



# THE DISCIPLINE PROCESS FOR STUDENTS WITH DISABILITIES

NEW DIRECTOR'S ACADEMY PRESENTATION

July 25, 2013

Missouri Department  
of Elementary and Secondary Education



# Learning Objectives

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- Know the legal basis for disciplining students with disabilities in order to protect their rights
- Understand terminology related to the discipline process
- Be able to document discipline decisions (both what they are and how they were made)
- Be able to apply the discipline process in making individual student discipline decisions
- Know where to get additional assistance and resources





# Disciplining Students with Disabilities

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- Following the discipline process ensures the student's rights under IDEA are protected
- Involves a process of analysis and decisions
- District's core data reporting includes discipline data
- Monitored by the Department and OSEP
  - Annual Discipline Review for SPP 4A / 4B





# Discipline and the Law



# The Law

Individuals with Disabilities  
Education Act (IDEA)



Missouri State Plan  
for Special Education



Local Compliance Plans  
and  
Assurance Statements



Federal Regulations



Standards and  
Indicators Manual



# Missouri State Law

## □ Safe Schools Act

- Sections 160.261–160.272 of the Revised Statutes of Missouri
- Passed in 1996
- Applies to all students
- Provisions
  - Written Policy / Definitions
  - Reporting



# Violent Behavior

- Violent Behavior
  - The exertion of physical force by a student with the intent to do serious bodily harm ...to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities
- No student shall be readmitted or enrolled if charged with or convicted of any of the following serious offenses:
  - First or Second degree murder
  - First degree assault
  - Forcible rape or sodomy
  - Statutory rape or sodomy
  - Robbery or Arson in the first degree
  - Distribution of drugs to a minor



# Serious Bodily Harm

- Means a **serious bodily injury** which involves—
  - a substantial risk of death
  - extreme physical pain
  - protracted and obvious disfigurement
  - protracted loss or impairment of the function of a bodily member, organ, or mental faculty
  - As distinguished from a **bodily injury** which means a cut, abrasion, bruise, burn, or disfigurement; physical pain; illness; impairment of the function of a bodily member, organ, or mental faculty; or any other injury to the body, no matter how temporary



**! Emergency Room visit does not equal serious bodily injury !**

# Weapon

- Firearm, blackjack, explosive weapon, firearm silencer, a gas gun, a knife, knuckles, a machine gun, a projectile weapon, a rifle, a shotgun, a spring gun, and a switchblade knife.
- See the ***Missouri Revised Statutes*** for the exact definition of each of these weapons (Section 571.010)
- Knife: any dagger, dirk, stiletto, or bladed hand instrument that is readily capable of inflicting serious physical injury or death by cutting or stabbing a person.





# Discipline Terms / Key Concepts





# The Basics . . .

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- What is DISCIPLINE?
  - Removal from the current educational placement in response to a violation of the student code of conduct
    - To another setting
    - To an interim alternative educational setting
    - Out of School by suspension or expulsion
- When is a removal a CHANGE OF PLACEMENT?
  - More than 10 consecutive school days
  - OR
  - A series of removals that exceed 10 cumulative school days and constitute a pattern

# Key Concepts: ISS / OSS

## ■ In-School Suspension (ISS)



- Does not count towards change of placement so long as student still receives special education and related services described in IEP

## ■ Out of School Suspension (OSS)



- Always counts toward change of placement
- Bus suspensions count IF student misses school
- ISS can become OSS in certain situations



# Key Concepts: Short-term / Long-term

- Short-term Suspension
  - $\leq 10$  days and no change of placement
  - First 10 days = NO services required
  - $> 10$  days cumulative in school year and no pattern = services considered beginning on 11<sup>th</sup> day
- Long-term Suspension
  - More than 10 consecutive days OR  $> 10$  days cumulative and a pattern





# Greater than 10 days Consecutively = Change of Placement

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					X	
	X	X	X	X	X	
	X	X	X	X	X	



# Greater than 10 days Cumulatively with a PATTERN = Change of Placement

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			X	X	X	
		X				
	X			X	X	
		X	X	X	X	

+ District personnel determined a pattern DOES exist



# Actions Required for Long-term Suspensions

- MUST provide parents with Procedural Safeguards
- MUST hold Manifestation Determination meeting to determine if conduct is related to the child's disability
  - If behavior is related to disability, the student CANNOT be long-term suspend
  - If behavior is NOT related to disability, student CAN be long-term suspended
    - Services required beginning on 11<sup>th</sup> day EVEN IF conduct is unrelated to the disability

