

TOPIC BRIEF:

Discipline for Students with Disabilities

Discipline of a student with an IEP triggers the IDEA's procedural safeguards once the discipline has caused a "change in placement." A change in placement occurs when the school district has removed a student with disabilities from school for a specific period of time:

Change in Placement

- More than 10 consecutive school days or
- Removals are a pattern such as:
 - Removals total more than 10 days
 - Student behavior is substantially similar to the student's behavior in previous incidents
 - Additional factors such as the length of each removal or proximity to one another

In school suspension: For an in-school suspension not to be considered a removal, the student must be afforded the opportunity to continue to appropriately progress in the general curriculum, AND continues to receive the services specified on the IEP, AND continues to participate with students without disabilities to the extent they would have in their current placement.

If a student does not receive special education and related services while serving an in-school suspension that lasts for more than 10 days, the suspension is the same as an out-of-school suspension for the purposes of IDEA.

BEST PRACTICE

Keep a behavior log:
Maintaining a behavior log will allow staff to see which interventions are effective.

Single out of school suspension for 10 days or less:

An LEA may suspend a student for 10 days or less in any given school year without providing services, conducting a manifestation determination review, or draft a behavior plan.

Single out of school suspension for more than 10 days:

If a special education student has been suspended for 10 or more consecutive days, it is a change in placement. The school must conduct a manifestation determination review, continue to provide educational services to the student during the suspension, and conduct a functional behavioral assessment.

Multiple suspensions totaling more than 10 days:

If the disciplinary removals are a change in placement (see above), then the school district must follow the requirements in IDEA.

Provide procedural safeguards

- Notify the parents on the day when the removal that made the change in placement

Continue educational services

- Provide day 11
- Must enable the student to progress in the general ed curriculum and progress on IEP goals

Make up related service minutes

- From day 11 and beyond

Convene an IEP meeting

- To draft or review the student's behavior plan
- To change IEP to reflect services in new placement

Conduct manifestation determination review

- Determine whether student's disability caused misconduct
- Must be within 10 days

Manifestation Determination Review:

Answers these two questions:

- (1) Was the conduct in question caused by, or had a direct and substantial relationship to the child's disability?
- (2) Was the conduct in question the direct result of the LEA's failure to implement the IEP?

If either (1) or (2) or both are "YES", then it is a manifestation of the child's disability.

UNILATERAL REMOVALS

An LEA may unilaterally remove a special education student to an Interim Alternative Educational Placement for not more than 45 *school days* in the following situations ONLY:

- a. Weapons violation
- b. Drug offense
- c. Serious bodily injury

Serious bodily injury means: a physical injury that involves at least one of the following characteristics: 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 mental faculty.

SC Department of Education Discipline Procedures for Students with Disabilities

