

Section 9

Discipline Procedures for Special Education Students

Discipline

Each school has a Student Handbook that describes the rules for student conduct for that school. Students with disabilities are expected to follow the rules of conduct for their school unless specifically noted in the IEP. Under circumstances where the student's disability precluded the student being able to follow certain school rules, or where accommodations are necessary because of the student's disability, this will be specifically noted in the IEP.

The goal of the disciplinary process is not to punish students, but rather, to educate students regarding the expectations and rules of conduct that will govern their lives in a post-school environment. Although general disciplinary regulations permit a suspension of up to ten (10) days before meeting, this practice is discouraged. Suspensions, even those referred to as "in-house", remove a student from typical educational supports. Students with disabilities are entitled to access their special education services when suspended; therefore, arrangements must be made to provide these services.

Functional Behavior Assessment (FBA)

Best Practice, rather than allowing suspensions to accumulate, dictates that the Team examine the factors in the student's environment that may be triggering the unacceptable behavior. This can be investigated in an organized manner through a Functional Behavior Assessment (FBA) conducted either by a Board Certified Behavior Analyst (BCBA) or school psychologist trained in completing FBAs. The purpose of the FBA is to identify the triggers for the unacceptable behaviors and create alternatives via a system of Positive Behavioral Supports. A sample FBA template is included in this section. A Behavior Intervention Plan (BIP) may be written as a result of the FBA to reinforce positive supports.

Manifestation Determination

When a student with disabilities approaches an exclusion of ten (10) days, the Team must convene to determine whether the behavior is a direct result of the student's disability. This is called a Manifestation Determination. If the Team determines that the behavior is not a direct result of the disability, then the school may discipline the student according to the school's code of student conduct, although the District must continue to provide the student with special education services during the period of suspension or expulsion. If the Team, however, determines the behavior to be a direct result of the disability, the student may not be excluded from the current education placement (except in the case of weapons, drugs, or serious bodily injury) until the Team develops and the parents consent to a new IEP.

In the event a student possesses, uses, sells, or solicits a controlled substance or possesses a weapon or seriously injures an individual at school or a school function, the student may be placed in an Interim Alternative Education Setting (IAES) for up to forty-five (45) days, upon determination that the current placement is likely to result in injury to the student or others. When a parent disagrees with the Team decision regarding placement, the parent has a right to request an expedited due process hearing from the Bureau of Special Education Appeals (BSEA).

DISCIPLINE PROCEDURES FOR STUDENTS WITH DISABILITIES

Students identified as receiving Special Education and/or related services are expected to meet the requirements for behavior, unless otherwise determined by the IEP process as set forth in the school handbooks. Additional provisions that can be made for students in special education include the following:

1. The student's IEP will indicate if the student's disability requires a modification of the discipline code.
2. The school principal must notify the school's special education program manager of the suspension offense within one school day. The program manager will immediately notify the Director of Pupil Personnel Services.

The provisions also apply to:

1. Students who have had concern expressed in writing by parents;
2. Students for whom staff have expressed concerns regarding a pattern of concerning behavior. This concern may have been expressed by the principal, program manager, or PPS Director.
3. Students who are in the process of having been referred for an evaluation or suspected as having a disability.

These provisions do not apply to students whose parents have refused an evaluation or special education services. They also do not apply to students who have been evaluated and found ineligible.