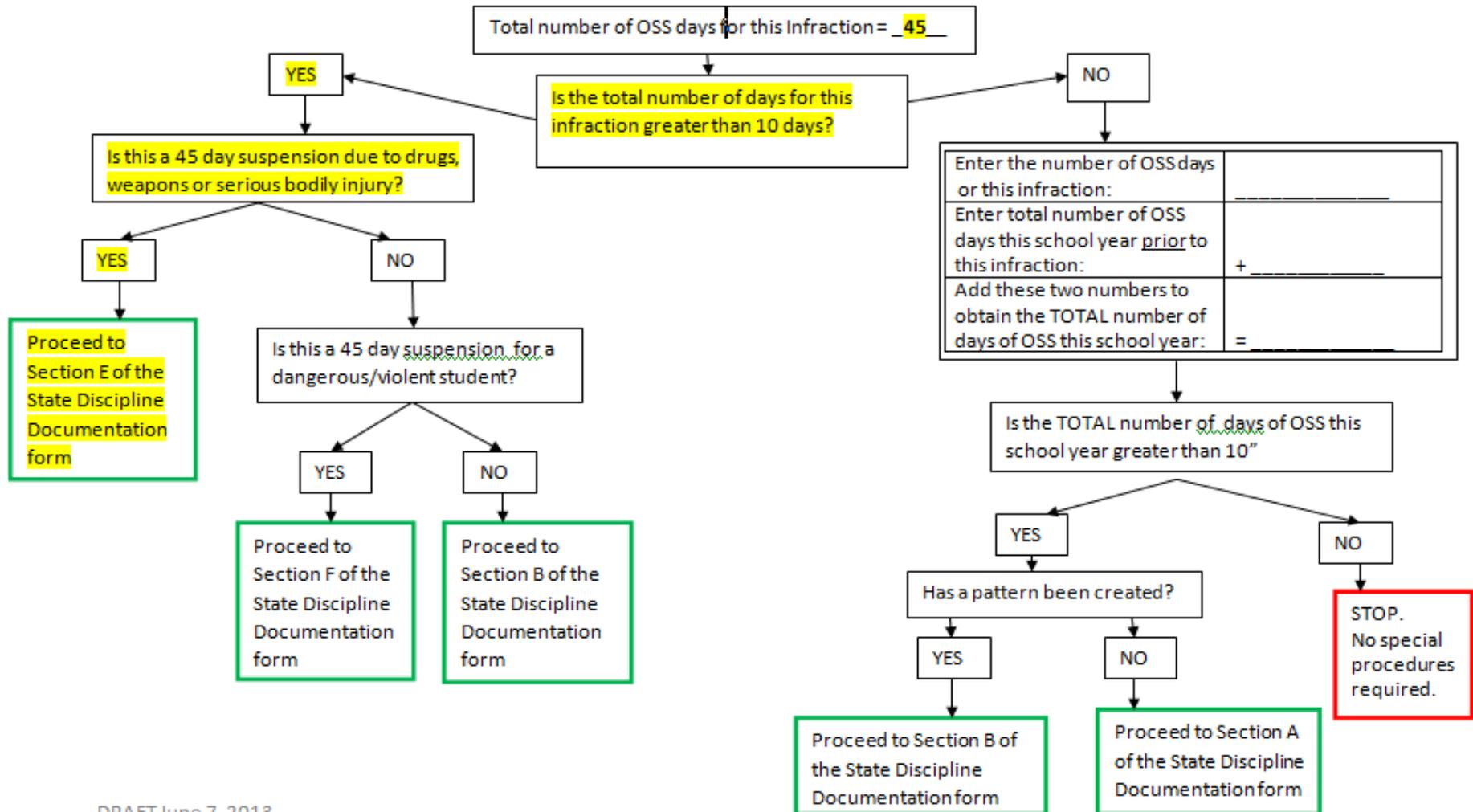


# The Discipline Decision Process



# 45- Day Suspension (Drugs/Weapons/Serious Bodily Injury)

## Special Education Discipline Process





## SECTION E

### 45 School Day Interim Alternative Educational Placement (IAEP) – Weapons/Drugs/Serious Bodily Injury

Documentation is present that on the date on which the decision to make a removal that constitutes a change of placement was made:

- The parent was notified of the decision
- Parent was provided a copy of the Procedural Safeguards

Documentation is present that within 10 school days after the date of the decision to take the disciplinary action, relevant members of the IEP team met to:

- Conduct a Manifestation Determination. Go to Section B.

Documentation is present that relevant members of the IEP team determined the conduct was:

- Not a manifestation of the disability. Go to Section C.

OR

- A manifestation of the disability. Go to Section D.

## SECTION B

### Documentation of MANIFESTATION DETERMINATION

- Documentation is present that within 10 school days of any decision to implement a long-term suspension, the local educational agency, the parent and relevant members of the IEP team met to conduct a manifestation determination.

#### Manifestation Determination meeting

##### Step 1.

Team reviewed the following:

- |  |                              |                             |
|--|------------------------------|-----------------------------|
| • All relevant information in the student's file | <input type="checkbox"/> yes | <input type="checkbox"/> no |
| • Child's IEP                                    | <input type="checkbox"/> yes | <input type="checkbox"/> no |
| • Any teacher observations                       | <input type="checkbox"/> yes | <input type="checkbox"/> no |
| • Relevant information provided by parents       | <input type="checkbox"/> yes | <input type="checkbox"/> no |

##### Step 2.

Team determined that:

- |   |                              |                             |
|---|------------------------------|-----------------------------|
| • Conduct in question was caused by, or had a direct and substantial relationship to the child's disability | <input type="checkbox"/> yes | <input type="checkbox"/> no |
| OR  |                              |                             |
| • The conduct in question was the direct result of the LEA's failure to implement the IEP                   | <input type="checkbox"/> yes | <input type="checkbox"/> no |

Finding of the team:

- Conduct is not a manifestation of the disability. Go to Section C.
- Conduct is manifestation of the disability. Go to Section D.

## SECTION C

### (Long-term suspension—conduct was not a manifestation of the disability)

Documentation is present that:

- Relevant IEP team members found the conduct was not a manifestation of the disability.
- The IEP team determined placement.

School personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities except that the IEP team must determine services that will enable the child to:

- Continue to receive educational services to continue to participate in the general education curriculum, although in another setting.
- Progress toward meeting goals in the IEP
- Receive, as appropriate, a functional behavioral assessment (FBA) and behavior intervention services and modifications designed to address the behavior violation so that it does not recur.

- Parent provided with prior written Notice of Action for change of placement/services
- Parent provided a copy of the Procedural Safeguards

## SECTION D

### (Long-term suspension—conduct is manifestation of the disability)

Documentation is present that:

- Relevant IEP team members found the conduct a manifestation of the child's disability

#### Step 1.

The IEP team:

- conducted a functional behavioral assessment (FBA )
- OR**
- FBA was conducted prior to this behavioral incident

#### Step 2.

The IEP team:

- Developed a behavior intervention plan (BIP)
- OR**
- Reviewed an existing BIP
- AND/OR**
- Modified an existing BIP, as necessary, to address the behavior related to this incident

## SECTION D (continued)

.....  
Step 3.

Agency returned child to the placement from which the child was removed

**OR**

Parent and LEA agreed to a change of placement as part of the modifications of the BIP

**OR**

In the case of a 45 school day placement for drugs, weapons, or serious bodily injury:

Continued the child's placement in the interim alternative educational setting

**AND**

Determined services that would enable the child to

- Continue to participate in the general education curriculum, although in another setting.
- Progress toward meeting goals set out in the IEP
- Receive, as appropriate, behavior intervention services and modifications designed to address the behavior violation so that it does not recur

Documentation is present that:

Parent provided with a prior written Notice of Action for change of placement/services, when required

# Case #1: Edward

Edward is a 10<sup>th</sup> grader with an educational identification of Emotional Disturbance. He also has a medical diagnosis mood disorder. Edward tends to act out and/or become severely withdrawn and angry with peers and he is failing most of his academic subjects. Edward's file contains an FBA and a BIP, in addition to his IEP.

- 45-day suspension for bringing a gun to school, showing it to another student and making a threat about using it to shoot another student.

What now?



