



STATE OF NEW JERSEY

DEPARTMENT OF EDUCATION

A Memo from the New Jersey Department of Education

Date: February 8, 2023
To: Local Educational Agency Leads, Administrators of Approved Private Schools for Students with Disabilities
Route to: Directors of Special Services
From: Kathy Ehling, Assistant Commissioner
Division of Educational Services

Guidance Regarding the Use of Psychiatric Clearances for Students with Disabilities

The purpose of this memorandum is to provide guidance regarding submission of medical clearance from a psychiatrist, physician, or other mental health professional as a contingency for a student returning to school following a behavioral incident.

Background

According to the [CDC](#), more than 33% of high school students experienced mental health issues during the COVID-19 pandemic and nearly 50% of all students reported feeling sad or hopeless. Out of an abundance of caution for the safety of students and staff, LEA administrators may seek to remove a student from school pending clearance from a psychiatrist or other medical professional following a behavioral incident.

Considerations for Students with Disabilities

July 2022 [guidance](#) regarding the discipline of students with disabilities from the United States Department of Education, Office for Civil Rights and Office of Special Education and Rehabilitative Services (OSER), included information on informal removals. Informal removals are actions taken by school personnel to remove a student for part or all of the school day without invoking disciplinary procedures in the Individuals with Disabilities Education Act (IDEA). Barring a student from school pending a psychiatric clearance is an informal removal and is subject to the disciplinary requirements in the IDEA, N.J.A.C. 6A:14-2.8 and N.J.A.C. 6A:16-7.2 and 10, which include, but are not limited to, provision of services by the fifth day of removal to ensure progress in the general education curriculum or the goals and objectives of the IEP, convening of a manifestation determination meeting, and revisions to the Individualized Education Program. Should the LEA make the determination that the behavior of a student is likely to result in injury to the student or others and proposes to place the child in an Interim Alternative Educational Setting (IAES), that determination can only be made by an Administrative Law Judge and the placement shall not exceed forty-five school days.

N.J.A.C. 6A:14-1.1(d), requires that special education and related services be provided to students with disabilities at public expense, with no charge to the parents. A clearance by a psychiatrist or other medical professional as a requirement to return to school is considered an assessment provided at public expense. LEAs shall not require parents or guardians to incur the cost of a psychiatric clearance.

Considerations for Students Identified as Potentially a Student with a Disability

The IDEA and N.J.A.C. 6A:14-3.3(f), require that the disciplinary requirements set forth in federal and state special education regulations apply to students who are identified as potentially having a disability. Students who have been referred to the child study team or are undergoing an evaluation to determine eligibility for special education are considered potentially a student with a disability. Any removal from school, including removal pending psychiatric clearance, is subject to the protections in the IDEA and N.J.A.C. 6A:14-2.8, and N.J.A.C. 6A:16-7.2 and 10.

Contact Information

Questions should be directed to the Office of Special Education at (609) 376-9060 or oseinfo@doe.nj.gov.

c: Members, State Board of Education
NJDOE Staff
Statewide Parent Advocacy Network
Garden State Coalition of Schools
NJ LEE Group