The school principal, special education staff, counselors, and other related service providers have all been trained in understanding the regulations regarding the following:

- **Free and Appropriate Public Education (FAPE):** The Ipswich Public School District is responsible for providing FAPE to all students. A special education student may not be suspended for more than ten (10) days without the provision of FAPE. Schools are responsible for ensuring that students receive educational services that allow access to the general curriculum and can make progress toward IEP goals.
- **Manifestation Determination:** For suspensions that will extend beyond ten (10) school days, the special education Team must determine if the behavior that warranted the disciplinary action was caused by or had a direct relationship to the disability, or was a direct result of the school district's failure to implement the IEP.
- **Functional Behavioral Assessment (FBA):** An FBA must be completed within 10 school days after the 11th day of suspension. In the Ipswich Public Schools, the standard practice is to closely monitor student suspensions and patterns and proactively begin an FBA at or around the 7th day of suspension. The goal of the FBA is to determine the function or reason for the problematic behavior(s) and proactively develop a positive Behavior Intervention Plan (BIP).
- **Interim Alternative Educational Setting (IAES):** An IAES is a change in placement that allows the student to receive educational services. Teams must decide, based on a student's unique circumstances, when an IAES is appropriate for suspensions that extend beyond ten

(10) days. Teams must work with the PPS Director to discuss IAES options that are appropriate and available.

Special circumstances exist when a student engages in a behavior that includes the following:

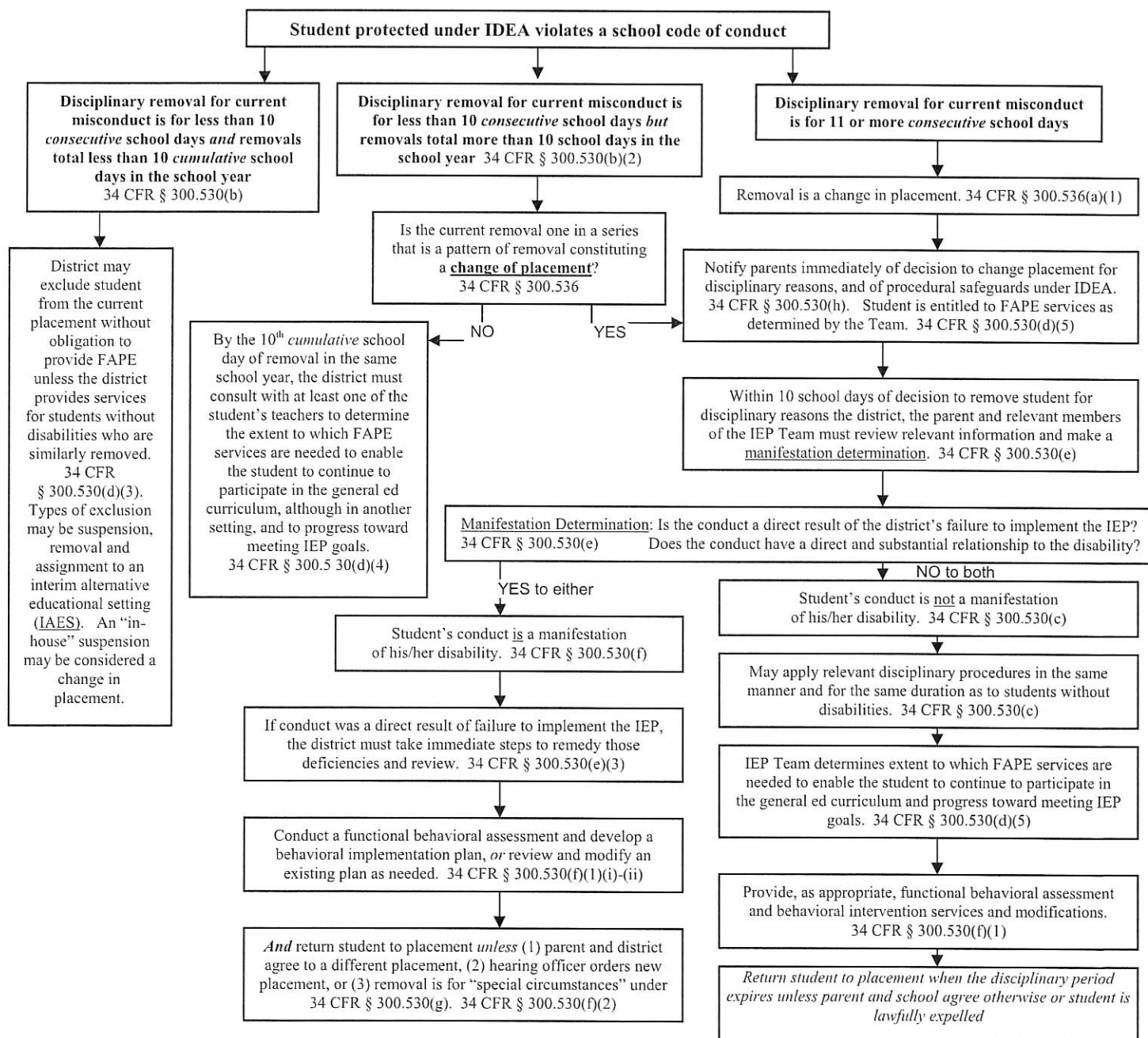
1. Possession of a weapon
2. Possession of drugs
3. Potential to cause serious bodily harm