## Case #2: Allen

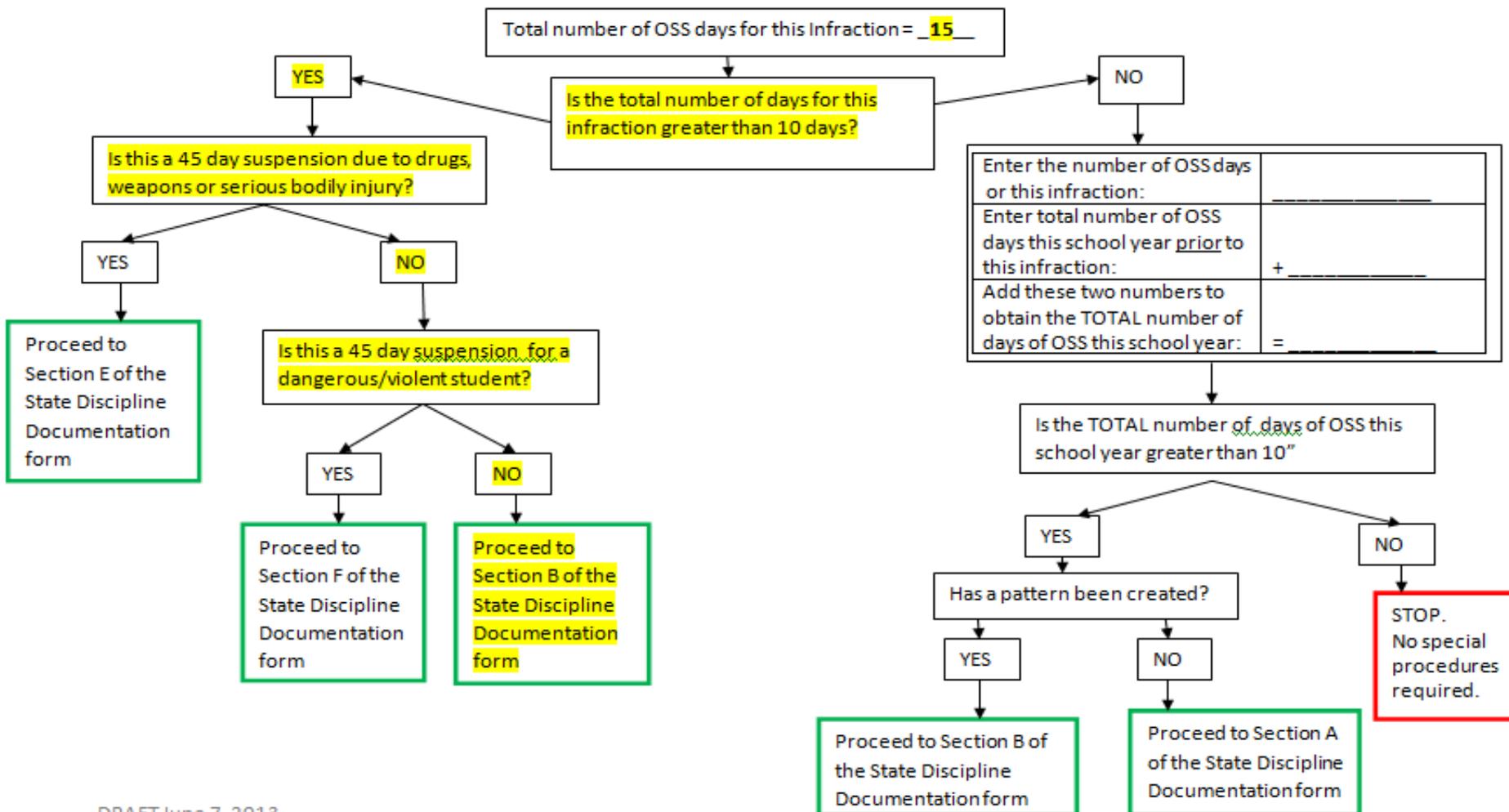
Allen is a 11<sup>th</sup> grader with an educational identification of Specific Learning Disability in Reading Comprehension and Written Expression. He is a popular student and has no history of behavior problems.

- 45-day suspension for removing a hunting rifle from his truck and showing it to a friend during the lunch shift in the school parking lot.



# Suspension of Greater than 10 days CONSECUTIVELY

## Special Education Discipline Process



# Case #3: Charlie



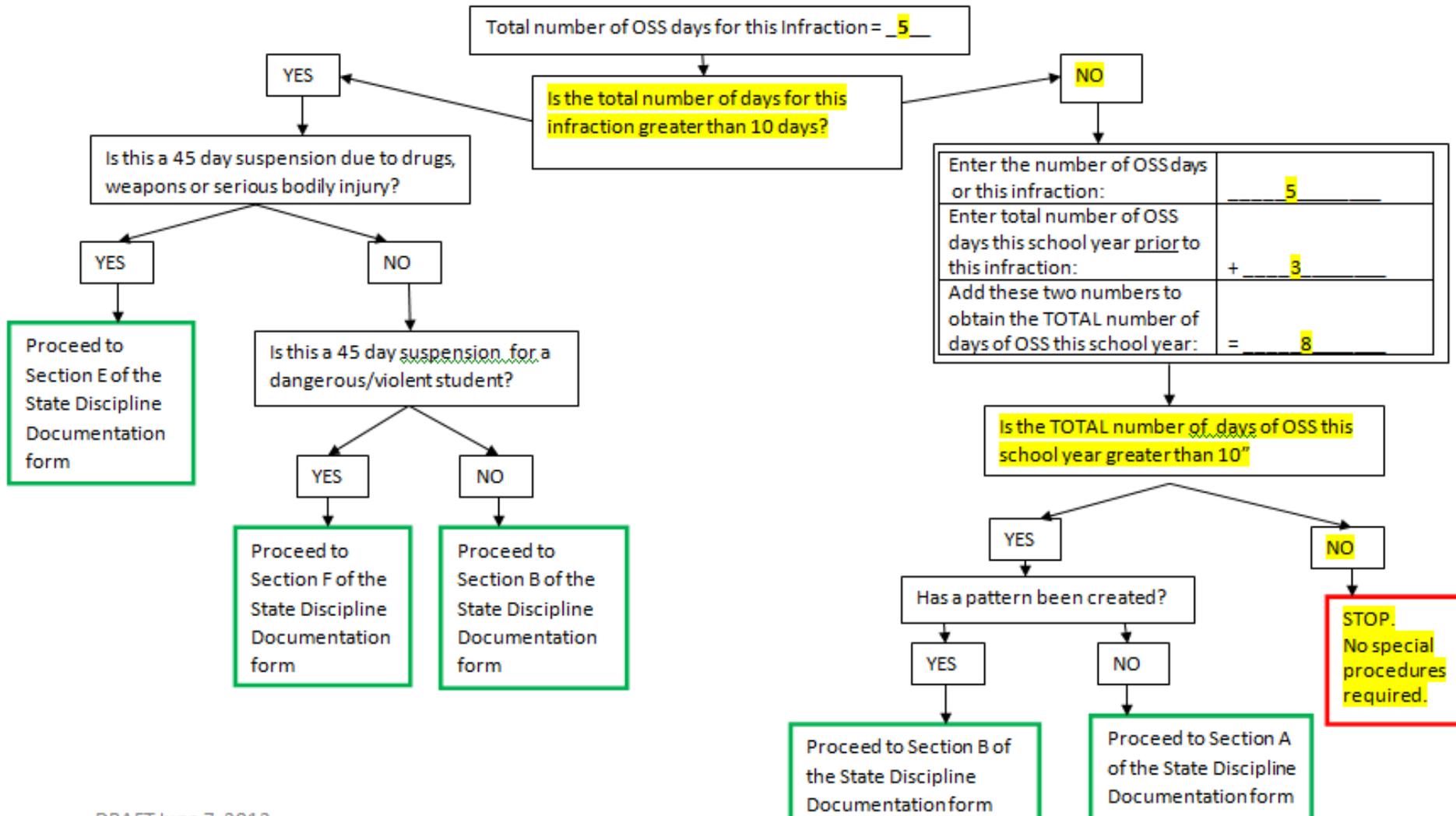
Charlie is a 6<sup>th</sup> grader who receives special education services for a learning disability in reading. He has no history of behavior problems.

