those grades. A multidisciplinary group, including persons knowledgeable about the child, the meaning of the evaluation data and the placement options, will document and consider carefully information obtained from all such sources in making eligibility and placement decisions. A parent is a required participant if he or she is a person knowledgeable about the student.

The multidisciplinary group will consider reevaluation at least every three years for each student for whom the district is providing a FAPE or more frequently if conditions warrant or if the child's parent or teacher requests a reevaluation. While reevaluation does not require prior parental consent, parental notification prior to reevaluation is required. Reevaluation shall occur using the same evaluation criteria for an initial evaluation. The district shall reevaluate a student with a disability in the following circumstances, including, but not limited to, a reevaluation (1) in any area where a disability is suspected, (2) if the student's behaviors or needs have changed warranting a reevaluation, and (3) before any significant change in placement (including, for example, termination or significant reduction of educational or related services). Reevaluations will be completed within a reasonable period of time.

#### Section 504/Title II Plan

When the multidisciplinary group determines that a student is eligible for educational services under Section 504 and Title II, it will prepare a plan documenting how the district will provide FAPE for that student. The plan will identify the educational services, related services and supplementary aids and services needed to meet the student's individual educational needs in the least restrictive environment, the person(s) responsible for implementing each component of the plan, the starting and ending dates for each component and a date, no less than annually, on which to review the plan.

The district will provide appropriate education and related aids and services free of charge to students with disabilities and their parents or guardians, except for fees equally imposed on nondisabled persons or their parents or guardians.

If the district is unable to provide a FAPE itself, it may place a person with a disability in, or refer the person to, a program other than the one it operates. However, the district will remain responsible for ensuring that the education offered to the student is appropriate, as defined by law, and for coverage of financial obligations associated with the placement. The district will ensure that adequate transportation is provided to and from any program in which it places the student that is not operated by the district, at no greater personal or family cost than would be incurred if the student were placed in the district's program.

### Procedural Safeguards

The district will employ procedural safeguards regarding the identification, evaluation or educational placement of persons who, because of disability, need or are believed to need special instruction or related services. District personnel will notify parents or guardians of any evaluation or placement actions and parents or guardians will be allowed to examine the student's records. The district will provide parents or guardians with a copy of its *Section 504 of the Rehabilitation Act of 1973/Title II of the Americans with Disabilities Act Information and Procedural Safeguards form* annually at the student's Section 504 plan meeting and when the district (a) seeks parent or guardian consent for Section 504 evaluation or reevaluation, (b) receives a complaint from the parent or guardian alleging failure to comply with Section 504 or Title II requirements, (c) receives a request from the parent or guardian for a copy of the *Procedural Safeguards form*, and (d) takes any action with respect to the identification, evaluation, or educational placement of the student.

The district will provide an impartial hearing by an objective, neutral hearing officer that will allow parents or guardians to challenge identification, evaluation and placement procedures and decisions. If parents or guardians disagree with the district's decisions, they will be afforded an impartial hearing, with an opportunity for their participation and for representation by counsel. The district will make available an impartial administrative review procedure by an objective, neutral review officer to parents or guardians who want to challenge the hearing decision. If the parent or guardian wants to challenge the administrative review decision, he or she may file an action in state or federal court.

### Retaliation

The district also prohibits retaliation, intimidation, threats, or coercion of any person for opposing discrimination or for participating in the district's discrimination complaint process or making a complaint, testifying, assisting, appealing, or participating in any other discrimination complaint proceeding or hearing. The district will take steps to prevent the alleged perpetrator or anyone else at the district from retaliating against the alleged victim or any person who acts to oppose discrimination or participates in the complaint process. These steps include notifying students and employees that they are protected from retaliation, making sure that victims know how to report future problems and making follow-up inquiries to see if there have been any new incidents. If retaliation occurs, the district will take strong responsive action.

Persons with complaints or concerns about the application of this policy should contact the district's 504/Title II Coordinator: Superintendent, Warner Public Schools, 1012 5<sup>th</sup> Avenue, Warner, OK 74469, or (918) 463-5171.

