

DIRECT THREAT

Definition

“Direct threat” means an individualized determination that a student with a disability poses a direct threat to the health or safety of others, based upon reasonable judgment that relies on current medical knowledge or on the best available evidence, to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices or procedures or the provision of auxiliary aids or services will mitigate the risk.

Policy

When the district intends to impose adverse action on a student based on a direct threat, notification in writing of the district's direct threat inquiry will be provided to the parent of the student and/or the adult student who is the subject of the direct threat inquiry. This notification, subject to exceptional circumstances (as defined below), will include:

1. An invitation to provide documents and other information related to the inquiry and notice that if a response is not received within 24 hours, the direct threat inquiry will proceed with the documents and other information the district has available;
2. The name and contact information of the district employee conducting the inquiry;
3. Notice that the student will not be subject to disciplinary action on the basis of unfounded fear, prejudice, and stereotypes;
4. The district's determination that a student poses a direct threat to the health or safety of others will be an individualized assessment based upon reasonable judgment that relies on current educational, psychological, and medical knowledge, threat assessment inquiry, and any other available evidence, to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices or procedures or the provision of auxiliary aids or services will mitigate the risk
5. Notice that in exceptional circumstances, such as situations where safety is of immediate concern, the district may take interim steps pending a final decision regarding adverse action against the student so long as minimal due process (i.e., notice of the proposed action, the opportunity to present information on the student's behalf, and a right to appeal) is provided in the interim and due process is offered later;
6. Notice of the student's applicable appeal rights in the event of discipline or other adverse action; and
7. A copy of this policy.

The building administrator shall be responsible for determining whether the student poses a direct threat. The administrator may consult with the student's medical, psychological, or therapeutic professional providers if the parent or adult student consents to such consultation.

If the administrator determines that a student poses a direct threat to others, the district will communicate the nature of the adverse action to the parent of the student and/or the adult student. Additionally, the district may condition the student's future receipt of a benefit or service upon the student's provision of documentation showing the student is no longer a threat. Such evidence may include but is not limited to, a treatment plan or periodic reports from a physician.

In cases resulting in the interim suspension or other adverse action, an appeal may be filed with the district's Superintendent. The adversely affected adult student or the student's parent shall have ten (10) calendar days from the notice of the interim suspension or other adverse action to appeal to the Superintendent. The Superintendent shall schedule a meeting to consider the interim suspension or other adverse action and the objections of the affected student. Following this meeting, the Superintendent may adopt the decision of the administrator, enter the Superintendent's own decision, adopt the relief requested by the affected student, or take other action deemed necessary to achieve a reasonable resolution of the appeal. The decision of the Superintendent shall be final. The Superintendent's decision shall be rendered within fifteen (15) calendar days from the appeal meeting scheduled to discuss and consider the appeal.

Regardless of threat assessment activities, disciplinary action and referral to law enforcement are to occur when required by school board policy or Oklahoma laws.

Special Education Direct Threat Policy

When the district intends to impose adverse action on a student with a disability or perceived disability based on a direct threat, notification in writing of the district direct threat inquiry will be provided to the parent of the student and/or the adult student who is the subject of the direct threat inquiry, as well as, IDEA Parents Rights in Special Education: Notice of Procedural Safeguards or Section 504/Title II: Information and Procedural Safeguards, whichever is applicable. This notification, subject to exceptional circumstances (as defined below), will include:

1. An invitation to provide documents and other information related to the inquiry and notice that if a response is not received within 24 hours, the direct threat inquiry will proceed with the documents and other information the district has available;
2. The name and contact information of the district employee coordinating the inquiry;
3. Notice that the student will not be subject to disciplinary action on the basis of unfounded fear, prejudice, and stereotypes;
4. The district's determination that a student poses a direct threat to the health or safety of others will be an individualized assessment based upon reasonable judgment that relies on current educational, psychological, and medical knowledge, threat assessment inquiry, and any other available evidence to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will occur; and whether reasonable modifications of policies, practices or procedures or the provision of auxiliary aids or services will mitigate the risk;

5. Notice that in exceptional circumstances, such as situations where safety is of immediate concern, the district may take interim steps pending a final decision regarding adverse action against the student so long as minimal due process (i.e., notice of the proposed action, the opportunity to present information on the student's behalf, and a right to appeal) is provided in the interim and more extensive due process is offered later;
6. Notice of the student's applicable appeal rights in the event of discipline or other adverse action; and
7. A copy of this policy.

The building administration, in consultation with the Special Needs Counselor, shall be responsible for determining whether the student poses a direct threat. The administrator will consult with individuals with in-depth knowledge and experience in the area of the student's disability as part of the direct threat determination.

The administrator may consult with the student's medical, psychological, or therapeutic professional providers if the parent or adult student consents to such consultation.

If the district determines that a student poses a direct threat to others, the district will communicate the nature of the adverse action to the parent of the student. The process for appealing the imposition of the adverse action shall be the same as those outlined in the district's Board of Education policies for policies addressing discipline of special needs students, adult student behavior, and secondary student behavior. If the conduct giving rise to the adverse action (a) significantly contributed to the direct threat, and (b) is a manifestation of the student's disability, the district may condition the future receipt of a benefit of service until a showing has been made that the student has eliminated the conduct. This showing can be made through evidence that includes but is not limited to, a treatment plan or periodic report from a physician. If the conduct giving rise to the adverse action (a) significantly contributed to the direct threat, and (b) is determined not to be a manifestation of the student's disability, the student's IEP or Section 504/Title II team will meet prior to the end of the change of placement to reconsider the student's educational setting. In determining the educational setting, the IEP or Section 504/Title II team will consider whether the student continues to pose a direct threat.