

Understanding Compliance Issues Manual

DISCIPLINE

(May 2016)

The 2006 Federal Regulations (34 C.F.R. Parts 300 and 301) govern the implementation of the Individuals with Disabilities Education Act (IDEA 2004), a federal law. The information below regarding students with disabilities, identified as ESE, contains the district's current discipline procedures which address compliance requirements relative to Florida Statutes and State Board of Education Rules 6A-6.03312, with reference to, and in alignment with, the IDEA 2004 and its implementing regulations.

Under the *Individuals with Disabilities Education Act* (IDEA 2004), students with disabilities (students identified as ESE, excluding students identified as Gifted only), have the right to a free appropriate public education without excessive or unnecessary interruptions in their educational programs. In order to meet each student's specific educational needs and at the same time support a positive and safe learning environment in the school, all students are subject to the rules and regulations of the Hillsborough County Code of Student Conduct and Student Rights and Responsibilities. Students with disabilities who are protected by IDEA have additional rights, per federal and state law, that must be applied if they are being considered for removal beyond ten (10) cumulative school days during the current school year.

DEFINITIONS

1. **Change of placement because of disciplinary removals:** For the purpose of removing a student with a disability from the student's current educational placement as specified in the student's individual educational plan (IEP), and as per Florida State Board 6A-6.03312 (Discipline Procedures for Students with Disabilities), a change of placement occurs when:
 - a) The removal is for more than ten consecutive school days, or
 - b) The student has been subjected to a series of removals that constitutes a pattern that is a change of placement because the removals cumulate to more than ten school days in a school year, because the student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals, and because of additional factors, such as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another. A school district determines on a case-by-case basis whether a pattern of removals constitutes a change of placement, and this determination is subject to review through due process and judicial proceedings.
2. **Controlled substance:** A controlled substance is any substance named or described in Schedules I–V of s. 893.03, Florida Statutes.
3. **Illegal drug:** An illegal drug means a controlled substance but does not include a substance that is legally possessed or used under the supervision of a licensed health care professional or that is legally possessed or used under any other authority under the Controlled Substances Act, 21 U.S.C. 812(c), or under any other provision of federal law.
4. **Serious bodily injury:** Serious bodily injury means 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 mental faculty.
5. **Weapon:** Weapon means a weapon, device, instrument, material, 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 that is less than 4 inches in length.

6. **Manifestation determination:** A manifestation determination is a process by which the relationship between the student's disability and a specific behavior that may result in disciplinary action is examined.

7. **Interim alternative educational setting (IAES):** An interim alternative educational setting (IAES) is a different location where educational services are provided for a specific time period due to disciplinary reasons and that meets the requirements of State Board Rule 6A-6.03312.

PROCEDURES

1. **Case-by-case determination:** For students with disabilities whose behavior impedes their learning or the learning of others, strategies, including positive behavioral interventions and supports to address that behavior, will be considered in the development of their IEPs. School personnel may consider any unique circumstances on a case-by-case basis, when determining whether a change of placement, made in accordance with the following requirements and procedures related to discipline, is appropriate for a student with a disability who violates the Code of Student Conduct.

2. **Authority of school personnel:** Consistent with the school district's Code of Student Conduct and to the extent that they also take such action for students without disabilities, school personnel may:

- a) Remove a student with a disability who violates the Code of Student Conduct from his or her current placement for not more than ten consecutive school days.
- b) Further remove a student with a disability for not more than ten consecutive school days in that same school year for separate incidents of misconduct,
- c) as long as those removals do not constitute a change of placement as defined above, and as per Florida State Board 6A-6.03312, and as long as services continue to be provided (see number 5 below) and consideration is given to the development or revision of an FBA/PBIP, as appropriate.

[Note: Portions of a day that a student is removed do count toward the ten days of suspension.

Bus suspensions count toward the ten days of removal **if** bus transportation is a part of the IEP. If bus service is provided in some other way or the parent chooses to transport and the student attends school, then bus suspension would **not** count toward the ten days of removal. **If** bus transportation is **not** part of the student's IEP, this would **not** be considered a suspension and the student and his or her parents would have the same obligations to get to and from school as a non-disabled student who has been suspended from the bus. However, if inappropriate bus behavior continues to occur, the IEP Team should consider whether bus behavior should be addressed on the IEP or in the Positive Behavioral Intervention Plan.]

