

WAC 392-172A-05149 Special circumstances. (1) School personnel may remove a student to an interim alternative educational setting for not more than forty-five school days without regard to whether the behavior is determined to be a manifestation of the student's disability, if the student:

(a) Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of a school district;

(b) 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 a school district; or

(c) Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of a school district.

(2) A student removed to an interim alternative educational setting under this section must: Continue to receive educational services that provide a FAPE, so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP.

(a) The student's IEP team determines appropriate services.

(b) The student's IEP team determines the interim alternative educational setting.

(3) A student removed to an interim alternative educational setting under this section must receive a functional behavioral assessment and behavioral intervention services to the extent required in WAC 392-172A-05147 or 392-172A-05148.

(4) Definitions. For purposes of this section, the following definitions apply:

(a) 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)).

(b) 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 that act or under any other provision of federal law.

(c) Serious bodily injury has the meaning given the term "serious bodily injury" under Section 1365 (h) (3) of Title 18, U.S.C.

(d) Weapon has the meaning given the term "dangerous weapon" under Section 930 (g) (2) of Title 18, U.S.C.

[Statutory Authority: RCW 28A.155.090. WSR 17-23-054, § 392-172A-05149, filed 11/9/17, effective 12/10/17.]