## **DISCIPLINARY REMOVAL OF CHILDREN WITH DISABILITIES**

### Definitions

For purposes of this policy, the following definitions apply:

“Child with a disability” includes students who have been identified as having a disability or for whom an initial evaluation has been sought under the Individuals with Disabilities Act, Section 504 of the Rehabilitation Act, or Title II of the Americans with Disabilities Act.

"Controlled substance" means a drug or other substance identified under schedules I, II, III, IV or V in section 202(c) of the Controlled Substances Act, 21 U.S.C. § 812(c).

"Illegal drug" means a controlled substance, but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health care professional or that is legally possessed or used under any other authority under the Controlled Substances Act or under any other provision of federal law.

“School day” means any day, including a partial day that children are in attendance at school for instructional purposes.

“Serious bodily injury” means bodily injury that involves –

1. a substantial risk of death;
2. extreme physical pain;
3. protracted and obvious disfigurement; or
4. protracted loss or impairment of the function of a bodily member, organ or mental faculty.

"Weapon" means a dangerous weapon as defined by 18 U.S.C. § 930(g)(2), specifically, 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 2½ inches in length.

### Case-By-Case Determination

District personnel must consider any unique circumstances on a case-by-case basis when determining whether a change of placement is appropriate for a child with a disability who violates the district’s code of student conduct.

### Short-Term Disciplinary Removal

District personnel may remove a child with a disability who violates the district's code of student conduct from the child's current placement to an appropriate interim alternative educational setting, another setting or suspension, for not more than ten (10) consecutive school days and for additional removals of not more than ten (10) consecutive school days in the same school year for separate incidents of misconduct, as long as those additional removals do not constitute a change of placement.

A change of placement occurs if --

1. the removal is for more than ten (10) consecutive school days; or
2. the child has been subjected to a series of removals that are ten (10) days or less during the same school year that constitute a pattern.

School personnel determine whether a pattern exists by considering the following factors:

the series of removals total more than ten (10) school days in a school year;

the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and

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.

However, in an effort to promote uniformity in the decision-making process, the board of education has determined that it is in the district's best interest that it not require school personnel to weigh these factors to determine the existence of a pattern in each instance. Instead, when the student's short-term removals exceed ten (10) school days over the course of the school year, the district will follow the process identified in this policy for implementing a long-term removal.

In school alternative placements for more than ten (10) consecutive school days or that may constitute a pattern of exclusion may be a change of placement if the student does not receive education services required under the student's IEP or Section 504/Title II Plan.

### Educational Services During a Short-Term Disciplinary Removal

The district will provide a child with a disability the same level of services it provides children without disabilities during removals for ten (10) school days or less during the school year.

After a child with a disability has been removed from his or her current placement for ten (10) school days in the same school year, if a subsequent removal is imposed for not more than ten (10) consecutive school days and is not a change of placement, district personnel, in consultation with the child's special education teacher, will determine the extent to which services are needed, so as to enable the child to continue to appropriately progress in the general curriculum, although in another setting, and to appropriately advance toward meeting the goals set out in the child's IEP or Section 504 / Title II Plan.

### Notification

On the date on which the decision is made to make a disciplinary removal that constitutes a change of placement of a child with a disability because of a violation of the district's code of student conduct, district personnel will notify the child's parents of the decision and provide the parents of children who are eligible for special education and related services under the IDEA with a copy of the district's *Parents Rights in Special Education: Notice of Procedural Safeguards* form. District personnel will provide the parents of children who are eligible for special education and related services only under Section 504/Title II with a copy of the district's *Section 504 Information and Procedural Safeguards* form.

### Special Circumstances

District personnel may also remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child --

1. carries or possesses a weapon at school, on school premises, or to or at a school function;
2. knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance at school, on school premises or at a school function; or
3. has inflicted serious bodily injury upon another person while at school, on school premises or at a school function.