3. **Manifestation determination: Within 10 school days** of any decision to change the placement of a student with a disability because of a violation of the Code of Student Conduct (**and for any removals beyond 10 cumulative school days in the current school year**), the school district, the parent, and relevant members of the IEP Team (as determined by the parent and the school district) must review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents to determine whether:

1. The conduct in question was caused by, or had a direct and substantial relationship to, the student's disability; OR
 2. The conduct in question was the direct result of the school district's failure to implement the student's IEP.
- If the school district, the parent, and relevant members of the student's IEP Team determine that either of those conditions was met, the conduct must be determined to be a manifestation of the student's disability, and the school district will take immediate steps to remedy those deficiencies. Additionally, if the determination is that the conduct was a manifestation of the student's disability, the IEP Team will: (1) Conduct a functional behavior assessment (FBA), unless the school district had conducted an FBA before the behavior that resulted in the change of placement occurred, and implement a positive behavioral intervention plan (PBIP) for

the student or, if a PBIP has already been developed, review and modify it, as necessary, to address the behavior; and except as provided in number 6 below (see “special circumstances”), return the student to the placement from which the student was removed, unless the parent and the school district agree to a change in placement as part of the modification of the PBIP.

- For disciplinary changes of placement, if the behavior at issue is determined not to be a manifestation of the student’s disability, the relevant disciplinary procedures applicable to nondisabled students may be applied to the student in the same manner and for the same duration in which they would be applied to nondisabled students, except that services necessary to provide a free appropriate public education (FAPE) will be provided to the student with a disability, as described above in number 5 below (see “provision of services”).
- If the parent disagrees with the manifestation determination decision made by the IEP team pursuant to this rule, the parent may appeal the decision by requesting an expedited due process hearing.

4. Notification to parents: On the date a decision is made to make a removal that constitutes a change of placement of a student with a disability because of a violation of the Code of Student Conduct, the school district **must notify the parents** of that decision, and **provide the parents with a copy of the procedural safeguards notice**.

5. Provision of services:

(a) A school district is not required to provide services to a student with a disability during removals totaling ten school days or fewer in that school year, if services are not provided to nondisabled students who are similarly removed.

(b) Students with disabilities who are suspended or expelled from school or placed in an IAES will continue to receive educational services, including homework assignments, to: (1) enable the student to continue to participate in the general curriculum, although in another setting; **and** (2) progress toward meeting the goals in the student’s IEP; **and** (3) receive, as appropriate, a functional behavior assessment, positive behavioral intervention plan (FBA/PBIP) designed to address the behavior violation so that it does not reoccur.

(c) After a student with a disability has been removed from the current placement for ten school days in the school year, if the current removal is not more than ten consecutive school days and is not a change of placement under this rule, school personnel, in consultation with at least one of the student’s special education teacher(s), will determine the extent to which services are needed to enable the student to continue to participate in the general curriculum, although in another setting, and to progress toward meeting the goals in the student’s IEP.

(d) If the removal is a disciplinary change of placement (as defined above), the student’s IEP team determines appropriate services under paragraph (b) above.

[Note: The use of home instruction and independent study must be considered with extreme caution when considering the provision of services to students with disabilities. When school personnel, along with the special education teacher, determine services, consideration should be given to the use of a variety of instructional techniques, program modules, etc., that would enable the student to progress in the general curriculum even though the student may not be in his or her normal classroom or school. When determining services, school personnel do not have to replicate every aspect of services that the student would normally receive. (However, particular attention needs to be paid to Speech/Language services and any related services indicated on the student’s IEP.) In the event that home instruction is recommended, then a review of that placement must be conducted prior to the end of the 9-week grading period. Extreme caution must be taken to ensure that removals beyond the ten-day cumulative limit do not constitute a pattern of exclusion that would constitute a change of placement.]

6. Special circumstances and interim alternative educational settings (IAES): Whether or not the behavior was a manifestation of the student’s disability, school personnel may remove a student to an interim alternative educational setting (IAES) (determined by the student’s IEP Team) for up to 45 school days, if the student:

- Carries a weapon (see the definition above) to or possesses a weapon at school, on school premises, or at a school function under the jurisdiction of the State Educational Agency or a school district; **or**
- Knowingly has or uses illegal drugs (see the definition above), or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of the State Educational Agency or a school district; **or**
- Has inflicted serious bodily injury (see definition above) upon another person while at school, on school premises, or at a school function under the jurisdiction of the State Educational Agency or a school district.

