


From: pennlinkadm 10/10/0... 
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Subject: Fwd: Final - Omitted Form Rulemaking - Correcting Error in Section 14.143(B) Disc
To: Candy Dunn Toni Lozar

----- Original Message -----

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION

October 9, 2008

SUBJECT: Final - Omitted Form Rulemaking
Correcting Error In Section 14.143(B) Disciplinary Placements

TO: School District Superintendents
School District Special Education Directors
Approved Private School Presidents
Intermediate Unit Executive Directors
Intermediate Unit Special Education Directors

FROM: John J. Tommasini
Director
Bureau of Special Education

The State Board of Education (Board) intends to amend
Section 14.143 (relating to disciplinary placements) to read as

Section 14.143. Disciplinary placements.

- (b) A removal from school is a change of placement for a student who is identified with mental retardation, except if the student's actions are consistent with 34 CFR 300.530(g) (1)-(3) (relating to authority of school personnel).

Section 14.143 Disciplinary placements

The reference to 34 CFR 300.530-535 (relating to authority of school personnel; determination of setting; appeal; placement during appeals; protections for children not determined eligible for special education and related services; referral to an action by law enforcement and judicial authorities) is deleted. Reference to 34 CFR 300.530(g)(1)-(3) is added in replacement of the deleted language. This change makes the regulation consistent with the clear intent of the Board to maintain Section 14.143(b) in harmony with the PARC Consent Decree, as was the previous version of Section 14.143(b).

The revised language clarifies that any disciplinary exclusion from school of a student with mental retardation requires pre-deprivation due process protections except in the special circumstances articulated in 34 CFR 300.530(g)(1)-(3). These special circumstances exist if the student (1) carries a weapon to or possesses a weapon at school, on school premises or at a school function under the jurisdiction of an SEA or an LEA; (2) knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises or at a school function under the jurisdiction of an SEA or an LEA or (3) has inflicted serious bodily injury upon another person while at school, on school premises or at a school function under the jurisdiction of an SEA or an LEA.

Penn*Link

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