



Special Education Removals for Disciplinary Purposes

SPECIAL EDUCATION: DISCIPLINARY REMOVALS

Category 1	Category 2	Category 3	Category 4
10 Days or Less	More Than 10 Cumulative Days, No Change In Placement	More Than 10 Cumulative Days, Change In Placement	More Than 10 Consecutive Days
<p>Disciplinary Action: Disabled student may be disciplined in the same manner as a nondisabled student. 34 C.F.R. § 300.530(b)(1)</p> <p>Educational Services: School district need only provide educational services to a disabled student if services are offered to nondisabled students similarly removed. 34 C.F.R. § 300.530(d)(3)</p>	<p>Disciplinary Action: Disabled student may be disciplined in the same manner as a nondisabled student.</p> <p>Educational Services: On the 11th day of removal, school personnel must consult with at least one of the student's teachers to determine the extent to which special education services must be provided to enable the student to continue to participate in general education curriculum (although in a different setting) and progress toward meeting the goals delineated in the student's IEP. 34 C.F.R. §§ 300.530(b)(2) and (d)(4)</p>	<p>Disciplinary Action: If the behavior is not a manifestation of the student's disability, the student may be disciplined in the same manner as a nondisabled student. 20 U.S.C. § 1415(k)(1)(C); 34 C.F.R. § 300.530(c)</p> <p>If the behavior is a manifestation of the student's disability, the school district must conduct a functional behavioral assessment and implement a behavioral intervention plan (provided that the school district had not conducted such assessment prior to the behavior resulted in a change of placement), and return the student to the previous placement unless the school district and parent agree to a change of placement or the student is placed in an interim alternative educational setting. If student already has a behavioral intervention plan, the IEP team must review it, and modify it, as necessary, to address the behavior. 20 U.S.C. § 1415(k)(1)(F); 34 C.F.R. § 300.530(f)</p> <p>Educational Services: On the 11th day of removal, the IEP team must decide on services to (1) enable the student to continue to participate in general education curriculum (although in a different setting) and progress toward the IEP goals, and (2) receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications to address the behavior. 20 U.S.C. § 1415(k)(1)(D); 34 C.F.R. §§ 300.530(b)(2) and (d)(1)</p>	
	<p>Determine Whether Removal Constitutes Change in Placement: School district must determine whether a series of removals constitutes a change in placement. Must consider the length of each removal, whether the behavior in each incident is substantially similar, total time removed, and proximity in time of removals. Must be determined on a case-by-case basis. 20 U.S.C. § 1415 (k)(1)(A); 34 C.F.R. §§ 300.530(a), 300.536.</p>		

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	<p>Manifestation Determination:</p> <p>Within 10 days of any decision to change the student’s placement for disciplinary reasons, the school district, parent, and relevant IEP team members must meet to determine whether the student’s conduct was:</p> <ol style="list-style-type: none"> 1. Caused by, or had a direct and substantial relationship to, the student’s disability; or 2. The direct result of the school district’s failure to implement the IEP. <p>The parents and the school district determine who qualifies as “relevant IEP team members.” The team conducting the manifestation determination must review all relevant information in the student’s file, including the student’s IEP, any teacher observations, and any relevant information provided by parents.</p> <p>20 U.S.C. § 1415(k)(1)(E); 34 C.F.R. § 300.530(e).</p>		
	<p>Interim Alternative Educational Setting:</p> <p>School officials may remove a student to an interim alternative educational setting for no more than 45 school days regardless of whether the behavior was a manifestation of the student’s disability if the student:</p> <ol style="list-style-type: none"> 1. Carried or possessed a weapon at school, on school premises, or to or at a school function; 2. Knowingly possessed or used illegal drugs, or sold or solicited the sale of a controlled substance, while at school, on school premises, or at a school function; or 3. Inflicted serious bodily injury upon another person while at school, on school premises, or at a school function. <p>The IEP team determines the interim alternative education setting.</p> <p>20 U.S.C. §§ 1415(k)(1)(G), 1415(k)(2); 34 C.F.R. §§ 300.530(g), 300.531</p>		