If the behavior includes one or more of the above, the principal of the school may order the student to an IAES for up to 45 school days or beyond, if deemed appropriate. Parents will have been informed of this process through provision of both oral and written notice regarding the opportunity for a hearing. In the case of the special education student, the Manifestation Determination Meeting will be held to examine the potential nexus of the offense to the disability. Early scheduling of this meeting allows the Team to examine the patterns of behavior, and discuss appropriate responses to support the student, including assessments and/or changes to the IEP.

Discipline of Special Education Students Under IDEA 2004

20 U.S.C. § 1415(k) and 34 CFR §§ 300.530-300.536

- This chart should be read in conjunction with discipline procedures in state law, M.G.L. c. 71, §§ 37H & 37H1/2, and district-wide and school-wide student codes of conduct.
- Protections in the IDEA apply to students who have been found eligible for special education and to students for whom the school is deemed to have knowledge that the child might have a disability (i.e., students who have not yet been found eligible but the school had a basis of knowledge of a disability, including students who have been referred for initial evaluation). 34 CFR § 300.354
- Beginning on the 11th school day of a student's disciplinary removal during the school year, and if removal is a change in placement, the student must be provided free appropriate public education (FAPE) services during the period of removal to allow him/her to continue to participate in the general education curriculum and progress towards IEP goals, even if in a different setting. 34 CFR § 300.530(b) & (d).
- If the conduct that the student is being disciplined for involves the "special circumstances" of weapons, illegal drugs, controlled substances, or serious bodily injury, school personnel may remove the student to an interim alternative educational setting (IAES) for up to 45 school days, regardless of the manifestation determination. 34 CFR § 300.530(g). The IEP Team must determine the IAES.
- Although the following flowchart lays out the steps that a school district must take when disciplining a student with a disability, it is important to remember that at any point the parent and school district can agree to change a student's placement for disciplinary reasons. Agreements should be in writing, and signed by the school personnel and the parent.



Appeals Process for Disciplinary Placement Decisions for Students with Disabilities

Under IDEA 2004: 20 U.S.C. § 1415(k) and 34 CFR §§ 300.532-300.533

Who may file an appeal of a disciplinary decision?

- A parent of a child with a disability who disagrees with any decision regarding the child's disciplinary placement, or the manifestation determination, may appeal the decision by requesting a hearing at the Bureau of Special Education Appeals (BSEA). Reasons for appeal may include but are not limited to disagreement with the student's removal to an interim alternative educational setting (IAES), disagreement regarding the manifestation determination, disagreement regarding the determination of whether the removal is a change of placement, disagreement regarding the educational services the student receives during the period of removal, and disagreement regarding the functional behavioral assessment and/or implementation of a behavioral intervention plan. 34 CFR §§ 300.530-300.531.
- An LEA that believes that maintaining the student's current placement is substantially likely to result in injury to the child or others may file a request for hearing at the BSEA.

