



HELP!! HE/SHE GOT SUSPENDED!

July 2017

Discipline of Students with Disabilities
New Directors' Academy

The Basics . . .

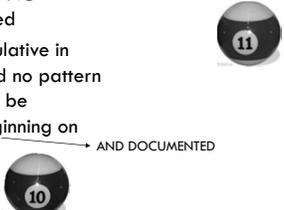
- What is DISCIPLINE?
 - Removal from the current educational placement in response to a violation of the student code of conduct
 - To another setting
 - To an interim alternative educational setting
 - Out of School by suspension or expulsion
- When is a removal a CHANGE OF PLACEMENT?
 - More than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

Key Concepts: ISS / OSS for Determining a Change of Placement

- In-School Suspension (ISS) 
 - Does not count toward change of placement **as long as** student still receives special education and related services described in IEP provided by appropriate sped staff
- 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 Long-term Suspension
 ≤ 10 days and no change of placement More than 10 consecutive days OR >10 days cumulative and a pattern
 First 10 days = NO services required
 >10 days cumulative in school year and no pattern = services must be considered beginning on 11th day → AND DOCUMENTED



Greater than 10 days Consecutively = ALWAYS a Change of Placement

Student	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						X
	X	X	X	X	X	
	X	X	X	X	X	

© Cegeon Calendars

Greater than 10 days Cumulatively: MUST Determine if a PATTERN Exists

Student	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			X	X	X	
		X				
	X			X	X	
		X	X	X	X	

Is it a "Pattern" of Suspensions?



- >10 days cumulatively in the school year
 - Who's paying attention to this???

- Behavior must be substantially similar to behavior in previous disciplinary incidents

- Additional Factors to be considered. . .
 - Length of each removal
 - Total amount of time of the removals
 - Proximity of the removals to one another



School staff determine if a pattern exists.

Let's Consider....

- Brad is a 6th grade student with a Learning Disability in Basic Reading Skills
 - Sept. 10 he gets caught skipping school-3 days OSS
 - Nov. 15 he calls the teacher a bad name-5 days OSS
 - Feb. 25 he gets in a fight in the hall-10 days OSS

- What do we do??

In order....

1. Is this a long term or a short term suspension in and of itself? (short term)

2. Does he have other days of OSS this year? (yes-8 so we are at more than 10 cumulatively)

3. Is there a pattern? (behavior substantially similar? Length of removals? Total amount of time of the removals? Proximity of removals to one another?)

In order...

4. If not a pattern, he is suspended. School personnel consider whether or not services are needed and what they may look like if so.

5. If we (school staff. Do we consult with parent?) determine there IS a pattern, what do we do? (Long term rules kick in. Manifestation Determination within 10 school days of the decision to long term suspend)

a. Suspended 10 days on Feb. 25....2 of those days count toward original 10 so within 10 school days from Feb. 27 you have to do a manifestation determination meeting.

Actions Required for Long-term Suspensions

- ☐ **MUST** provide parents with Procedural Safeguards
 - ☑ When the decision is made to long-term suspend the student
- ☐ **MUST** hold a Manifestation Determination Meeting to determine if conduct is related to the child's disability
 - ☑ Within 10 school days of the decision to long term suspend.

Let's Consider...

Jack is an 8th grade boy who receives special ed services for an Other Health Impairment. He got into his third fight this school year on March 1. He is suspended for 10 days by the building administrator with a recommendation to the Superintendent for an additional 30 days. By what date do we have to do the Manifestation Determination?

March 1
3rd fight
10 days out
Recommend
Additional 30



Hearing held on March 9.
Superintendent suspends an
additional 20 days.

Superintendent receives
recommendation on March 5.
Schedules hearing
for March 9. Procedural
Safeguards sent to parents

Manifestation Determination
Must be held no later than
March 23



March						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

↑
March 9 triggers
10 school day timeline
for Manifestation Determination.
This is the date of the decision
to long term suspend.

The Manifestation Determination Meeting

- WHEN is it held?
 - Within 10 school days of decision to long-term suspend
- WHO attends?
 - LEA representatives
 - Parents
 - Relevant members of the IEP team
- WHAT to consider?
 - Student's file, the IEP, teacher observations and relevant information provided by parents
- WHY?
 - Is there a direct and substantial relationship between behavior and disability?
 - Did behavior result from not implementing the IEP?