### Making a Manifestation Determination

Except for removals that will be for not more than ten (10) consecutive school days and will not constitute a change of placement, within ten (10) school days of any decision to change the placement of a child with a disability because of a violation of the district's code of student conduct, the child's IEP or Section 504 / Title II team will meet to review all relevant information in the student's file, including the child's IEP or Section 504 / Title II Plan, any teacher observations psychological evaluation date related to the student's current behavior, and any relevant information provided by the parents to determine --

1. if the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
2. if the conduct in question was the direct result of an inappropriate placement or the district's failure to implement the IEP or Section 504 / Title II Plan.

The conduct will be determined to be a manifestation of the child's disability if the child's IEP or Section 504 / Title II team determines that a condition in either (a) or (b) of this paragraph was met.

If the child's IEP or Section 504 / Title II team determines that the conduct in question was the direct result of the district's failure to implement the IEP or Section 504 / Title II Plan, the district will take immediate steps to remedy those deficiencies.

### Determination that Behavior Is a Manifestation of the Child's Disability

If the IEP team determines that the conduct was a manifestation of the child's disability, the team will either –

1. conduct a functional behavior assessment, unless the district had conducted a functional behavior assessment before the behavior that resulted in the change of placement occurred and further functional behavior assessment is deemed unnecessary, and implement a behavior intervention plan for the child; or
2. if a behavior intervention plan already has been developed, review the behavior intervention plan and modify it, as necessary, to address the behavior.

If the Section 504/Title II team determines that the conduct was a manifestation of the child's disability, the team will determine what, if any, modifications to the student's educational placement are necessary, including conducting a functional behavior assessment and developing or revising a behavior intervention plan (if appropriate).

Except as provided in section 6 of this policy, the IEP or Section 504 / Title II team will return the child to the placement from which the child was removed, unless the parent and the district agree to a change of placement as part of the modification of the behavior intervention plan.

### Determination that Behavior Is Not a Manifestation of the Child's Disability

If the behavior that gave rise to the violation of the district's code of student conduct is determined not to be a manifestation of the child's disability, then district personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities.

A parent or guardian who disagrees with the manifestation determination may file a complaint requesting an impartial due process hearing.

### Educational Services During a Long-Term Disciplinary Removal

During a long-term disciplinary removal, a child eligible for special education and related services under the IDEA will --

1. continue to receive educational services so as to enable the child to continue to appropriately progress in the general education curriculum, although in another setting, and to appropriately advance toward achieving the goals set out in the child's IEP; and
2. receive, as appropriate, a functional behavior assessment and behavior intervention services and modifications that are designed to address the behavior violation so that it does not recur.

The child's IEP team will determine appropriate services and the location in which services will be provided. These services may be provided in an interim alternative educational setting determined by the IEP team.

During a long-term disciplinary removal, a child eligible for special education and related services only under Section 504/Title II will receive educational services to the same extent that a child without disabilities would receive educational services during a disciplinary removal for the same offense.

#### Appeal to Hearing Officer Under the IDEA

The parent of a child eligible for special education and related services under the IDEA who disagrees with any decision regarding placement or the manifestation determination under this policy, or the district, if district personnel believe that maintaining the current placement of the child is substantially likely to result in injury to the child or others, may appeal the decision by filing a due process hearing complaint seeking an expedited hearing.

In making the determination, the hearing officer may –

1. return the child with a disability to the placement from which the child was removed if the hearing officer determines that the removal was a violation of the applicable provisions of the IDEA or that the child's behavior was a manifestation of the child's disability; or
2. order a change of placement of the child to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

These procedures may be repeated, if the district believes that returning the child to the original placement is substantially likely to result in injury to the child or to others.

When an appeal has been requested by either the parent or the district, the child will remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period set for the placement, whichever occurs first, unless the parent and the district agree otherwise.

The district may also seek a court order to remove a child with a disability from school or change the child's current educational placement if district personnel believe that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

#### Providing Records to Disciplinary Decisionmaker

If the district initiates disciplinary procedures that would constitute a change of placement for a child with a disability, district personnel will ensure that the child's special education and disciplinary records are provided for consideration to the school personnel making the final determination regarding the disciplinary action.

