

Disciplining Students with Disabilities Key Provisions



1. Special provisions apply when the district intends to remove a student for more than ten days (considered a change in placement), consecutively or continuously, in a school year for violations of the student code of conduct.
2. Removals totaling ten days or less require no special provisions.
3. Prior to a disciplinary change in placement, the following are required:
 - A. The Campus Hearing Officer
 - 1) Provides the student with rudimentary due process (notice, hearing, right to appeal)
 - 2) Decides if the student did or did not commit the offense, and what the disciplinary action will be (cannot be greater than for a general education student committing the same offense).
 - B. The IEP Team
 - 1) Conducts a Manifestation Determination to determine if the behavior is a manifestation of the student's disability. *The behavior IS a manifestation of the disability if the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability, OR, if the conduct in question was the direct result of the district's failure to implement the IEP.*
 - If behavior is not a manifestation of the disability, the IEP team determines the interim alternative educational setting (IAES) and nature and amount of services to be provided. (DPA will be considered if it is considered for general education students under the same circumstances.)
 - If the behavior is a manifestation of the disability, the student is returned to previous placement unless parent and LEA agree otherwise – student cannot be disciplined, per se.
 - IEP team can make changes to educational services but not for disciplinary reasons
 - 2) Regardless of whether the behavior is a manifestation or not, a FBA must be conducted if not already done, and a BIP must be developed or revised to ensure behavior does not recur.
4. When the Behavior Involves Special Circumstances (Weapons, Illegal Drugs, Serious Bodily Injury)
 - A. The Campus Hearing Officer
 - 1) Provides the student with rudimentary due process (notice, hearing, right to appeal)
 - 2) Decides if the student did or did not commit the offense and what the disciplinary action will be (cannot be greater than for general education student who committed a similar offense)
 - 3) May unilaterally (without IEP action) remove the student to an IAES of district choosing for up to 45 school days IF the same would have happened to a general education student committing the same infraction.
 - B. The IEP Team - conducts a Manifestation Determination to determine if the behavior was or was not a manifestation of the student's disability.
 - 1) If the behavior is not a manifestation, the IEP team determines the interim alternative educational setting (IAES) and nature and amount of services to be provided AFTER the (up to) 45 day removal to an IAES. (DPA will be considered if it is considered for general education students under the same circumstances.)
 - 2) If the behavior is a manifestation, the student is returned to previous placement AFTER the (up to) 45 day removal to an IAES unless parent and LEA agree otherwise – student cannot be (further) disciplined, per se. IEP team can make changes to educational services but not for disciplinary reasons.

