

This policy applies to the suspension or other disciplinary removal of a student with a disability from a current educational program. Disciplinary removal refers to reassignment of a student with a disability to an interim alternative education setting not specified in the student's IEP or IAP. A student with a disability is defined as any student who has been determined disabled under IDEA or Section 504, Rehabilitation Act and has a current Individual Education Plan (IEP) or Individual Accommodation Plan (IAP).

These procedural safeguards also apply to a student if the district 'has knowledge' that the student may have a disability. For these protections to apply, the district must have knowledge of the suspected disability before the behavior that precipitates the disciplinary action occurs. The district is determined to have knowledge if:

- A parent has expressed concern in writing to an administrative personnel or the student's teacher that the student is in need of special education and/or related services;
- A parent has requested an evaluation for their child;
- The student's teacher has expressed specific concerns about a pattern of behavior directly to the Director of Special Education or school administrator.

The district is not deemed to have knowledge if:

- A parent has not allowed an evaluation of the student;
- A parent has refused to give consent to provide services to the student;
- A student has been evaluated and determined ineligible for Part B services.

A. Disciplinary Removal for Less Than Ten Days:

School personnel may unilaterally remove a student with a disability from the current educational placement for not more than ten school days within a school year without providing educational services for any conduct that would warrant disciplinary removal of a student without disabilities. The principal may remove a student for up to ten consecutive school days per offense, as long as the additional removals do not constitute a change in placement. The district will follow its policy and procedures for the suspension/ disciplinary removal of students without disabilities.

Change in placement occurs if a series of removals constitute a pattern. A pattern is determined by the length of each removal, the total amount of time the student is removed, the proximity of the removals to one another, and the nature of the offense.

B. Disciplinary Removal for More Than Ten School Days:

Prior to any change in placement resulting in a school removal of more than ten consecutive days per offense or ten cumulative days that constitute a change in placement, the student's IEP team, including the parents, must meet to determine if the misbehavior is a manifestation of the disability. The following procedural safeguards shall be implemented not later than the tenth day after taking disciplinary action involving suspension or placement in an interim alternative education setting:

1. The principal will notify the student's parent/guardian in writing of the proposed disciplinary action and all procedural safeguards accorded under the law;
2. An IEP Review and Manifestation Determination meeting, to include the student's parents/guardians, shall be scheduled within ten school days after the date on which the decision to take disciplinary action was made;
3. The IEP team must either:
 - a. Develop a plan to conduct a functional behavior assessment and develop a behavior intervention plan or;
 - b. Review and modify an existing behavior intervention plan to address the misbehavior.

For removals of more than ten school days cumulative in a school year that do not constitute a change in placement, the principal must consult with the student's special education teacher to determine what services are required to provide free appropriate public education (FAPE) during the school removal. For removals of more than ten school days cumulative in a school year that do constitute a change in placement, the student's IEP team must determine what services are required to provide FAPE.

The alternative educational setting shall be determined by the IEP team and must be selected to:

1. Enable the student to continue to participate in the general curriculum, although in another setting; and
2. Enable the student to progress toward meeting the goals set out in the IEP.

School personnel may order a change in placement of a student with a disability to an appropriate interim

alternative educational setting for 45 school days, even if a student's conduct is determined to be a manifestation of the student's disability, if:

1. The student carries a weapon to school or to a school function under the jurisdiction of the district (a device, instrument, materials or substance - animate or inanimate - that is used for or is readily capable of causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2 1/2 inches in length;
2. The student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or at a school function under the jurisdiction of the district (controlled substance as defined in the Controlled Substances Act and that the level of intent is "knowing");
3. The student 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. "Serious bodily injury" is defined to mean a bodily injury that involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or faculty.