- Feb 10 – Caught stealing software from computer lab; given 3 days OSS
  - Returned to the classroom to gather belongings and confronted teacher, calling her names, threatening to “cut her”, and pretending to swing his fist toward her.
  - Was given an **additional 10 days OSS**, bringing his total to 13 days

Is Charlie’s conduct related to his disability?

# Suspensions of Less than 10 Days CUMULATIVELY

## Special Education Discipline Process





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**Special Education Discipline  
Documentation Form**  
(Use for Out of School Suspension [OSS] **Only**)

Student Name: \_\_\_\_\_ Date of infraction: \_\_\_\_/\_\_\_\_/\_\_\_\_

Description of Infraction: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

1. Number of OSS days for this infraction \_\_\_\_\_  
Is the total number of days for this infraction greater than 10?  
 Yes. Go to #2.  
 No. Go to #3.
  
2. Is this a 45 school day suspension or interim alternative placement for drugs/weapons/serious bodily injury or for a violent/dangerous student?  
 Yes for drugs/weapons/serious bodily injury. Go to Section E.  
 Yes for a violent/dangerous student. Go to Section F.  
 No. Go to Section B. (Manifestation Determination)
  
3. Number of OSS days this school year **prior** to this infraction \_\_\_\_\_

# Case #4: Jenna

Jenna is a 8<sup>th</sup> grade student with an educational identification of Other Health Impairment due to a medical diagnosis of ADHD. Jenna has had the following behavior infractions and suspensions this school year:

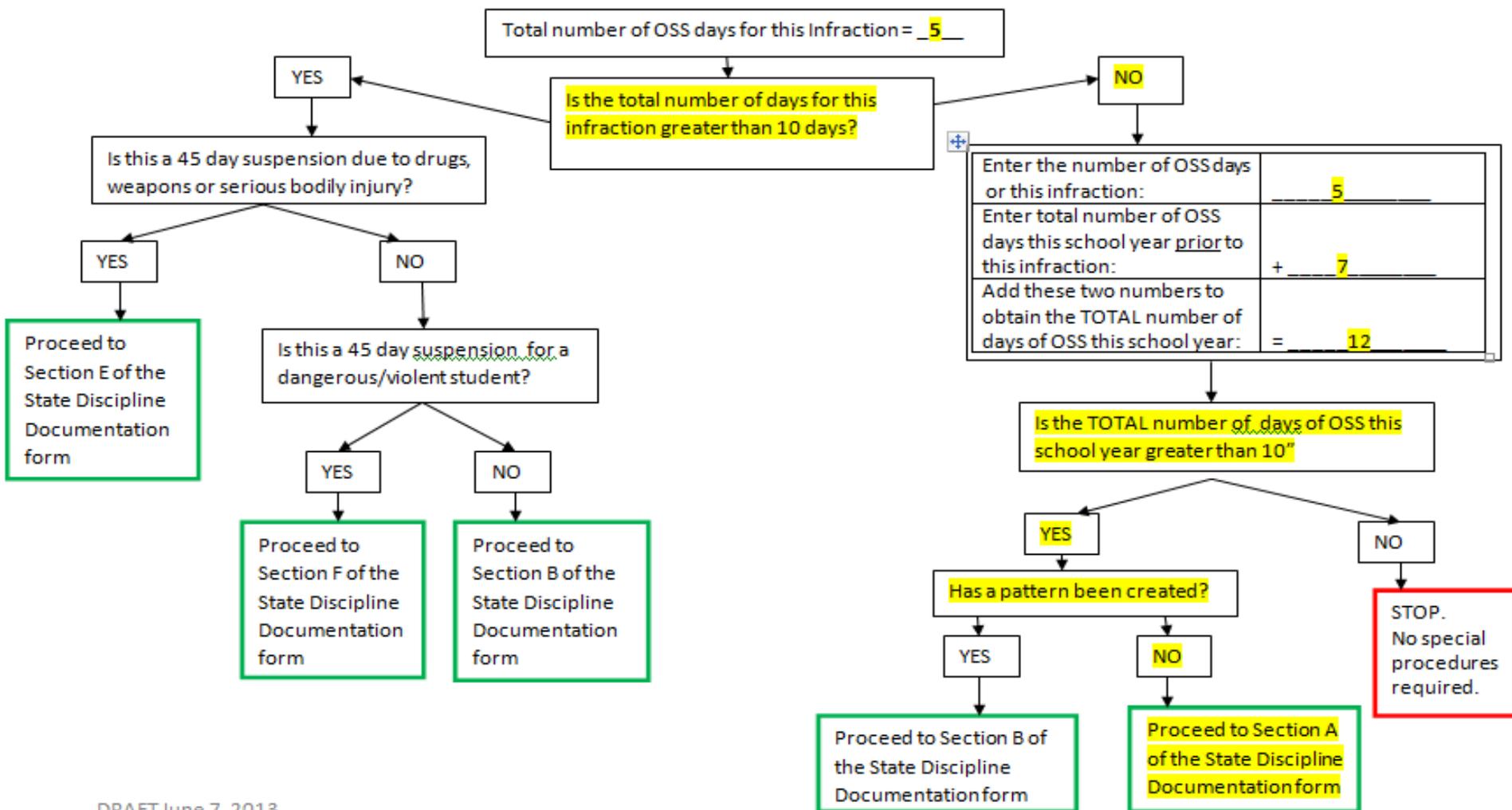
- Nov 7 – 5 days for fighting
- Feb 21 – 3 days for vandalism
- April 1 – 1 day for purposely overflowing sinks and toilets in restrooms

What happens next?



# Suspension that results in more than 10 cumulative days (OSS), but NO change of placement

## Special Education Discipline Process



## SECTION A

### Removal of a student over ten school days when no long-term suspension is involved (no pattern created)

School personnel, in consultation with at least one of the child's teachers, determines the extent to what services are required on the 11<sup>th</sup> school day and thereafter in which the child is in OSS for this infraction and the location of those services.