### **EXTENDED SCHOOL YEAR SERVICES**

Extended school year ("ESY") services are special education and related services provided to a child with a disability (ages 3 through 21) beyond the district's normal school year in accordance with the child's IEP that are necessary for the child to receive a free appropriate public education in accordance with state standards and the Individuals with Disabilities Education Act, as amended ("IDEA"). It is the district's intent to make ESY services available at no cost to each child with a disability who is determined to need the services in accordance with this policy.

The IEP team for each child with a disability will determine his or her need for ESY services, regardless of the child's categorical disability. The IEP team will consider each child's ESY need at the child's annual review meeting, and any IEP team member may also raise the issue at any other time. The IEP team will determine ESY need in a timely manner to ensure that each child consistently receives a free appropriate public education.

The purpose of ESY services is to ensure that each child receives meaningful educational benefit. To determine whether a child needs ESY services, the IEP team will consider the following factors as relevant to the child:

- The child's degree of impairment;
- The child's actual/predicted degree of regression;
- The child's actual/predicted time necessary for recoupment of skills; ESY services may be appropriate when the team determines that a child has regressed or is predicted to regress to such a severe degree in a critical skill area that recovery of such skill loss following the break in programming is unlikely or would require an unusually long period of time to recoup skills obtained.
- The ability of the child's parents to provide educational structure at home; After affirming a parent's capacity to maintain a child's skills during the summer, an IEP team may determine that an appropriate ESY program consists totally or partially of such intervention. Even when significant regression/recoupment problem has previously been documented, the IEP team may determine that parents are capable of maintaining a child's skills over the summer months or beyond the normal school year.
- The child's rate of progress;
- The child's behavioral problems;

- The child's physical problems;
- The availability of alternative resources;
- The ability of the child to interact with nondisabled children;
- The area(s) of the child's curriculum that require continuous attention;
- The child's vocational needs;
- The least restrictive environment for services;
- Whether the service is extraordinary for the child's condition as opposed to an integral part of a program for those with the child's condition; and
- Other relevant factors as determined by the IEP team.

In making the determination, the IEP team may review and analyze existing information and pertinent data, including, but not limited to, the child's impairment, educational history and present levels of academic achievement and functional educational performance, which could include the following:

- Criterion referenced and standardized tests, including pre-test and post-test data of a student's progress;
- Functional assessments used in natural environments (home, community, work and school);
- An analysis of data collected on a regular basis;
- Evaluations of those areas involving related services;
- Parent, student and/or service provider information;
- Interviews with teachers and parents on the success or potential success of ESY services; and
- An applied behavior analysis to directly assess student performance of IEP goals and benchmarks/objectives across time.

To document the decision concerning a child's need for ESY, the IEP team may use the OSDE form Consideration for Extended School Year (ESY) Services.

If the IEP team determines that the child needs ESY services, it will complete appropriate documentation to reflect the child's ESY program and placement. The IEP team will identify which goal(s) and objectives/benchmarks, if any, will be addressed by the child's ESY services. The IEP team will not unilaterally limit the type, amount or duration of ESY services, but will instead determine those services on an individual basis in accordance with state and federal law and regulations and this policy.

Parents or guardians may request a hearing under the IDEA to challenge the provision of a free appropriate public education for a child with a disability, or the child's identification, evaluation or educational placement.

### **PARENT REVOCATION OF CONSENT FOR SERVICES**

The purpose of this policy is to comply with a directive from the State Department of Education, which requires each school district to adopt a policy in compliance with the Individuals with Disabilities Education Act (IDEA) concerning a parent's right to revoke consent for all special education and related services to his or her child.

A parent must submit a written request to revoke consent for services. Parents cannot revoke consent for less than all services.

Upon receipt of a written revocation request, the district will promptly submit a *Written Notice to Parents* form to the parent before ceasing services. In the *Written Notice*, district personnel may express disagreement with the parent's decision; however, the parent has the right to revoke consent despite such disagreement.

