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Bureau of Special Education FY'09 Memo #11

Date: September 30, 2008

To: Superintendent of Schools
Special Education Directors
Special Education Private Providers

From: Office of the Commissioner of Education

Division of Instruction
Bureau of Special Education

Re: **Report of Children with Disabilities Subject to Disciplinary Removal**

The purpose of this memo is to clarify the definitions of student discipline data categories to be used in the New Hampshire Special Education Information System (NHSEIS) for students receiving discipline consequences. Districts must report student discipline data from July 1st – June 30th of each year. The specific student discipline categories and definitions are included below.

Disciplinary Removal ~ Any instance in which a child is removed from his/her educational placement for disciplinary purposes, including *in-school suspension, out-of-school suspension, expulsion, removal by school personnel to an interim alternative educational setting for drug or weapon offenses or serious bodily injury, removal by a hearing officer to an interim alternative educational setting for likely injury to self or others.*

Definitions of terms:

- *In-school suspension* ~ Instances in which a child is temporarily removed from his/her regular classroom(s) for disciplinary purposes but remains under the direct supervision of school personnel. Direct supervision means school personnel are physically in the same location as students under their supervision.
- *Out-of-school suspension* ~ Instances in which a child is temporarily removed from his/her regular school for disciplinary purposes to **another setting (e.g., home, behavior center)**. **This includes both removals in which no IEP services are provided because the removal is 10 days or less as well as removals in which the child continues to receive services according to his/her IEP.**

- *Expulsion* ~ An action taken by the local educational agency removing a child from his/her regular school for disciplinary purposes for the remainder of the school year or longer in accordance with local educational agency policy. **Include removals resulting from violations of the Gun Free Schools Act that are modified to less than 365 days.**
- *Unilateral Removal by school personnel* ~ Instances in which school personnel (not the IEP team) order the removal of children with disabilities from their current educational placement to an appropriate interim alternative educational setting for not more than 45 school days. The IEP team is responsible for determining the interim alternative educational setting. Removal by school personnel (i.e., unilateral removal) does not include a decision by an IEP team to change a student's placement.
- *Removal by a hearing officer* ~ Those instances in which an impartial hearing officer orders the removal of children with disabilities from their current educational placement to an appropriate alternative educational setting for not more than 45 school days based on the hearing officer's determination that maintaining the child's current placement is substantially likely to result in injury to the child or others. **The IEP team is responsible for determining the interim alternative educational setting.**
- *Interim alternative educational setting* ~ An appropriate setting determined by the child's IEP team in which the child is placed for no more than 45 school days. This setting enables the child to continue to receive educational services and participate in the general educational curriculum (although in another setting) and to progress toward meeting the goals set out in the IEP. As appropriate, the setting includes a functional behavioral assessment (FBA) and behavioral intervention services and modifications to address the behavioral violation so that it does not recur.

These categories of **Disciplinary Removal** can be found in the discipline section of the NHSEIS IEP under **Removal/Expulsion** along with the categories of **Offenses** listed below.

Offenses:

- *Disciplinary removal* ~ Violation of the school's code of student conduct as approved by the local school's district board.
- *Dangerous weapons* ~ 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 a term does NOT include a pocket knife with a blade of less than 2½ inches in length (*18 U.S.C. Section 930(g)(2)*).
- *Drugs Offenses* ~ The use, possession, sale, or solicitation of drugs as identified in *21 U.S.C. Section 812(c)*. These offenses do NOT include use, possession, sale, or solicitation of alcohol or tobacco.
- *Serious bodily injury* ~ A bodily injury that involves a substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the function of a bodily member, organ or faculty (*18 U.S.C. Section 1365(3)(h)*).

When reporting a disciplinary event, follow these three steps:

1. Locate the **Discipline** section of the NHSEIS IEP.
2. Select a category in the dropdown menu under **Removal/Expulsion**; and
3. Select a category in the dropout menu under **Offenses** that identifies why the disciplinary action was taken.

For more information, please contact Ralph Tilton at (603) 271-3839 or rtilton@ed.state.nh.us.

This document is also available in alternate format upon request.