Factors considered in making this decision include:

- length of the removal: \_\_\_\_\_
- extent to which the student has been removed previously: \_\_\_\_\_
- student's needs and educational goals: \_\_\_\_\_

Decision:  Services are NOT required on the 11<sup>th</sup> day of school and thereafter  
Plan: \_\_\_\_\_

\_\_\_\_\_

Services ARE required on the 11<sup>th</sup> day of school and thereafter  
Plan: \_\_\_\_\_

\_\_\_\_\_

Date of Decision: \_\_\_\_/\_\_\_\_/\_\_\_\_

Name(s) and role(s) of individual(s) making the decision:

**NAME**

**ROLE**

\_\_\_\_\_

\_\_\_\_\_

# CASE #5: Robert

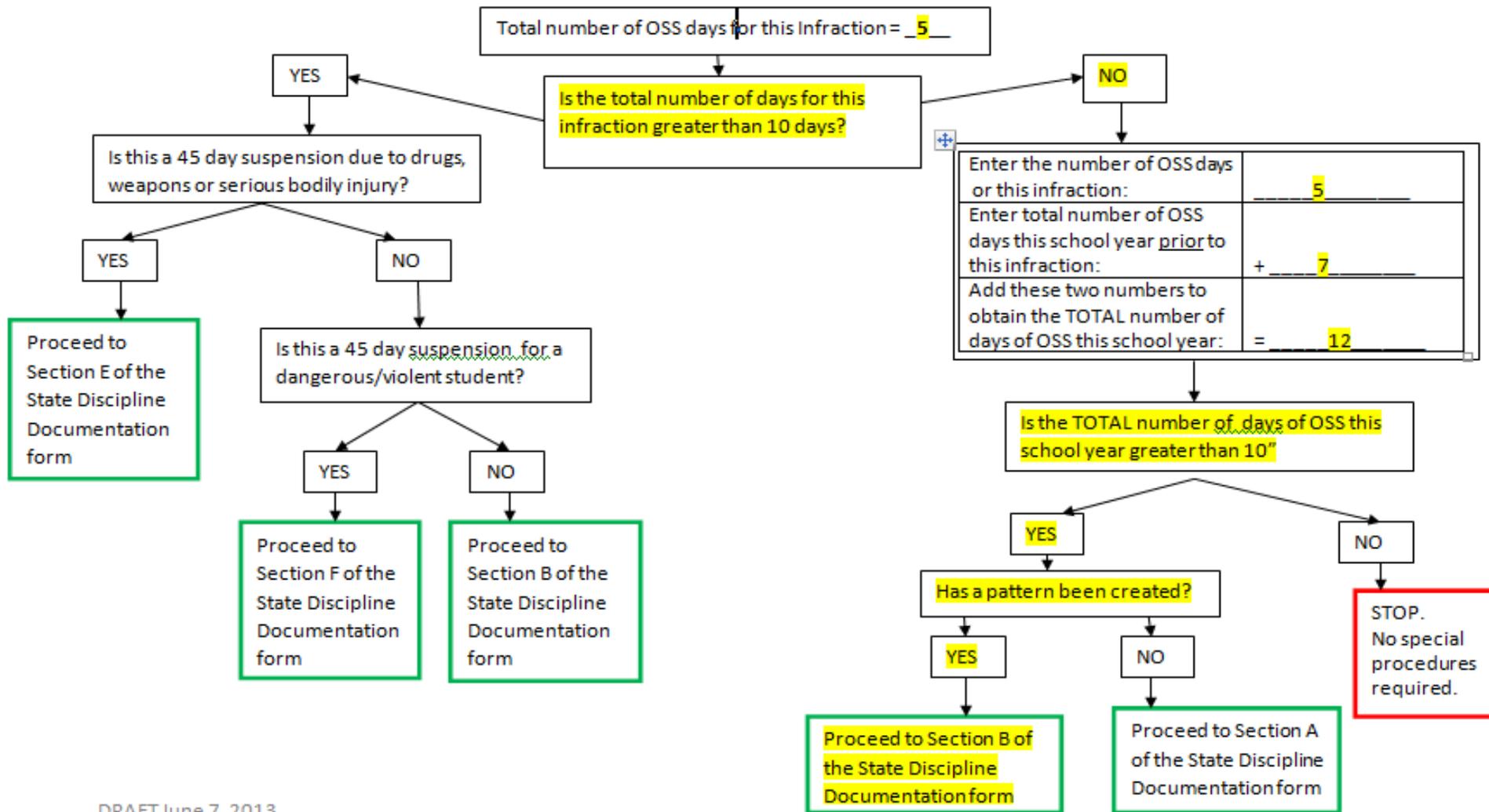
Could the LEA determine that the following removals constitute a pattern and, thus, a change of placement:

- Sept 3 – 1 day for throwing food in cafeteria
- Oct 15 – 1 day for throwing food in cafeteria
- Nov 20 – 5 days for pulling fire alarm
- Feb 1– 2 days for fighting in class
- April 10 – 2 days for setting off sprinkler system with a lighter



# Suspension that results in more than 10 cumulative days (OSS) and IS a change of placement

## Special Education Discipline Process



# Case #6: Lori

Lori is an eleven-year-old in the 5<sup>th</sup> grade. She was identified with a specific learning disability in math calculation in 3<sup>rd</sup> grade. She receives special education services in the regular classroom for math. She has a history of behavior difficulties, dating back to 1<sup>st</sup> grade.

