

Discipline of IDEA/Section 504 Eligible Students with Disabilities

Student protected under IDEA/Section 504 violates the Broward County Code of Conduct

A. Up to 10 Days without FAPE: Disciplinary removal for out of school misconduct is for less than 10 *consecutive* school days *and* removals total less than 10 *cumulative* school days in the school year 34 CFR §300.530(b)

A1. School may exclude student from the current placement without obligation to provide FAPE unless the school provides services for students without disabilities who are similarly removed. 34 CFR §300.530(d)(3)

Types of exclusion may be suspension, removal and assignment to an alternative educational setting (AES), or in-school suspension. These may be considered a change in placement if FAPE is not provided.

B. Over 10 Days Without FAPE: Disciplinary removal for current misconduct is for 11 or more *consecutive* school days
OR
Disciplinary removal for current misconduct is for less than 10 *cumulative* school days *but* removals total more than 10 school days in the school year 34 CFR §300.530(b)(2)

NOTE: Over 10 days without FAPE constitutes a change of placement.

B1. School must notify parents immediately of decision to change placement for disciplinary reasons, and of procedural safeguards under IDEA/504. 34 CFR §300.530(h). If the student is removed, FAPE **must** be provided. 34 CFR §300.530(d)(5)

B2. Within 10 school days of decision to remove student for disciplinary reasons the school, the parent and the IEP/504 Team must review relevant information and conduct a Manifestation Determination. 34 CFR §300.530(e)

C. Special Circumstances (Applies to IDEA Eligible Students Only): 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 setting (IAES) for up to 45 school days, regardless of the manifestation determination. 34 CFR §300.530(g)

C1. School Principal consults with the District Assistant Director for Expulsion and the designated ESLS Curriculum Supervisor regarding removal of student for up to 45 school days to a IAES.

C2. The student's IEP Team must hold a Manifestation Determination Meeting within 10 days of the student being placed at the IAES.

D. Expellable Act: Student's violation of the Code of Conduct is a possible expellable act.

D1. School completes an Expulsion Packet and forwards it to the District Assistant Director for Expulsions.

D2. District Assistant Director for Expulsions reviews the packet and determines if the violation of the Code of Conduct is an expellable act.

NO

See Box A up to 10 days.
See Box B if over 10 days without FAPE.

YES

D3. District Assistant Director for Expulsions holds a pre-expulsion conference with the parents and student.

D4. At pre-expulsion conference the District Assistant Director for Expulsions explains the consequences for the violation of the Code of Conduct as if the student was a general education student and completes the pre-expulsion conference form.

E. Manifestation Determination*
An IEP/504 committee meets to make a manifestation determination answering the following: Is the conduct a direct result of the district's failure to implement the IEP/504? Does the conduct have a direct and substantial relationship to the student's disability? 34 CFR §300.530(e)

YES to any question in Box E

EY1. Student's conduct is a manifestation of his/her disability. 34 CFR §300.530(f)

EY2. If conduct was a direct result of an inappropriate IEP/504 or a failure to implement the IEP/504 Plan, the school must take immediate steps to remedy those deficiencies. 34 CFR §300.530(e)(3)

EY3. Conduct any and all needed evaluations to include a functional behavioral assessment and develop a behavioral intervention plan, or review and modify an existing plan as needed. 34 CFR §300.530(f)(1)(i)-(ii)

EY4. *And* return student to placement *unless* parent and district agree to a different placement. 34 CFR §300.530(g) 34 CFR §300.530(f)(2)

NOTE: For Box C, student may be removed to an IAES for up to 45 school days regardless of the outcome of the Manifestation Determination.

NO to all questions in Box E

EN1. Student's conduct is not a manifestation of his/her disability. 34 CFR §300.530(c)

EN2. May apply relevant disciplinary procedures in the same manner and for the same duration as to students without disabilities. However, the student will continue to have the provision of FAPE. 34 CFR §300.530(c)

EN3. IEP/504 Team determines extent to which services are needed to enable the student to continue to participate in the general ed curriculum and progress toward meeting IEP/504 goals while receiving FAPE. 34 CFR §300.530(d)(4)

EN4. **NOTE: For Box C only**
Student returns to the setting in which the infraction occurred when the disciplinary period (45 days) expires unless parent and school agree.

*In the event that there is an additional area of suspected disability at the time of the Manifestation Determination, evaluate IEP/504 plan:

- If the current plan DOES NOT address the newly suspected behaviors related to an additional disability THEN the answer must be YES to Box E
- If the current plan DOES address the behaviors related to the additional area of suspected disability the team can proceed based on the Manifestation Determination

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

- This chart should be read in conjunction with School Board Policy 5006 and School Board Policy 6000.4, Part II, Section D.
- Protections in the IDEA/Section 504 apply to students who have been found eligible as a student with a disability (IDEA/Section 504) 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 §300.534
- Protections of the IDEA/Section 504 do not apply if a parent has **REVOKED** their consent for ESE services for their child.
- 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).
- A pattern of removal to an AES or "in-school" suspension can be considered a change in placement and a denial of FAPE. A Manifestation Determination must be conducted whenever there is a pattern of removal.