Conduct IS Related to the Disability

- Student **CANNOT** be long-term suspended
- IEP team must. . .
 - Conduct or review an FBA of the student
 - Develop or review/revise a BIP for the student
 - Make a placement decision
 - Return child to current placement with BIP in place
 - Change placement with BIP in place
 - In case of 45 day suspension for drugs, weapons, or serious bodily injury, continue the placement in the interim alternative educational setting determined by LEA

Conduct IS NOT Related to the Disability

- Student **CAN** be long-term suspended
- LEA may apply the same discipline consequences as peers
- IEP team must. . .
 1. Determine services and placement beginning on the 11th day that allow the student to. . .
 - a) Receive educational services to continue to participate in general education just in an alternate setting during the suspension
 - b) Progress towards IEP goals
 - c) Receive an FBA/BIP if appropriate
 2. Provide parent with NOA for change of placement

Functional Behavior Assessment

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- Not actually defined by IDEA
- Common definition:
 - A problem-solving process to determine the underlying cause or functions of a child's behavior that impede the learning of the child with a disability or the learning of the child's peers
 - Focus is on "why"
 - Helps determine the relationship between the environment and the behavior

Process for a FBA

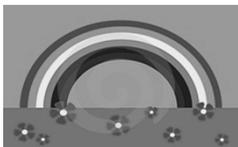
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- May include observation(s), data gathering forms, formal assessments, checklists, interviews or all of these things
- May include only a review of existing data (done with people with direct knowledge of the student and the context of the problem behavior)
- Determined by IEP team most of the time and especially when related to manifestation determinations

When is consent required?

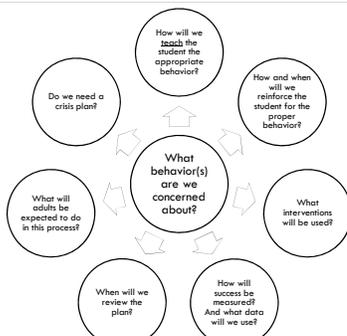
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- The FBA is considered an evaluation which requires the consent of the parent or eligible student if it involves more than a review of existing data
- If going to conduct any further observations, checklists, interviews, etc. this is more than a review of existing data and requires consent.
- Follow typical re-evaluation with assessment process, but must be expedited if done as a result of a manifestation determination
 - Eligibility determination meeting
 - Evaluation report
 - Replaces previous triennial date

What is a Behavior Intervention Plan?

- Plan to **support the student** in order to help him/her change behavior. It should spell out the behaviors being targeted for change and how change will be handled.



What should a good BIP contain?



Other discipline options...

- 45 day placement in an interim alternative placement for drugs/weapons/serious bodily injury
 - Parents notified of this on date of decision to use this process; Procedural Safeguards given
 - Manifestation Determination held within 10 school days of this decision
 - LEA determines where 'interim alternative placement' will be regardless of whether it's a manifestation or not. Student remains in this placement for the 45 days.

Other discipline options...

- 45 day school removal-dangerous, violent student
 - LEA must file a request for an expedited due process hearing with DESE.
 - Notify parent of decision to request this. Procedural Safeguards provided.
 - Within 10 school days of decision to seek this, Manifestation Determination is held. Regardless of outcome, student remains in this setting for 45 days.

Other discipline options....

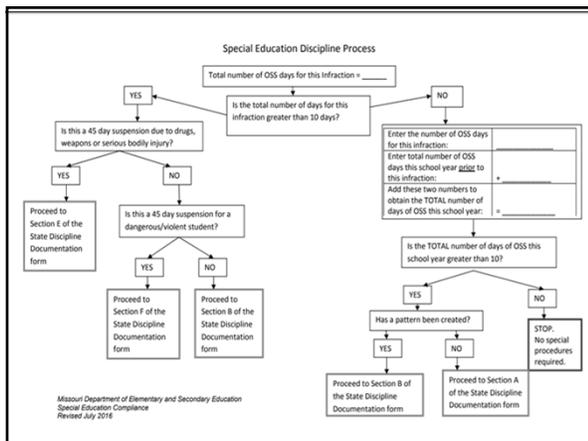
- Court injunction
 - Extent and duration of injunction is determined by the court
 - Solely used for dangerous and violent students

Stay Put

- Occurs when parents request a due process hearing regarding the disciplinary action to challenge the manifestation determination or the interim alternative setting
- Student remains in that interim alternative setting pending hearing decision or until expiration of time period, whichever comes first (unless parties agree otherwise)

Resources for Discipline Decisions

- Model Discipline Documentation Form and Discipline Flow Chart
 - Step-by-Step guide to document decisions
- Discipline Decision Maker Chart
 - Discipline decisions related to students with disabilities ALWAYS require a team approach
 - Different discipline options have different **required** team members
- Flow charts for Students where disability suspected and those not yet identified
 - Please note the difference!



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