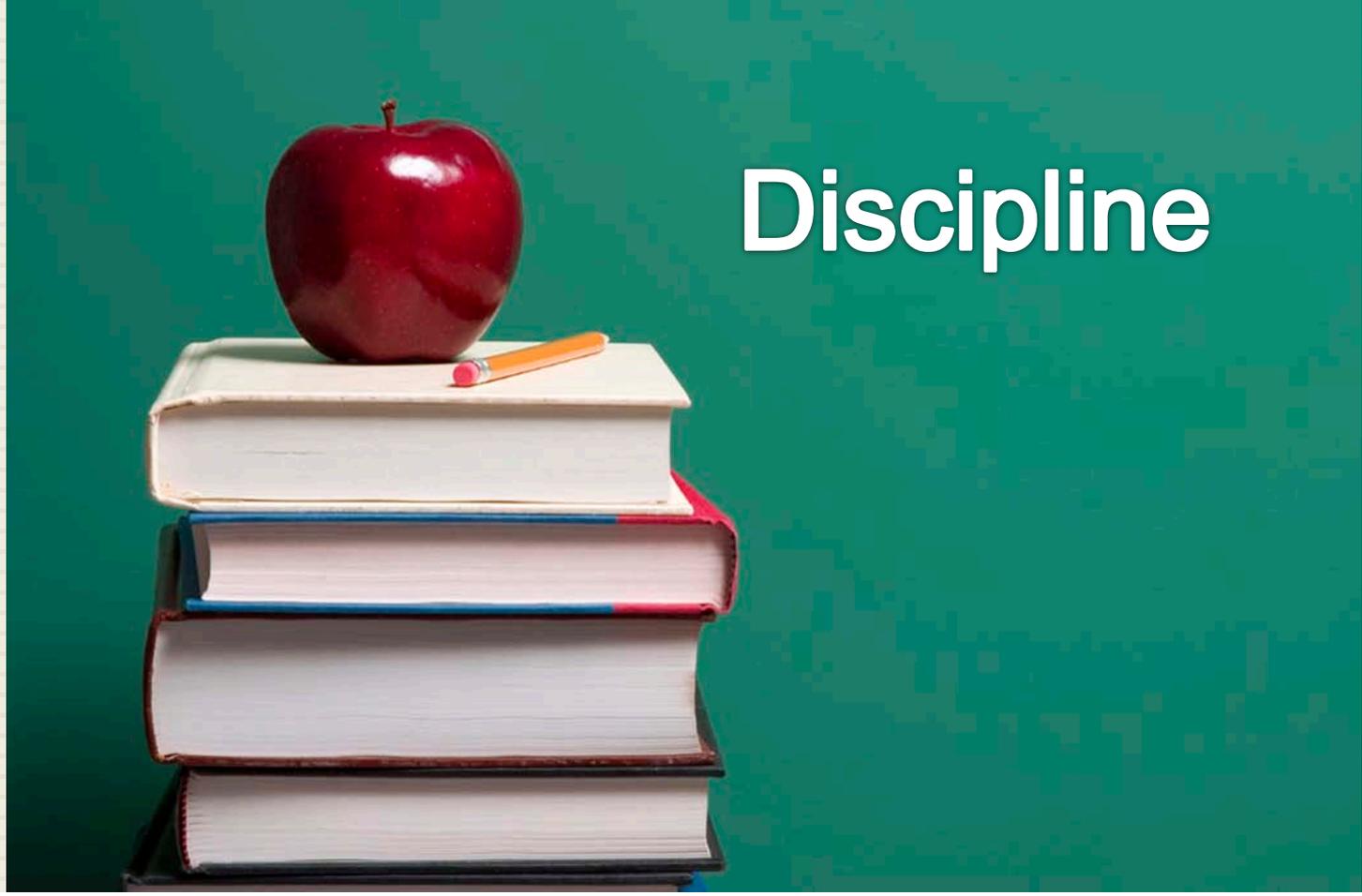
- Sept 1 – 2 days for refusing to work in science class; directed profanity at teacher
- Oct 5 – 3 days for making threatening remarks toward peer
- Oct 11 – 3 days for telling a sexual joke directed at the PE teacher
- Nov 1 – 3 days for knocking books out of another student's hands and pushing the peer to the ground





# Avoiding Common Mistakes





# Discipline

## **TOP 5 TEACHABLE MOMENTS**

# 1. Provide Services When Needed

**>10 days Consecutively  
or  
>10 days Cumulatively  
(with pattern)**

- MUST provide services beginning on Day 11
- The IEP team determines the services and location



**$\leq$  10 days Consecutively  
or  
>10 days Cumulatively  
(without pattern)**

- School personnel along with at least one of the student's teachers determines the extent to which services are required on the 11<sup>th</sup> day and thereafter . . .
- Factors to consider include
  - length of the removal
  - extent to which the student has been removed previously
  - student's needs and educational goals.



## 2. Provide the Right Type of Services

Must decide . . .

- What services to provide
- Where to provide the services
- When to provide the services
  - ▣ How to handle a delay in starting to provide services



# 3. Have the Right People Making the Discipline Decisions

- ALWAYS document the name and role of persons involved in making decisions related to discipline for students with disabilities
- Discipline decisions related to students with disabilities ALWAYS require a team approach
  - Different discipline options have different **required** team members



 <b>Type of discipline procedure occurring</b>	<i>Who is involved in implementing the discipline decisions</i>
<b>Cumulative short term suspensions &gt;10 days in a school year</b>	<b>School personnel in consultation with at least one of the child's teachers</b>
<b>Conducting a manifestation determination</b>	<b>The local education agency (LEA), the parent and relevant members of the IEP team</b>
<b>Long term suspension – conduct was not a manifestation of the disability</b>	<b>School personnel and relevant IEP team members</b>
<b>Long term suspension – conduct is manifestation of the disability</b>	<b>School personnel and relevant IEP team members</b>
<b>45 day IAEP – weapons/drugs/serious bodily injury</b>	<b>School personnel</b>
<b>45 day removal – violent/dangerous student</b>	<b>Designated school personnel file for an expedited due process hearing</b>



# 4. Know When and How to Conduct a Manifestation Determination

- When must one must be conducted
  - Student removed for  $> 10$  days consecutively
  - Student removed for  $> 10$  days cumulatively with a pattern
- What documentation to look at
  - To determine if a pattern
  - To determine if a manifestation
- Timeline for conducting meeting
  - School days NOT calendar days





# 5. Follow ALL of the Steps in the Discipline Process

Don't skip steps

Don't stop before you're done with all the steps

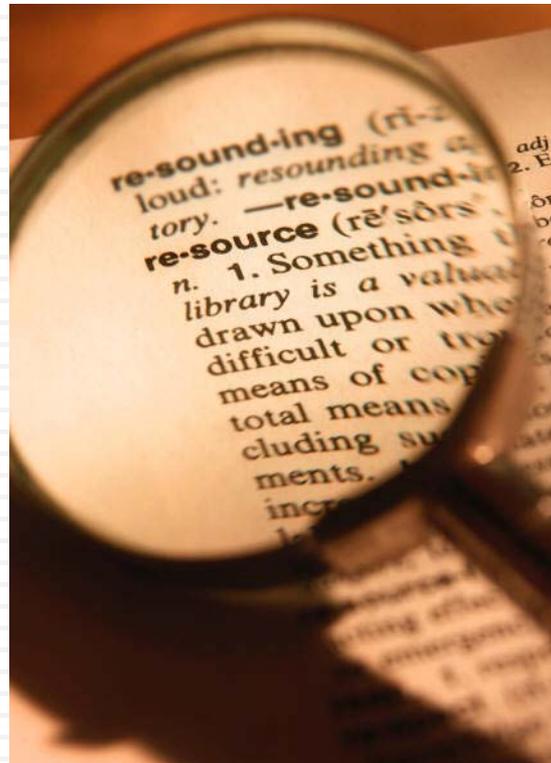
Document decisions!

