

Step by Step

Special Education Discipline

Step by Step Guide to Suspension/Expulsion

Consideration #1

Did the incident requiring disciplinary action involve special circumstances (i.e., weapons, drugs, or serious bodily injury)?

IF YES

School may remove a student with a disability to an interim alternative setting, if special circumstances apply, for no more than 45 school days regardless of manifestation determination results. The school also must:

- 1) notify the parents of the decision to remove & provide the parents with a copy of the procedural safeguards notice on the date of the decision, and
- 2) continue to provide FAPE (Free Appropriate Public Education).
- 3) conduct a manifestation determination for guidance when student returns.

IF NO

Consideration #2A

Do any of the proposed days of the suspension/expulsion result in more than 10 CONSECUTIVE days of suspension/expulsion for this student?

IF NO

Consideration #2B

Do any of the proposed days, when added to other days, result in a cumulative number of suspension/expulsion days of 11 or more?

IF YES

IF NO

IF YES

Consideration #3

Was the behavior a manifestation of the student's disability? To answer, you must conduct a manifestation determination. A manifestation determination answers the questions (using relevant information in a student's file, including the IEP, observations, and parent information):

- 1) Was the behavior caused by, or have any direct and substantial relationship, to the student's disability?
- 2) Was the behavior caused by the school's failure to implement the IEP?

IF NO

IF YES

Consideration #2C

Do the days in the cumulative total constitute a pattern? A pattern means the days occurred in the same school year, are a result of similar behaviors, and/or the length, total, and proximity of the suspensions are similar.

IF YES

IF NO

School may apply same discipline procedures used for all students.

School may apply same discipline procedures used for all students. Services outlined by the school must be provided.

to BOTH questions

The behavior **is not** a manifestation of the student's disability.

- 1) The school can suspend or expel.
- 2) If considering an alternate setting, continue to provide services to allow the student to continue to participate in the general education curriculum and make progress on IEP goals. Consider a Functional Behavioral Assessment to create or modify an existing Behavior Intervention Plan.

to EITHER question

The behavior **is** a manifestation of the student's disability.

- 1) The student stays in original placement or the IEP team decides that a change of placement should occur.
- 2) Conduct a Functional Behavioral Assessment to create or modify an existing Behavior Intervention Plan.

Rather than continue in short-term removals, consider review and revision of the BIP.

Definitions of some common terms:

Behavioral Intervention Plan(s) is defined as a written, specific, purposeful, and organized plan which describes positive behavioral interventions and supports and other strategies that will be implemented to address goals for a student's social, emotional, and behavioral development. In addition, for students whose behavior prompts disciplinary action, the behavioral intervention plan addresses the behavior of concern.

Change in Placement occurs under the following circumstances; (1) the removal is for more than ten consecutive school days; or (2) the child has been subjected to a series of removals that constitute a pattern. 41.536(1)

Expulsion, defined as the result of "school board action resulting in the removal of a student 'from the rolls' of a district (unless a student has an IEP and requires continuing services) for disciplinary reasons."

Functional Behavioral Assessment(s) enhances an understanding of the purpose and function of a student's behaviors and subsequently provides information leading to interventions and needed supports. For a student who becomes subject to disciplinary action a functional behavioral assessment is used to develop a behavior intervention plan within the context of the IEP process.

In-School Suspension is defined as "instances in which a child is temporarily removed from his/her regular classroom(s) for disciplinary purposes but remains under the direct supervision of school personnel. Direct supervision means school personnel are physically in the same location as students under their supervision." *OSEP Data Fact Sheet – Discipline* (October 2006), p. 3

Interim Alternative Education Settings are outside of the school. In this setting the child must receive the following:

- Educational services that enables the child to participate in the general education curriculum and progress toward meeting their IEP goals.
- As appropriate, a functional behavioral assessment and behavior intervention plan that addresses the behavior(s) of concern. 41.530(4)

Out-of-School Suspension is defined as "instances in which a child is temporarily removed from his/her regular school for disciplinary purposes to another setting (e.g., home, behavior center). This includes both removals in which no IEP services are provided because the removal is 10 days or less as well as removals in which the child continues to receive services according to his/her IEP." *OSEP Data Fact Sheet – Discipline* (October 2006), p. 3

Pattern refers to removals of a child that constitute a pattern based on: (1) a series of removals of more than 10 school days in a year, (2) the behavior that caused the removal is similar to the behavior that caused previous removals, and (3) additional factors such as the length, time and proximity of the series of removals. 41.536(1)

Removal. Disciplinary actions will not be considered removals if all three of the following questions are YES:

1. Will the student be able to appropriately participate in the general education curriculum?
2. Will the student be able to receive the services specified in the student's IEP?
3. Will the student be able to participate with students without disabilities to the extent provided in the student's current placement? 41.536(3)



MetroWest Kids

LEARNING CENTER

A Solution for Every Challenge

Step
by Step

Special Education Discipline

Step by Step Guide
to Suspension/Expulsion

What is the Discipline procedure for a student with an IEP? Each school system has discipline procedures to ensure the safety of staff and students and promote an environment for learning. School systems develop their own Code of Conduct (policies) and rules which all students, including those with disabilities, are expected to follow. You will be given a copy of the student handbook which includes a copy of the Code of Conduct at the start of the school year. However, there are special considerations when a student has an IEP and violates the code of conduct.

