

Frequently Asked Questions Relating to Discipline of Special Education Students

1. Why are there special rules about discipline for students with disabilities?

The rights of students with disabilities to a free and appropriate public education are guaranteed under the Individuals with Disabilities Act (IDEA). Rules about discipline for students with disabilities are designed to ensure that disciplinary procedures are implemented in a manner consistent with Federal Law. It is important to keep in mind that these protections do not prevent school officials from maintaining a learning environment that is safe and conducive to learning for all students.

2. What is a Manifestation Determination and when is it required?

A Manifestation Determination Review is a mandatory process whereby the IEP team determines if a relationship exists between a student's behavior that is subject to disciplinary action or expulsion and the student's disability. It is required whenever a SpEd student exceeds ten cumulative days of suspension OR is recommended for expulsion.

3. Can an ESE student be subjected to a suspension/expulsion if there is not a relationship between his or her misbehavior and his or her disability?

Yes. If the IEP team determines that there is not a relationship between the behavior and the student's disability, the student can be disciplined in the same manner as students without disabilities except that appropriate SpEd services must continue to be provided after the first ten days of suspension.

4. What factors must the IEP team consider during a Manifestation Determination Review in order to determine if there is a relationship between the behavior of a Special Education student and his or her disability?

The IEP team must consider all information including evaluations, information provided by the parent, observations of the child, the child's IEP, and placement to determine that:

- the student's IEP and placement are appropriate (reasonably designed to provide educational benefit)
- the student had the capacity to understand the impact of the conduct
- the student was able to conform to the code of conduct

5. If a SpEd student transfers from one school to another during a school year, do removals that occurred at the previous school count toward the ten days?

Yes. Removals that occurred at the student's previous school do count toward the cumulative ten days of suspensions.

6. What must school personnel do when students with disabilities are removed for the eleventh cumulative school day?

Beginning on the eleventh cumulative school day in a school year that a student with a disability is removed from his or her current placement and any subsequent removals, school personnel, in consultation with the Liaison/special education teacher, determine where and what services will be provided to the student to enable him or her to appropriately progress in the general curriculum and advance toward achieving the goals set forth in the IEP. Not later than ten business days after the removal, the IEP team must conduct a Manifestation Determination Review and also develop a Functional Behavioral Assessment Plan and design and/or modify a Behavioral Intervention Plan.