C. Manifestation Determination:

If school personnel wish to apply disciplinary procedures which are applicable to all students, the IEP team of a student with a disability must first determine whether the misconduct was a manifestation of the disability. In making a Manifestation Determination decision, an IEP team must review information in the student's file, relevant information supplied by the parents, observations of the student and the student's IEP and placement. The team should analyze the student's behavior as demonstrated across all settings and all time when determining whether the conduct in question is a direct result of the disability. The team must determine:

- Whether the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability; or
 - Was the behavior the direct result of the district's failure to implement the IEP.
1. If the team determines a direct and substantial relationship between a student's behavior and the disability and/or the school's failure to provide or implement an IEP or placement, it must conclude that the behavior was a manifestation of the student's disability. The IEP team must meet the following requirements:
 - a. conduct a functional behavior assessment and implement a behavior intervention plan for the student, unless the district conducted one prior to the manifestation determination;
 - b. if the IEP team had previously developed a behavior intervention plan, it must review and modify the plan as necessary to address the behavior; and
 - c. return the student to the previous educational placement, unless the parent and the district agree to a change of placement or the 45-day rule exception applies (i.e., the three automatic 45-day removal violations).

Parents shall receive prior written notice of proposed disciplinary action and a copy of all procedural safeguards accorded under the law. If the school initiates disciplinary procedures, the team shall ensure that the special education and disciplinary records of the student are transmitted for consideration by the person making the final determination regarding the disciplinary action.

2. If the team finds that the behavior is not a manifestation of the student's disability, the school may discipline the student using the relevant disciplinary procedures applicable to all students in the same manner and for the same duration, but must ensure that FAPE services are provided.

D. Procedural Safeguards and Stay-put Rules:

Parents may challenge a Manifestation Determination or any decision regarding placement with a right to have an expedited due process hearing or mediation. Expedited hearing or mediation shall occur within twenty days of the hearing request, and the hearing officer must make a determination within ten school days after the hearing.

If parents request a hearing or mediation regarding disciplinary action or to challenge the interim alternative education setting (IAES) of the Manifestation Determination, the student shall remain in the interim alternative education setting pending the decision of the hearing officer or until the expiration of the time period set of the disciplinary action, whichever occurs first, unless the parent and district agree otherwise.

The district may request a hearing to change a student's placement if the district believes that maintaining the student's current placement is substantially likely to result in injury to the student or others. The hearing officer may order a change in placement to an interim alternative educational setting for a period of up to 45 days, if the hearing officer concurs with the district's assessment of the student.

E. Free Appropriate Public Education (FAPE):

FAPE means that the student must have the opportunity to make appropriate progress in the same curriculum as that offered to nondisabled students and make appropriate advancement toward the goals identified in the student's IEP. The student must receive FAPE during any periods of removal over ten school days in a school year, regardless of the relationship of the misbehavior to the disability. The district will provide appropriate educational and related services for students identified as disabled under Section 504 of the Rehabilitation Act only if it has been determined that the misconduct was related to the disability. Otherwise, educational services during removals shall be governed by district and state policy and procedures for suspension of nondisabled students.

F. Suspension From Transportation:

Suspension from transportation for more than ten school days within a school year is considered a change of placement if the bus suspension prevents the student from attending school, only if transportation is identified as a related service on the IEP. Such a transportation suspension will trigger an IEP Review and a Manifestation Determination meeting to consider whether the misconduct is related to the disability and to review or design a Behavior Intervention Plan to address the misconduct. The IEP team may consider a more restricted means of transportation by utilizing special transportation or the need to reimburse the student's parent for the reasonable cost of transporting the student to and from school at the district's rate for the duration of the suspension.

G. Referral to Law Enforcement/Judicial Authorities:

Nothing in IDEA prohibits a school from reporting a crime committed by a student with a disability to appropriate authorities or prevents state law enforcement and judicial authorities from exercising their responsibilities under federal or state law. The school district reporting the crime committed by a student with a disability shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities subject to FERPA guidelines.

Adopted 11/11/96

Revised 12/8/97

Revised 12/13/99

Revised 1/14/02

Revised 1/16/06

Revised 12/10/07

Revised 12/10/18

Revised 12/13/21

Revised 12/12/22