In completing the *Written Notice*, district personnel will use language that is understandable to the general public regarding the change in educational placement and services that will result from the revocation of consent. In the *Written Notice*, district personnel should include language informing the parent that the student will be treated as a nondisabled student for disciplinary purposes after the revocation takes effect. District personnel will also provide the parent with a copy of *Parents Rights in Special Education: Notice of Procedural Safeguards*. Unless the parent indicates to district personnel that the parent has changed his or her mind about the revocation, the child will be removed from all special education and related services and will be treated for all purposes as a general education student following expiration of no more than ten calendar days from the parent's receipt of the *Written Notice* form.

A child's removal from all special education and related services does not require removal of any documentation from the child's education records concerning his or her prior receipt of special education and related services. If a parent requests the removal of such information from the student's education records, then district personnel will follow the process set out in the district's Student Records policy.

At any time after revocation, the parent may request that the student be reenrolled in special education. The district will treat the request as a request for an initial IDEA evaluation.

If a parent revokes consent prior to the administration of a statewide assessment, the district will not provide the assessment accommodations that were previously included in the student's IEP. The student will not be eligible to take an alternate assessment.

A student age 18 or older may also revoke consent for services under the IDEA. In that case, the district will follow the policy stated above, except that district personnel will send the *Written Notice* and *Parents Rights* forms to both the student and the parent.

**PHYSICAL RESTRAINT OF STUDENTS WITH DISABILITIES**

The purpose of this policy is to define the circumstances under which district personnel may use physical restraint for students with disabilities in compliance with those guidelines set forth in the SDE's Special Education Handbook ("Physical Restraint Guidelines").

For purposes of this policy, the term "physical restraint" is defined as a person restriction that immobilizes or reduces the ability of a student to move his or her torso, arms, legs, or head freely. The term physical restraint does **not** include a physical escort. Physical escort means a temporary touching or holding of the hand, wrist, shoulder, or back for the purpose of inducing a student who is acting out to walk to a safe location.

Physical restraint should never be used for the purposes of discipline or as a punishment, to force compliance, as a convenience for staff or to prevent property damage. The use of chemical and/or mechanical restraint, as defined in the Physical Restraint Guidelines, is prohibited.

School personnel may use physical restraint for students with disabilities only under the emergency circumstances identified in the Physical Restraint Guidelines and only if the elements identified by the Physical Restraint Guidelines exist.

The use of physical restraint for students with disabilities shall also be subject to any written Procedures utilized by the district to further explain the responsibilities of district staff members.

## **SECLUSION OF STUDENTS WITH DISABILITIES**

The purpose of this policy is to define the circumstances under which district personnel may use seclusion for students with disabilities in compliance with those guidelines set forth in the SDE's Special Education Handbook ("Seclusion Guidelines").

For purposes of this policy, the term "seclusion" means the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. This includes situations where a door is locked as well as where the door is blocked by other objects or held by staff. Any time a student is involuntarily alone in a room and prevented from leaving should be considered seclusion regardless of the intended purpose of the name applied to this procedure or the name of the place where the student is secluded. Seclusion does not include timeout, which is a behavior management technique implemented for the purpose of calming and redirecting.

Seclusion should never be used for the purposes of discipline or as a punishment, to force compliance, as a convenience for staff or to prevent property damage. Seclusion should not be used to manage behavior.

School personnel may use seclusion for students with disabilities only under the emergency circumstances identified in the Seclusion Guidelines and only if the elements identified by the Seclusion Guidelines exist.

School personnel may only utilize seclusion procedures if they have training in:

1. Conflict de-escalation;
2. The crisis cycle and interventions at each stage;
3. Possible effects of seclusion;
4. Appropriate use of seclusion rooms (including escorting and placing a student in a seclusion room);
5. Hold current CPR and First Aid certification; and
6. Monitoring the wellbeing of students.

Seclusion training should be recurrent and with annual updates and result in some form of certification or credential.

Any student placed in seclusion based on the criteria in the Seclusion Guidelines must be continuously monitored visually and aurally by a school employee. Additionally, (a) the student must be allowed to go to the bathroom upon request, (b) the student must be

permitted water to drink upon request, and (c) immediate action must be taken if the student displays any signs of medical distress.