On the date which a decision is made to make a removal that constitutes a change of placement because of a violation of the Code of Student Conduct, the school district will notify the parent of that decision and will provide the parent with a copy of the *Part B Procedural Safeguards Notice*.

7. Appeal and expedited hearings:

The parent of a student with a disability may request an expedited due process hearing if he or she disagrees with:

1. Any decision regarding placement made under these discipline provisions; or
2. The results of the manifestation determination review.

The school district may request an expedited due process hearing if it believes that maintaining the current placement of the student is substantially likely to result in injury to the student or others.

[Note: A full explanation of due process hearings, the appeals process and other dispute resolution processes is provided in the *Part B Notice of Procedural Safeguards Notice for Parents of Students with Disabilities*.]

8. Authority of an Administrative Law Judge (ALJ): An ALJ hears and makes a determination regarding an appeal and request for expedited due process hearing.

9. Student's placement during appeals/expedited due process proceedings: When an appeal as described in number 7 above has been made by either the parent or the school district, the student will remain in the IAES determined by the IEP Team pending the decision of the ALJ or until the expiration of the time period specified by school personnel, including expulsion for a student where no manifestation was found, unless the parent and the Department of Education or school district agree otherwise.

10. Protections for students not determined eligible for special education and related services: A regular education student who has engaged in behavior that violated the Code of Student Conduct may assert any of the protections afforded to a student with a disability under this rule if the school district had knowledge of the student's disability before the behavior that precipitated the disciplinary action occurred.

a) Basis of knowledge

A school district is deemed to have knowledge that a student is a student with a disability if:

- The parent has expressed concern in writing to supervisory or administrative personnel of the appropriate school district, or a teacher of the student, that the student needs special education and related services; or
- The parent has requested an evaluation to determine whether the student is in need of special education and related services; or
- The teacher of the student, or other school district personnel, expressed specific concerns about a pattern of behavior demonstrated by the student directly to the school district's special education director or to other supervisory school district personnel.

b) Exception

A school district would not be deemed to have knowledge of a disability (see above) if:

- The parent of the student has not allowed an evaluation to determine if the student is an eligible student with a disability;
- The parent of the student has refused to provide consent for initial provision of special education and related service;
- The parent of the student revoked consent for the student to receive special education and related services; or
- The school district conducted an evaluation and determined that the student was not a student with a disability.

Conditions that apply if no basis of knowledge

- If the school district has no knowledge that the student is a student with a disability prior to disciplinary action, the student may be disciplined in the same manner as a nondisabled student who engages in comparable behaviors.
- If an evaluation request is made for the student during the time period of the disciplinary action, the evaluation will be conducted in an expedited manner. Until the evaluation is completed, the student remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services. If the student is determined to be a student with a disability, taking into consideration information from the evaluation and information provided by the parents, the school district will provide special education and related services consistent with the requirements of Florida State Board of Education Rules.

11. **Reporting crimes:** Nothing in State Board Rule 6A-6.03312 prohibits a school district 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 with regard to the application of federal and state law to crimes committed by a student with a disability.

12. **Student records in disciplinary procedures:** School districts will ensure that the special education and disciplinary records of students with disabilities are transmitted:

- a) For consideration by the person making the final determination regarding the disciplinary action
- b) For consideration by the appropriate authorities to whom school districts report crimes

[Note: See information below regarding *Fast Facts #24* titled “Referral to and Action by Law Enforcement and Judicial Authorities.”]

13. **Disciplinary records of students with disabilities:** School districts will include in the records of students with disabilities a statement of any current or previous disciplinary action that has been taken against the student and transmit the statement to the same extent that the disciplinary information is included in, and transmitted with, the student records of nondisabled students.

a) The statement may be a description of any behavior engaged in by the student that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the student and other individuals involved with the student.

b) If the student transfers from one school to another, the transmission of any of the student’s records will include both the student’s current IEP and any statement of current or previous disciplinary action that has been taken against the student.

