

All procedures set forth in the “Student Suspension” policy and the “Student Expulsion” policy will be followed when it is necessary to discipline students with disabilities as defined by the Individuals with Disabilities Education Act (IDEA). The following additional procedures will also be adhered to when disciplining students with disabilities.

## **DISCIPLINARY ACTIONS**

### **Ten-day disciplinary removal**

School personnel may order a disciplinary removal of a student with disabilities for not more than ten (10) consecutive school days per infraction to the extent suspension would apply to students without disabilities. Cumulative suspensions, if over ten (10) school days in a school year, must not constitute a significant change in placement.

In determining whether a significant change in placement has occurred, school personnel will review whether the student is subjected to a series of removals that constitute a pattern of exclusion because (i) they cumulate to more than ten (10) school days in a school year; (ii) the student’s behavior is substantially similar to behavior in previous incidents that resulted in the series of removals; and (iii) of such additional factors as the length of each removal, the total amount of time the child is removed, and the proximity of the removals to one another, indicate such a pattern of exclusion.

Any time a student is suspended for more than ten (10) school days in a school year the student will be provided services to the extent necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out on his or her IEP, although in another setting, as determined by school personnel, in consultation with at least one of the student’s teachers.

### **Forty-five school day disciplinary removal**

1. The Superintendent or designee may order a change in placement of a student with a disability to an appropriate interim alternative educational setting, as determined by the IEP Team. The placement change may occur regardless of whether the behavior is a manifestation of the student’s disability, and may occur for the same amount of time that a student without a disability would be subject to discipline, but for not more than forty-five (45) school days if:
  - a. The student carries or possesses a weapon to or at school, on school premises, or to or at a school function. “Weapon” for the purposes of this policy is defined as any weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury. This term does not include a pocket knife with a blade of less than two and one-half (2½) inches in length.

- b. The student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function.
  - c. The student has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function. “Serious bodily injury” for the purposes of this policy is defined as a showing of substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of function of a bodily member, organ, or mental faculty.
2. School personnel may request a change in placement to an appropriate interim alternative educational setting from a hearing officer for not more than forty-five (45) school days if it is determined by personnel that a student with a disability is substantially likely to cause injury to himself or herself, or to others in the current educational placement.
  3. School personnel may petition the court for an injunction to remove any student with a disability from school or to change the student’s current educational placement if personnel believe that maintaining the student in the current educational placement is substantially likely to result in injury to the student or to others.

### **FUNCTIONAL BEHAVIORAL ASSESSMENT/BEHAVIORAL INTERVENTION PLAN**

If a student with a disability is removed from his/her current placement to an appropriate interim alternative educational setting for not more than forty-five (45) school days (irrespective of whether the behavior is determined to be a manifestation of the student’s disability) or if school personnel seek to order a change in placement that would exceed ten (10) school days for behavioral violations, and it has been determined that the misbehavior is not a manifestation of the student’s disability, the student shall receive, as appropriate, a functional behavioral assessment, behavioral intervention services, and modifications that are designed to address the behavioral violation so that it does not recur.

### **MANIFESTATION DETERMINATION**

Within ten (10) school days of any decision to change the placement of a student with a disability because of a violation of a code of student conduct, the district, the parent, and relevant members of the IEP Team will conduct a manifestation determination. A decision to change the placement of a student for disciplinary reasons may include expulsion in the event the student’s behavior is not found to be a manifestation of his/her disability. In the event it is determined that the student’s conduct was a manifestation of his/her disability, the IEP team shall:

1. Conduct a functional behavioral assessment and implement a behavioral intervention plan for the student, provided such an assessment has not been conducted prior to the manifestation determination; or
2. In the situation where a behavioral intervention plan has been developed, review the plan and modify it, as necessary, to address the behavior; and

3. Return the student to the placement from which the student was removed, unless the student has been placed in an appropriate interim alternative educational setting, or the parent and the district agree to a change of placement as part of the modification of the behavioral intervention plan.

**EXPULSION**

If a student on an Individualized Education Program (IEP) is expelled from school after a manifestation determination has found that the student’s behavior was not a manifestation of the student’s disability, educational services, consisting of services necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the student’s IEP, will be provided to that student at an alternative setting.



**LEGAL REFERENCE:**

IDEA Amendments of 2004

20 U.S.C. Chapter 33, Section 1415(k)

34 C.F.R. Part 300

Honig v. Doe, 484 U.S. 686, 108 S. Ct. 592 (1988)

IDAPA 08.02.03.004.09 (Incorporation by Reference, Special Education Manual)

IDAPA 08.02.03.109 (Special Education)

IDAPA 08.02.03.160 (Safe Environment and Discipline)

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