A “seclusion room” is defined as a room or other confined area in which a student with a disability is placed in isolation from other persons from which the student is prevented from leaving. A seclusion room must meet the following criteria:

1. It must be of adequate size permitting the student to sit or lie down;
2. It must have adequate lighting;
3. It must be equipped with heating, cooling, ventilation, and lighting systems that are comparable to those in other rooms throughout the building where the seclusion room is located;
4. It must be free of any objects that pose a potential risk of harm to the student with a disability;
5. If equipped with a door that locks, the lock must automatically disengage in case of an emergency, such as fire or severe weather; and
6. It must allow continuous visual and auditory monitoring of the student with a disability.

The use of seclusion for students with disabilities shall also be subject to any written procedures utilized by the district to further explain the responsibilities of district staff members.

### **DISPROPORTIONALITY**

The district acknowledges that a student's social, cultural, environment and economic circumstances can be relevant factors when considering and determining the identification, disability category, educational placement and discipline of a student suspected of or having a disability covered by the Individuals with Disabilities Education Act. By way of this policy, the district reaffirms that on the grounds of race, color, or national origin, it does not discriminate in favor of or against (a) the identification of children as children with disabilities, including identification by disability category, (b) the placement of children with disabilities in particular educational settings, or (c) the incident, duration, and type of disciplinary action taken with respect to children with disabilities, including suspensions.

To ensure implementation of this policy, district employees, district multidisciplinary evaluation teams, and district individualized education program teams at all school sites must consider a student's social, cultural, environment and economic circumstances when:

- Referring a student for evaluation as a student with a disability and in addition to the student's current performance, area of disability, medical information, parental/teacher input and disability category;
- Evaluating the student as a student with a disability;
- Determining the disability category of a student with a disability;
- Determining the educational placement of student with a disability; and
- Considering and imposing discipline on student with a disability.

The purpose of considering a student's social, cultural, environment and economic circumstances is to ensure that students, because of their race, color, or national origin, are not being (a) over referred for evaluation as students with a disability, (b) over identified as students with a disability, (c) over/under identified as having particular disability categories, (d) limited to receiving educational services in a particular educational placement, and (e) subject to a particular discipline, including suspensions.

In implementing this policy, the superintendent is to ensure that school staff receives annual training, preferably in the fall of each school year, on all eligibility considerations regarding the identification of students with disabilities, including race and ethnicity. Additionally, the superintendent shall ensure that, annually, this policy is reviewed with input from representatives across the district and that any proposed revisions are timely brought to the board of education for consideration.

## **DIRECT THREAT**

### **Definition**

“Direct threat” means an individualized determination that a student with a disability poses a direct threat to the health or safety of others, based upon reasonable judgment that relies on current medical knowledge or on the best available evidence, to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices or procedures or the provision of auxiliary aids or services will mitigate the risk.

### **Policy**

When the district intends to impose adverse action on a student based on a direct threat, notification in writing of the district direct threat inquiry will be provided to the parent of the student and/or the adult student who is the subject of the direct threat inquiry. This notification, subject to exceptional circumstances (as defined below), will include:

1. An invitation to provide documents and other information related to the inquiry and notice that if a response is not received within 24 hours, the direct threat inquiry will proceed with the documents and other information the district has available;
2. The name and contact information of the district employee conducting the inquiry;
3. Notice that the student will not be subject to disciplinary action on the basis of unfounded fear, prejudice, and stereotypes;
4. The district’s determination that a student poses a direct threat to the health or safety of others will be an individualized assessment based upon reasonable judgment that relies on current educational, psychological, medical knowledge, threat assessment inquiry, and any other available evidence, to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices or procedures or the provision of auxiliary aids or services will mitigate the risk
5. Notice that in exceptional circumstances, such as situations where safety is of immediate concern, the district may take interim steps pending a final decision regarding adverse action against the student so long as minimal due process (i.e., notice of the proposed action, the opportunity to present information on the student’s behalf, and a right to appeal) is provided in the interim and due process is offered later;

6. Notice of the student's applicable appeal rights in the event of discipline or other adverse action; and
7. A copy of this policy.