Count OSS days accurately





# Know Your Resources



# Department Contact Information

- Call Special Education Compliance

PHONE: 573-751-0699

FAX: 573-526-5946

- Email Special Education Compliance

[secompliance@dese.mo.gov](mailto:secompliance@dese.mo.gov)

- Access the Special Education Compliance website

<http://dese.mo.gov/divspeced/Compliance/>



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## Features

Check Out The Department's **Upcoming Webinars**

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## News & Updates

- ▶ Registration Is Open for the 2011 School Administrators Conference
- ▶ 47 Missouri Schools Receive National Health Awards
- ▶ Fall Enrollment Opens for MoVip Online Courses
- ▶ Missouri GED Transcripts Are Now Online
- ▶ Top 10 by 20 Video Released

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- ▶ 06-30-11 - 2010-2011 Performance Data Release Schedule
- ▶ 06-30-11 - Dollar Value Modifier Calculation
- ▶ 06-20-11 - HQT Data for 2010-11
- ▶ 06-15-11 - Information on Funding Cuts for Education
- ▶ 06-07-11 - Office Updates: Student Information System RFP and FAFSA Filing Rates
- ▶ 06-03-11 - FY12 Fiscal Changes for Federal Programs
- ▶ 05-27-11 - Verification of Data Used in FY12 Part B Allocation
- ▶ 05-27-11 - Unexpended FY2009 Funds under NCLB

[more...](#)

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## Special Education Compliance

### New Updates

**IMACS**  
Frequently Asked Questions

#### Transition from First Steps to Early Childhood Special Education

As a joint effort First Steps (Part C) and Special Education Compliance (Part B) personnel, the Office of Special Education is offering a webinar on Transition from First Steps to Early Childhood Special Education. The webinar will be presented January 25 from 10:30 a.m. to 12:00 p.m. and will focus on the transition procedures and timelines for children moving from First Steps to ECSE. This webinar will include a live Q&A about issues discussed in the presentation.

▶ [More information](#)

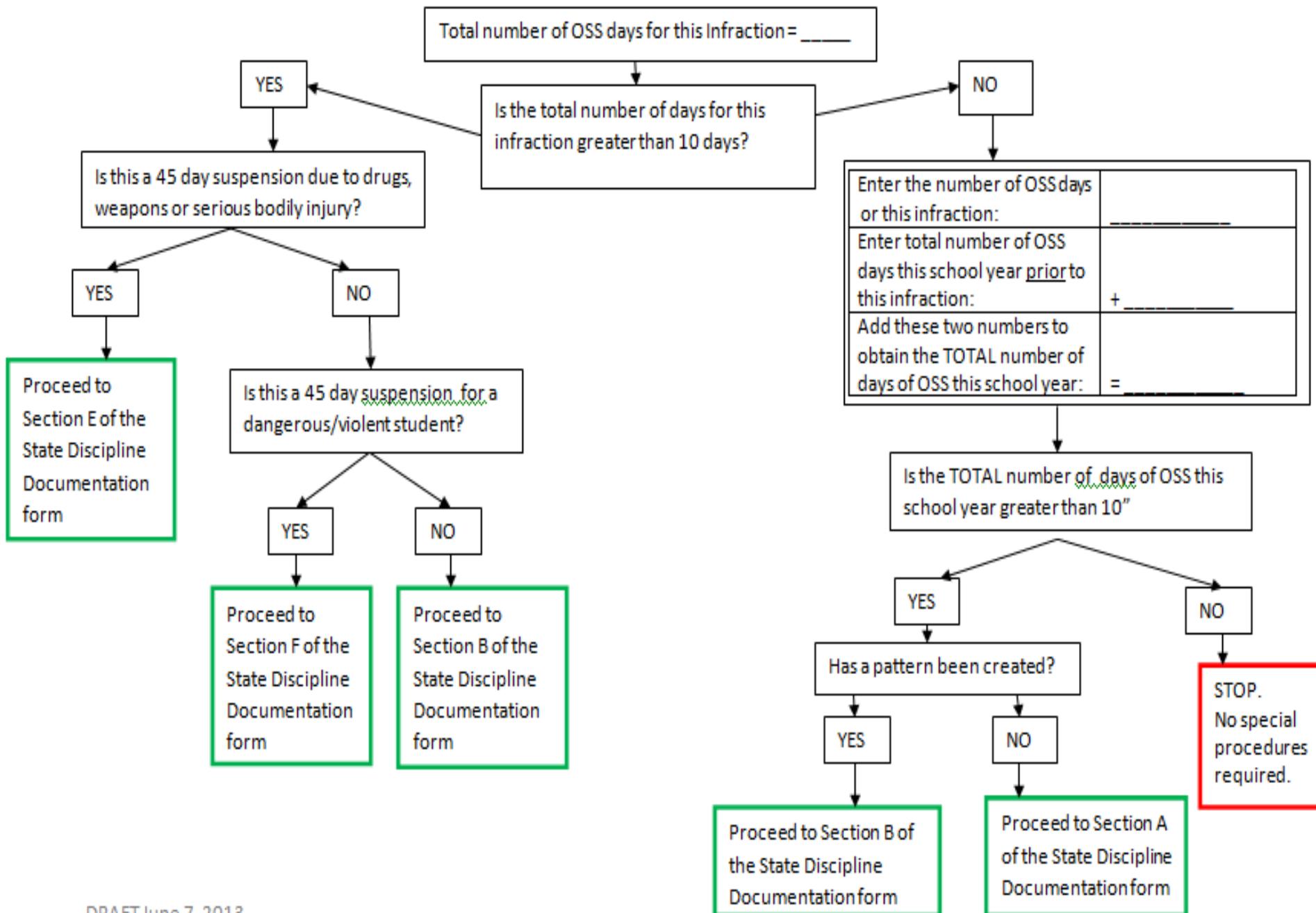
#### Update to the Revisions of the Standards and Indicators

We regret that there was an error made in the recent revisions of the Standards and Indicators.

#### How Do I Find?

- ▶ Coordinated Early Intervening Services (CEIS)
- ▶ Discipline Monitoring
- ▶ Disproportionality Monitoring
- ▶ Educational Surrogate
- ▶ **Frequently Asked Questions**
- ▶ Juvenile Justice System
- ▶ MAP-A Eligibility Criteria 
- ▶ Monthly Webstreams
- ▶ MoVIP and Special Education FAQ
- ▶ Notice of Action
- ▶ OT/PT Guidelines
- ▶ On-site Monitoring Manual 
- ▶ **Parents' Bill of Rights**

# Special Education Discipline Process



# Paper Resources . . .

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## Special Education Compliance Program Review Standards and Indicators



Missouri Department of Elementary and Secondary Education  
Office of Special Education

Revised July 2013

REVISED  
2013

## ***MISSOURI STATE PLAN FOR SPECIAL EDUCATION***

*Regulations Implementing  
Part B of the  
Individuals with  
Disabilities Education Act*

Dr. Chris L. Nease  
Commissioner of Education



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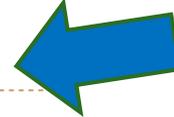
## Special Education Compliance

### News and Updates

IMACS

#### How Do I Find?

- ▶ Coordinated Early Intervening Services (CEIS)
- ▶ Discipline Monitoring
- ▶ Disproportionality



may easily indicate on your copy of the Standards.