Guidelines for conducting a Functional Behavior Assessment and Positive Behavioral Intervention Plan (FBA/PBIP) are:

1. • Per Florida State Board Rules, when a student is removed for more than ten cumulative school days in a school year, the student must continue to receive educational services, including homework assignments, to enable the student to continue to participate in the general curriculum, and to progress toward meeting the goals in the student's IEP and receive, as appropriate, a functional behavior assessment, behavioral intervention services and modifications designed to address the behavior violation so that it does not reoccur.
 - Development or revision of an FBA/PBIP must also occur when it is determined that the behavior at issue is a manifestation of the student's disability.
2. Written parental consent (*Informed Parental Consent for Reevaluation* form) is required prior to conducting an FBA. However, a review of existing behavioral data is not considered an evaluation and, therefore, does not require consent.
3. An FBA involves systematically collecting data (via record review, interviews, and direct observation) and describing the environmental contexts that consistently precede and follow specific student target behaviors. Upon completion of the FBA, the IEP Team must reconvene, as soon as possible, to develop and implement a PBIP that specifies effective strategies/interventions to prevent the target behavior, teach replacement behaviors, and manage consequences to reduce or eliminate the target behavior.
4. If the student has already had an FBA and a PBIP has been developed and implemented, the IEP Team shall review the FBA/PBIP and its implementation to determine if revisions are necessary. If one or more of the IEP Team members believe that revisions are needed, the IEP Team shall revise the plan and its implementation to the extent that the IEP Team determines is necessary.

The FBA/PBIP (Functional Behavior Assessment/Positive Behavioral Intervention Plan form) may be accessed online in the following manner:

- Log in to IDEAS
- Click on the icon titled "Departments"
- Click on the link for Exceptional Student Education (Special Ed) under "Division of Student Services"
- Click on the icon titled "ESE Forms"
- Click on the folder titled "English SB Forms"
- Click on the link to the FBA/PBIP

In the icon titled "ESE Manuals/Publications," there is another icon titled "Manuals." Clicking on "Manuals," will allow access to a manual titled "Behavior Management."

Prior to recommending a student for a change of placement (COP) for the disciplinary infraction of continuous disruptive behavior (CDB), it is required that an FBA/PBIP be in existence and that implementation has occurred for a reasonable length of time in order to address the problematic behavior(s).

Special Procedures for Students Identified as Emotionally Behaviorally Disabled (EBD) and Autism Spectrum Disordered (ASD) who Exhibit Continuous Disruptive Behavior (CDB)

Students identified as Emotionally/Behaviorally Disabled (EBD), or identified on the Autism Spectrum (ASD) may exhibit behaviors that are characteristics of their disability. As such, continuous disruptive behavior should be addressed in a manner other than a disciplinary context.

The process for addressing continuous disruptive behavior for students identified as EBD or ASD includes the development and implementation of a functional behavior assessment (FBA) and positive behavioral intervention plan (PBIP). Additionally, the IEP Team should convene to address any reevaluation needs and/or revisions to the student's IEP.

In situations where a student's needs exceed the level of supports and interventions in his or her current setting, and the IEP Team believes that a change of service to the level of a special day school should be considered, the student's ESE Case Manager should refer to the District Intervention Team Documentation form (in this packet and on the district Exceptional Education website in IDEAS), and submit a packet with the required documentation to the District Intervention Team at Velasco Student Services Center to the attention of the District Intervention Team Chairperson. The District Intervention Team will review the documentation and provide additional guidance and support to the IEP Team prior to a meeting being scheduled for special day school consideration.

Department of Exceptional Student Education
DISTRICT INTERVENTION TEAM DOCUMENTATION

Prior to submitting a packet for consideration review of more intensive Special Day School/Center-based E/BD or ASD services, please ensure that the information listed below is included in its entirety. Submit * items if they apply.

Student Name _____ Grade _____ Student Number _____

School _____ Contact Person _____

- _____ Current J screen, B screen, A screen, and L screen
- _____ Current Individual Educational Plan Dated _____
- _____ Previous Individual Educational Plan Dated _____
- _____ Draft Present Level of Performance and Priority Educational Needs
- _____ PSLT/MTSS Packet (as appropriate)
- _____ Notice/Consent for Reevaluation form along with Conference Summary
- _____ Current Psychological Evaluation Dated _____
- _____ Previous Psychological Evaluation Dated _____
- _____ Current Social History Dated _____
- _____ Previous Social History Dated _____
- _____ Psychiatric Evaluation*
- _____ Medical Evaluation*
- _____ Discipline Record
- _____ Functional Behavior Assessment (required)
- _____ Positive Behavioral Intervention Plan (required, implemented and revised as necessary)
- _____ Student Schedule/Transcript Summary
- _____ Risk Assessment*
- _____ Report Cards for the Current and Prior School Year
- _____ Demographic and Testing Information from Instructional Planning Tool (IPT)
- _____ Teacher Data Collection and/or Anecdotal Records