The building principal shall be responsible for determining whether the student poses a direct threat. The principal may consult with the student's medical, psychological, or therapeutic professional providers, if the parent or adult student consents to such consultation.

If the principal determines that a student poses a direct threat to others, the district will communicate the nature of the adverse action to the parent of the student and / or the adult student. Additionally, the district may condition the student's future receipt of a benefit or service upon the student's provision of documentation showing the student is no longer a threat. Such evidence may include, but is not limited to, a treatment plan or periodic reports from a physician.

In cases resulting in the interim suspension or other adverse action, an appeal may be filed with the district's Superintendent. The adversely affected adult student or the student's parent shall have ten (10) calendar days from the notice of the interim suspension or other adverse action to appeal to the Superintendent. The Superintendent shall schedule a meeting to consider the interim suspension or other adverse action and the objections of the affected student. Following this meeting the Superintendent may adopt the decision of the principal, enter the Superintendent's own decision, adopt the relief requested by the affected student, or take other action deemed necessary to achieve a reasonable resolution of the appeal. The decision of the Superintendent shall be final. The Superintendent's decision shall be rendered within fifteen (15) calendar days from the appeal meeting scheduled to discuss and consider the appeal.

Regardless of threat assessment activities, disciplinary action and referral to law enforcement are to occur when required by school board policy or Oklahoma laws.

### **Special Education Direct Threat Policy**

When the district intends to impose adverse action on a student with a disability or perceived disability based on a direct threat, notification in writing of the district direct threat inquiry will be provided to the parent of the student and / or the adult student who is the subject of the direct threat inquiry, as well as, IDEA Parents Rights in Special Education: Notice of Procedural Safeguards or Section 504/Title II: Information and Procedural Safeguards, whichever is applicable. This notification, subject to exceptional circumstances (as defined below), will include:

1. An invitation to provide documents and other information related to the inquiry and notice that if a response is not received within 24 hours, the direct threat inquiry will proceed with the documents and other information the district has available;
2. The name and contact information of the district employee coordinating the inquiry;
3. Notice that the student will not be subject to disciplinary action on the basis of unfounded fear, prejudice, and stereotypes;

4. The district's determination that a student poses a direct threat to the health or safety of others will be an individualized assessment based upon reasonable judgment that relies on current educational, psychological, medical knowledge, threat assessment inquiry, and any other available evidence to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will occur; and whether reasonable modifications of policies, practices or procedures, or the provision of auxiliary aids or services will mitigate the risk;
5. Notice that in exceptional circumstances, such as situations where safety is of immediate concern, the district may take interim steps pending a final decision regarding adverse action against the student so long as minimal due process (i.e., notice of the proposed action, the opportunity to present information on the student's behalf, and a right to appeal) is provided in the interim and more extensive due process is offered later;
6. Notice of the student's applicable appeal rights in the event of discipline or other adverse action; and
7. A copy of this policy.

The building principal, in consultation with the Special Education Director shall be responsible for determining whether the student poses a direct threat. The principal will consult with individuals with in depth knowledge and experience in the area of the student's disability as part of the direct threat determination.

The principal may consult with the student's medical, psychological, or therapeutic professional providers, if the parent or adult student consents to such consultation.

If the district determines that a student poses a direct threat to others, the district will communicate the nature of the adverse action to the parent of the student. The process for the appealing the imposition of the adverse action shall be the same as those outlined in the district's Board of Education policies for Disciplinary Removal of Children with Disabilities and Student Behavior. If the conduct giving rise to the adverse action (a) significantly contributed to the direct threat, and (b) is a manifestation of the student's disability, the district may condition the future receipt of a benefit of service until a showing has been made that the student has eliminated the conduct. This showing can be made through evidence that includes, but is not limited to, a treatment plan or periodic report from a physician. If the conduct giving rise to the adverse action (a) significantly contributed to the direct threat, and (b) is determined not to be a manifestation of the student's disability, the student's IEP or Section 504/Title II team will meet prior to the end of the change of placement to reconsider the student's educational setting. In determining educational setting, the IEP or Section 504/Title II team will consider whether the student continues to pose a direct threat.