- ▶ More information

#### New Assistant Director of Compliance

Nancy Thomas has accepted the position of Assistant Director of Compliance, Part B, in the Office of Special Education replacing Ginger Henry.

- ▶ More information

#### Compliance/Range of Minutes

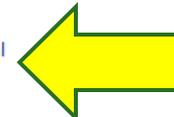
The U. S. Department of Education, Office of Special Education Programs (OSEP) takes a dim view of using a range of minutes for specific special education services listed in the IEP.

- ▶ More information



manual

- ▶ Referral Process
- ▶ Section 504: Rehabilitation Act of 1973
- ▶ Speech Implementer
- ▶ Standards & Indicators Manual
- ▶ State Plan for Special Education
- ▶ Status of Statewide Electronic IEP System
- ▶ Technical Assistance Bulletins





# Compliance Staff

Vacant, Director, Special Education Compliance Parts B & C

**Phone:** 573-751-0699, **Fax:** 573-526-5946 **Web Inquiries:** [secompliance@dese.mo.gov](mailto:secompliance@dese.mo.gov)

## Part B - Ages 3-21

- ❑ Nancy Thomas, Assistant Director
- ❑ Julie Bower, Supervisor
- ❑ Samantha Boucher, Supervisor
- ❑ Rick Lewis, Supervisor
- ❑ Corina Henderson, Supervisor
- ❑ Donna Catt, Supervisor
- ❑ Jennifer Moreland, Supervisor
- ❑ Margaret Wimer, Program Analyst

## Educational Surrogate Program IMACS, Web, and Data Technical Assistance

- ❑ Sandy Kliethermes, Program Supervisor
- ❑ Margaret Wimer, Program Analyst

## Part C - Ages Birth to 3

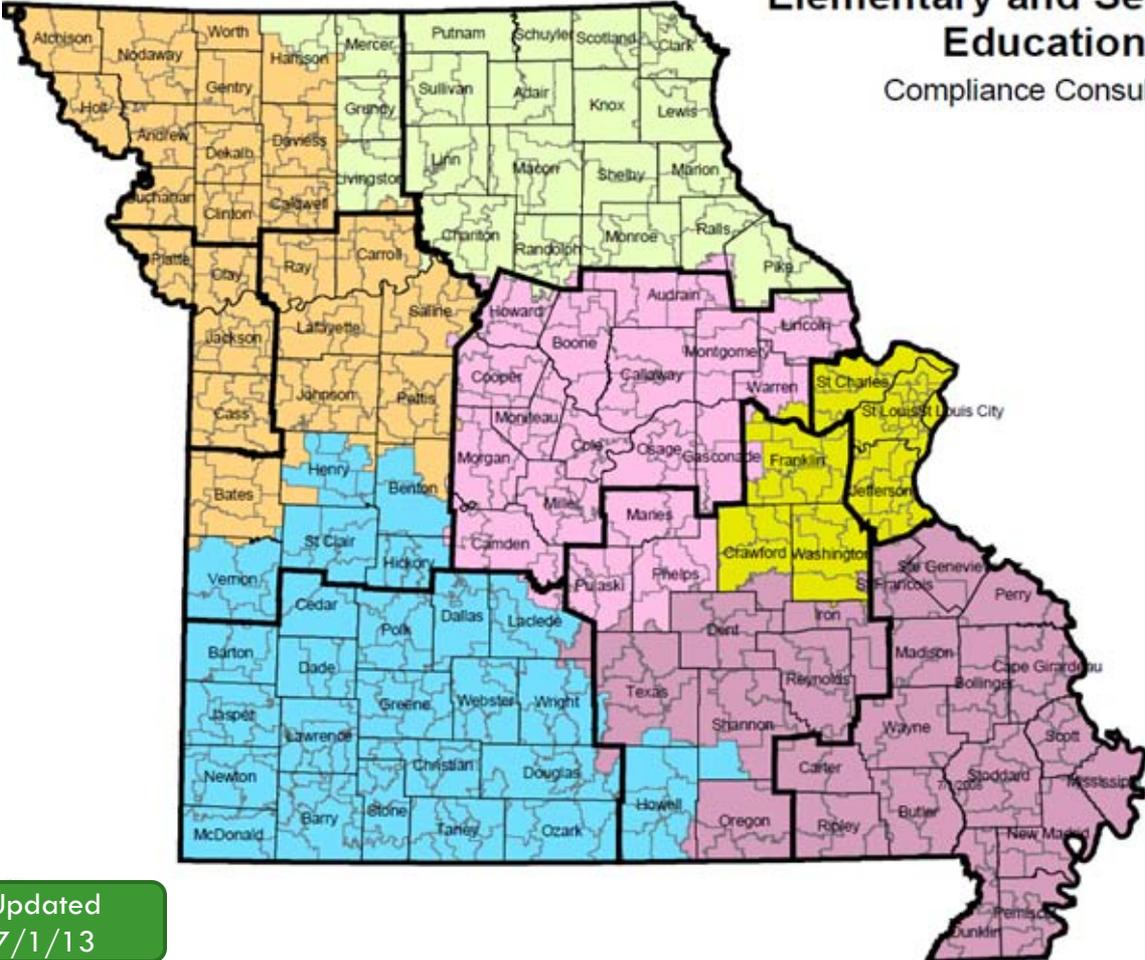
- ❑ Pam Schroeder, Assistant Director
- ❑ Sara Massman, Supervisor
- ❑ Margaret Wimer, Program Analyst

## Complaint System

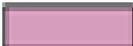
- **Child Complaints**
  - ❑ Pam Schroeder, Assistant Director
  - ❑ Nancy Thomas, Assistant Director
  - ❑ Jennifer Moreland, Supervisor
  - ❑ Wanda Allen, Legal Assistant
- **Due Process**
  - ❑ Vacant, Director
  - ❑ Wanda Allen, Legal Assistant

# RPDC- Compliance Consultants

## Missouri Department of Elementary and Secondary Education Compliance Consultants



### CONSULTANTS

-  Lois Jones
-  Rodney Cook
-  Joetta Walter
-  Susan Borgmeyer
-  Jennifer McKenzie
-  Tiffney Smith

Updated  
7/1/13



# RPDC Compliance Consultants

## **Southeast**

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## **Heart of MO**

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## **Kansas City**

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816-235-5957

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314-692-1239



# QUESTIONS?



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*Office of Special Education*

# THE DISCIPLINE PROCESS FOR STUDENTS WITH DISABILITIES



*Office of Special Education*

