



Buelow Vetter

Buikema Olson & Vliet, LLC

The Solution Starts Here.

Disciplining students while in remote, hybrid learning? Keep these points in mind

Discipline is a school's system designed to minimize disruption and promote positive social interaction. This is achieved through behavior management techniques such as positive reinforcement, social skills training, and development of problem-solving and decision-making skills, as well as punishment.

Districts must still carry out discipline during remote and hybrid learning but, like everything else during the pandemic, it might look a little different. Consider the following points when disciplining students.

- **Adapt code of conduct.** Review your code of conduct in relation to remote or hybrid learning, said Gary M. Ruesch, a school attorney at Buelow Vetter in Wisconsin. For example, do rules around dress code need to be changed because students are at home versus in school? What will you do if a student has an offensive flag hanging on her wall that others can see on their screens?

Also consider social media and First Amendment issues as you work through your code of conduct, Ruesch said. More specifically, show how the code of conduct might apply to social media used in and as a part of virtual or hybrid learning, and consider how First Amendment issues like free speech might affect the district's ability to discipline students for conduct violations that occur in the home, he said.

Clearly update the code of conduct and share it with students and parents so they know what your expectations are, Ruesch said.

"Take into account, on a case-by-case basis, whether there needs to be any parent training or assistance in this regard," he said. For example, a child with a disability may not have the wherewithal to scope out what's in his bedroom or home school setting that might violate the code.

- **Conduct MDRs with fidelity.** When holding manifestation determination review meetings virtually, make sure to provide a full explanation of the basis for the determination, Ruesch said.

Parents should have the opportunity to fully participate in the discussion, and the decision-making team should take into account any parent-provided information. Address any challenges that parents might have viewing reports and other materials relied upon during the MDR process, Ruesch said. "We've seen some situations where technologically challenged parents can have a much more difficult time ... receiving and understanding the background for the team's determination," he said.

Also, given the nature of the environment, make sure the committee has sufficient information to make its determination. Because students are learning in a virtual instructional setting, data will provide a narrower snippet of information than if the student was in school, Ruesch said. “We have to make sure we account for that,” he said.

- **Retrain staff as needed.** Make sure your staff members understand how changes in the code of conduct affect their disciplinary obligation, Ruesch said. Provide training to ensure that their disciplinary enforcement is nondiscriminatory and applied equally to all students for the same conduct.

Remind staff that bullying and harassment policies also apply to virtual learning situations. When a student is bullied or harassed as a result of a disability, it’s a concern under Section 504, Ruesch said. “We have the same obligations to inhibit and extinguish any bullying that might be occurring, which is harder to get to in a virtual situation,” he said.

- **Maintain confidentiality.** Remind teachers not to refer to students as having IEPs or 504 plans during virtual learning, Ruesch said. “Remember that there are certain confidentiality requirements,” he said. You don’t know if a student has his iPhone on and is recording the virtual lesson or if a parent or a student’s siblings are watching, Ruesch said.

Also remind staff that disclosing information about a student’s disability status can lead to bullying and harassment, Ruesch said. “Double down on reminders [and] training,” he said.

November 11, 2020

Copyright 2020© LRP Publications

Reprinted with permission from: Special Ed Connection®. © 2020 LRP Publications, 360 Hiatt Drive, Palm Beach Gardens, FL 33418. All rights reserved. Special Ed Connection® is your go-to source for compliance guidance and use-today solutions for all your day-to-day special education responsibilities. For FREE access or more information, please call 1-800-341-7874 or visit www.SpecialEdConnection.com. For more LRP Publications resources, visit www.shoplrp.com.