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1. Has the student been Baker Acted and/or hospitalized during the past year?
Yes _____ No _____
 2. Has the student been involved with the Department of Juvenile Justice?
Yes _____ No _____
 3. Does the IEP address the behaviors exhibited by the student?
Yes _____ No _____
 4. Has the Positive Behavioral Intervention Plan been implemented?
Yes _____ No _____
 5. Is the student receiving counseling? Yes _____ No _____

Process for Removals of Students Identified as IDEA-Eligible That Constitute a Change of Placement

[NOTE: A change of placement is a removal of more than 10 consecutive school days; and/or occurs at any time that a removal beyond 10 cumulative school days in one school year is deemed to be a pattern of exclusion. See number 1 in the section above titled "Definitions.]

1. When a recommendation is made to remove a student with a disability from his/her current placement for more than ten consecutive school days (upon approval of the Area Superintendent) or at any time a pattern of exclusion exists that constitutes a change of placement, the parents must be provided notice of the proposed disciplinary action along with a notice of all of the procedural safeguards to which they are entitled. Parents should be provided the *Part B Procedural Safeguards Notice* along with the names and telephone numbers of two persons that they may contact to assist them with understanding their rights under the IDEA. In this situation, the Procedural Safeguards must be provided along with the ESE letter of suspension. A sample of the ESE letter of suspension is available in this ESE discipline section of the Principal's Packet.
2. When a student with a disability commits an offense that may lead to a disciplinary change of placement, a manifestation determination meeting must be held within ten school days and no later than the 10th consecutive day of removal. The building administrator or designee must immediately notify the Area Superintendent of his/her administrative area of the recommendation for consideration of disciplinary change of placement. The Area Superintendent and/or the Principal/Designee will notify the appropriate Staffing Coordinator so that a manifestation determination/consideration of change of placement meeting may be scheduled and held within the ten-day timeline. The ten-day timeline begins at the time that the decision to take the action to consider removal of the student is made. The meeting is scheduled and chaired by the Staffing Coordinator for the designated administrative area. Staffing Coordinators will conduct manifestation determination/consideration of change of placement meetings for **all** students with disabilities recommended for disciplinary removal beyond ten consecutive school days. Prior to or at the time of the meeting, the building administrator or designee must ensure that complete packets which contain the student's educational records including special education, disciplinary records, and other pertinent documents are made available to the IEP Team members who will make the final determination regarding the disciplinary action. These records may include but are not limited to:
 - psychological reports
 - social/developmental histories
 - achievement test results
 - current individual educational plan (IEP)
 - Functional behavior assessment/positive behavioral intervention plan (FBA/PBIP)
 - present and past years' discipline records
 - attendance reports
 - reports/data provided by parent
 - teacher response forms
 - summary of offense and list of witnesses
 - record of grades (present year – current report card)
 - suspension letter to parent of ESE student from principal

[NOTE: See ESE Consideration for Change of Placement Checklist for required documents. It is critical that the building administrator/designee notify the Area Superintendent and Staffing Coordinator of the proposed action to remove the student at the time that the decision is made so the Manifestation Determination Review and IEP meeting do not exceed ten consecutive days of removal.]

3. When the IEP Team, chaired by a Staffing Coordinator, conducts the Manifestation Determination Review, if the behavior is found to be related to the disability or that there was a failure by the district to implement

the IEP, the IEP Team must plan for a functional behavioral assessment and the subsequent development of a positive behavioral intervention plan to address the behavior problem and revise the IEP as appropriate.

4. The IEP Team must determine and recommend services that the student will receive in the appropriate educational setting. Placement options available to the IEP Team include, but are not limited to:
 - Remaining in current placement
 - Remaining in current placement with additional supplementary aids and supports
 - Change of placement from resource to separate class
 - Change of placement to a special day school setting
 - Placement in Alternative Education with ESE services
 - Homebased instruction
 - Placement in other alternative sites

Process for 45-Day Alternative Educational Setting Placements for Drug, Weapon and/or Serious Bodily Injury Offenses