The Facts you should know:

- The standard school code of conduct applies to students with IEPs except when the IEP requires something different. If different, this may be addressed through the goals and objectives of the IEP or a behavior intervention plan (BIP). A BIP defines the behavior that is not acceptable, defines a new behavior that is acceptable, and describes the positive actions or steps to teach the student the new behavior and prevent the undesired behavior. The BIP may also describe the actions the school will take if the undesired behavior occurs even when all the other steps in the BIP have been followed.
- Just like any other student, a student in special education can be suspended. The principal of your child's school (not the teacher or the special education director) will decide if a student should be suspended for violating school rules.
- For students with IEPs, the principal generally should follow the BIP, but may suspend or expel a child for up to ten school days, no matter what the IEP/BIP states. The ten days may be all at once or a series of suspensions within a school year.
- *In-school* suspension does not usually count the same as *out-of-school* suspension as long as your child has access to class work, needed instruction, homework and his/her IEP services.
- Once a student has been suspended for more than ten school days in a school year, several actions must occur:
 - A manifestation determination must be conducted before the 11th day of suspension. The manifestation determination is to decide if the behavior that got the student in trouble was due to his/her disability and/or whether the IEP, including the BIP, was implemented as written. If the IEP was not implemented appropriately or the behavior was related to the disability, then the behavior is found to be a manifestation of the disability.
 - If the behavior was a manifestation of the child's disability, the student goes back to the placement where he/she was prior to the behavior.
 - If the behavior was NOT a manifestation of the child's disability, the IEP team determines the student's placement. The same disciplinary actions can be used that apply to all students.
- When the behavior that gets the student in trouble is due to illegal drugs, weapons or the *infliction* of serious bodily injury, then the school system may send the student to an interim alternative education setting for up to 45 school days, no matter the outcome of the manifestation determination.
- When a student with an IEP is suspended for more than 10 days or is expelled from school, he or she must continue to receive services. Students are still entitled to receive their free and appropriate education, although in another place. They must have access to the general curriculum and to the services outlined in the IEP.
- Sometimes the alternative settings include options such as an alternative program run by the school district, home-based services provided by the school district, virtual (online) courses, after school or night school programs or other options. The IEP team will determine what the appropriate alternative setting is for any student.
- If the parent disagrees with either the results of the manifestation determination, or the actual new placement decided by the IEP team, then they can request a due process hearing to appeal these decisions. Any due process hearing request related to discipline will be expedited or rushed to get to a quick decision.
- In most circumstances, there will also be a tribunal held in a school system. The purpose of the tribunal is to present information and have a panel of school personnel determine the guilt or innocence of the student. Tribunals may be waived if the parent chooses. Tribunals are outside of the control of the IEP team. Sometimes they occur prior to the manifestation determination and sometimes after the manifestation determination. The decision of the tribunal is a separate decision from the manifestation decision and separate from the placement decision.

Tips for Families:

- ✓ Attend IEP meetings with a list that includes strategies that are working well and areas of concern you want to discuss. Behavior and discipline are often emotionally charged topics, so it is helpful to have written notes.
- ✓ Prepare for meetings by asking yourself several questions about your child's behavior:
 - What are my child's problem behavior(s)?
 - Is there a relationship between my child's disability and his or her behavior?
 - What has worked in the past to stop the problem behavior? At home? In the community? In previous classes?
 - What does my child find rewarding and/or motivating?
 - What has *not* worked to stop the problem behavior?
 - How does the environment (what's going on around him or her) affect my child's behavior?
 - What school-based supports might my child need to learn new behaviors?
 - Does the IEP Team need any more information to address my child's behaviors appropriately?
 - Does my child need a Functional Behavior Assessment (FBA) to help us determine why the behaviors are occurring?
- ✓ Ask school personnel to precisely describe the behavior that occurs in school. Be prepared to precisely describe the behaviors that occur at home. Talk about how these target behaviors occur in each setting.
- ✓ Ask that a functional behavior assessment (FBA) of your child's behavior be completed and the results shared with you prior to the meeting. Be prepared to discuss the results of the FBA. Specifically, you want to know:
 - What happens before the behavior?
 - What happens after the behavior?
 - What has been the consequence or reward?
- ✓ Work with school personnel to brainstorm strategies, rewards and consequences that will be effective in changing your child's behavior at school and at home.
- ✓ Ask school personnel for tips and support so that you can address challenging behaviors at home.
- ✓ Work together with school personnel to address your child's challenging behaviors. By being intentional about teaching new skills and working with your child's school, you will increase your child's chance for behavioral success.

Where to go for more information:

Parent to Parent of Georgia
770 451-5484 or 800-229-2038
www.parenttoparentofga.org

Georgia Department of Education, Divisions for Special Education Services and Supports
404 656-3963 or 800-311-3627 and ask to be transferred to Special Education
http://www.gadoe.org/ci_exceptional.aspx

Georgia Department of Education Implementation Manual
http://www.gadoe.org/ci_exceptional.aspx?PageReq=CIEXCImpMan
(See chapter on transition from early intervention to public school.)

Additional resources: Contact the **Special Education Director** for your school system.