1. A Principal/Designee may remove a student with disabilities for ten consecutive school days if:
 - the student carries a weapon to a school or school function or possesses a weapon at school or a school function
 - 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
 - has inflicted serious bodily injury upon another person while at school, on school premises or at a school function
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2. A student's placement may be changed even if there is a relationship between the student's disability and the drug or weapon or serious bodily injury offense.
3. If a student with a disability commits a drug or weapon or serious bodily injury offense, the Principal may immediately remove the student upon providing the parent a letter regarding the removal and the Part B Notice of Procedural Safeguards.
4. The Principal/Designee must immediately contact the Area Superintendent. The Area Superintendent or Principal/Designee will inform the Staffing Coordinator so that a manifestation determination/consideration of change of placement meeting can be scheduled within ten days of the decision to remove the student.
5. School personnel must determine what level of services will be provided during the **ten-day period** in which the student is removed prior to the determination/consideration of change of placement meeting. Schools do not have to provide services during the first ten cumulative days that students with disabilities are removed during one school year period.
6. The School Administrator must prepare and have a Change of Placement Packet available for the IEP Team so the student's special education and discipline records may be reviewed prior to a decision being made.
7. The Staffing Coordinator will schedule a manifestation determination/consideration of change of placement meeting. The IEP Team will determine the appropriate educational setting in which the student will receive services. The services recommended must enable the student to participate in the general curriculum, make progress toward the IEP goals and objectives, and include services and modifications to address the behavior or prevent the behavior from recurring.

8. During the manifestation determination/consideration of change of placement meeting, the IEP Team must also plan for a functional behavioral assessment and/or develop or revise the positive behavioral intervention plan to address the student's behavior.
9. The IEP Team will consider a variety of placement options. Placements may exceed the 45 days if the IEP Team indicates such need. These options include:
 - Change of placement to a special day school setting
 - Placement in Alternative Education with ESE services
 - Homebased instruction
 - Placement in other alternative sites
10. Caution: Homebased instruction may be an appropriate setting depending upon the particular circumstances of an individual case such as length of removal, the extent to which the student has been previously removed from their placement, the special education services, individual needs, and annual goals of the student.

SUMMARY OF DISCIPLINE PROCEDURES FOR STUDENTS IDENTIFIED AS IDEA-ELIGIBLE

1. A student with a disability, identified as Exceptional Student Education (ESE), commits an initial offense during the school year that is a violation of the rules and regulations of the Hillsborough County Public Schools Code of Student Conduct and Student Rights and Responsibilities.
2. The Principal/Designee orders an initial short-term disciplinary removal for ten cumulative days or less. (School personnel are not required to provide educational services unless those services are provided for all students during any short-term removals.)
3. Drug or weapon or serious bodily injury offenses may require immediate removal. Prior to removal, parent notification and procedural safeguards notice must be provided to parents.
4. Should the student commit another offense that violates the rules and regulations, the Principal/Designee may:
 - remove the student for additional days [if the total days of removal (suspensions) have not reached ten cumulative days or will not exceed ten cumulative days, school personnel are not required to provide educational services unless those services are provided for all students during any short-term removals].

OR

 - remove the student for additional days [if the total days of removal (suspensions) have reached ten days or will exceed ten days with this removal (suspension), then educational services must be provided to enable the student to appropriately progress in the general education curriculum and appropriately advance toward achieving the goals and objectives of the IEP, and the student must receive, as appropriate, a functional behavioral assessment, behavioral intervention services and modifications designed to address the behavior violation so that it does not reoccur].
5. Should the student commit another offense that violates the rules and regulations, the Principal/Designee may suspend for additional days (beyond 10 cumulative school days and up to ten consecutive school days) as long as the removal does not constitute a change of placement (COP) due to a pattern of exclusion. The document titled "Procedures When Disciplining Students with IEPs" must be used to determine whether or not a pattern of exclusion exists which would constitute a COP as evidenced by:
 - Series of removals total more than 10 school days in a school year;
 - student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals; AND

- additional factors such as length of each removal, the total amount of time the student has been removed and the proximity of removals to one another.

School personnel, in consultation with the ESE teacher must determine the extent of services to be provided during removals beyond 10 cumulative school days. Services provided must:

- enable the student to appropriately progress in the general curriculum,
- enable the student to appropriately progress toward achieving the goals and objectives of his/her IEP,
- and the student must receive, as appropriate, a functional behavioral assessment, behavioral intervention services and modifications designed to address the behavior violation so that it does not reoccur.

6. If the Principal/Designee recommends a consideration for change of placement, then the manifestation determination/consideration of change of placement meeting **must be held no later than the tenth consecutive day of removal.**

The Principal/Designee must:

- Provide the parent with a letter of suspension for ESE students along with the procedural safeguards notice.
- Immediately notify the Area Superintendent of the offense(s) and the circumstances involved. The Area Superintendent will inform the Staffing Coordinator so that a manifestation determination/consideration for Change of Placement meeting can be scheduled within ten days of the decision to consider a disciplinary removal of the student.
- Assign someone to prepare an information packet that contains the student's special education and discipliner records along with any other pertinent information relative to the student's academic performance and a summarization of the offense. Additionally, at the time of the consideration of Change of Placement/IEP meeting, school personnel will provide the IEP Team the following
 - psychological reports
 - social/developmental histories
 - achievement test results
 - current individual educational plan (IEP)
 - functional behavior assessment/positive behavioral intervention plan (FBA/PBIP)
 - present and past years' discipline records
 - attendance reports
 - reports/data provided by parent
 - teacher response forms
 - summary of offense and list of witnesses
 - record of grades (present year – current report card)
 - suspension letter to parent of student with IEP from principal

Prior to recommending a student for a change of placement (COP) for the disciplinary infraction of continuous disruptive behavior (CDB), it is required that an FBA/PBIP be in existence and that implementation has occurred for a reasonable length of time in order to address the problematic behavior(s).

Note: See ESE Consideration for Change of Placement Checklist for required documents

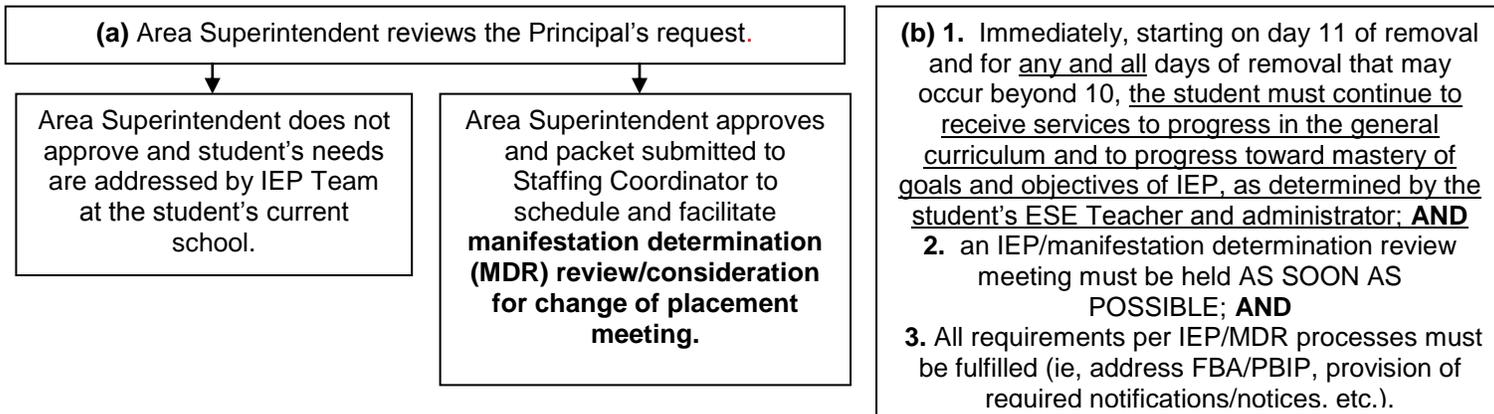
7. The IEP Team, chaired by the Staffing Coordinator, will conduct a manifestation determination review. The IEP Team will make decisions regarding the placement of the student and the student will not be scheduled to appear at a District Disciplinary Hearing for Regular Education Students.

WHEN DISCIPLINARY CHANGE OF PLACEMENT MAY OCCUR FOR STUDENTS WITH IEPs, DUE TO NUMBER OF DAYS OF REMOVAL FROM SCHOOL DURING THE CURRENT SCHOOL YEAR EXCEEDING (OR POSSIBLY EXCEEDING) 10 CUMULATIVE SCHOOL DAYS:

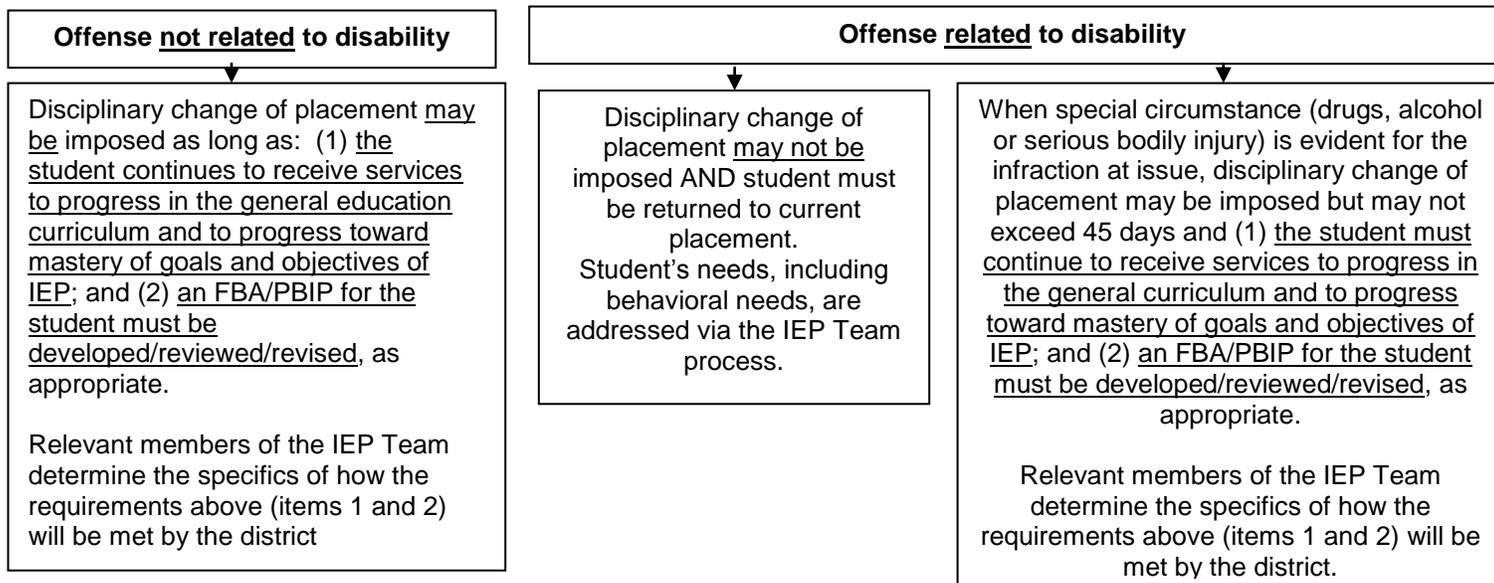
Student commits a Code of Student Conduct infraction and:

- (a) Principal seeks approval for disciplinary change of placement consideration from **Area Superintendent** (for a removal that will exceed 10 consecutive school days); or
- (b) Principal acknowledges that manifestation determination review (MDR) **at the school level** is required due to: 10 accrued days of removal have already occurred during the current school year; or days of removal will add up to 11 or more (cumulative) if the student is removed further due to infraction at issue.

MANIFESTATION DETERMINATION REVIEW MUST BE ADDRESSED FOR EACH DISCIPLINARY ACTION ADDRESSING A CODE OF STUDENT CONDUCT INFRACTION THAT IMPACTS, OR WILL POSSIBLY IMPACT, THE 10-DAY COUNT. After the 10th day of removal from school, starting on day 11 (and beyond, for multiple infractions), all students with IEPs have special provisions under the IDEA which must be applied.



AFTER MANIFESTATION DETERMINATION REVIEW HAS OCCURRED:



IEP DETERMINATIONS TO ADDRESS BEHAVIORAL NEEDS WHETHER OR NOT THE INFRACTION IS RELATED TO THE DISABILITY:

At any time that student needs indicate that IEP revisions may be needed to address behavioral challenges for a student, the IEP Team should convene. The IEP Team meeting, including the parent, will determine needed revisions to address the student's needs, including student needs related to the social/emotional/behavioral domain. When IEP revisions result in a proposed change in educational placement and/or a change in the provision of FAPE to the student, the parent must be provided with informed prior written notice. The proposed changes will after a 10-day notice period has elapsed, or earlier with the agreement of the parent. Should the parent disagree with the proposed changes, he/she may access the dispute resolution processes available under the IDEA, which include mediation, state complaint and due process hearing request.