

# Discipline

## DISCIPLINARY CHANGE OF PLACEMENT

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Model operating procedures created by



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# DISCIPLINARY CHANGE OF PLACEMENT

## What is Required

### Disciplinary Change of Placement

A placement is not a physical location. Rather, placement is the instructional arrangement/setting that has been decided by the ARD Committee based on the individual needs and IEP of an eligible student receiving special education services. A change of placement happens if there is a substantial change in the student's educational program, arrangement or setting.

A disciplinary change of placement occurs when a student with a disability is removed from the student's current educational placement because of a violation of the Student Code of Conduct if:

- Such removal is for more than 10 consecutive school days; or
- The student has been subjected to a series of removals that constitute a pattern:
  - Because the series of removals totals more than 10 school days in a school year;
  - Because the student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals; and
  - Because of additional factors such as length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another.

If the removal from the student's current placement is for 10 or less school days in that school year, the removal does not constitute a disciplinary change of placement, and the District is only required to provide the student with services during the period of the removal that it would provide to students without disabilities who are similarly removed.

However, if the removal is for more than 10 consecutive school days or if the removal constitutes a pattern, the removal constitutes a disciplinary change of placement, requiring the ARD Committee to conduct a Manifestation Determination Review ("MDR") and provide the student FAPE during the removal. See [MANIFESTATION DETERMINATION] and [SERVICES DURING PERIODS OF REMOVAL].

### Decision



When determining whether a change of placement is appropriate for a student with a disability who violates the Student Code of Conduct, Campus Administration, in consultation with Special Education Personnel, must consider any unique circumstances on a case-by-case basis. Campus Administration, in consultation with Special Education Personnel, must first decide if removing the student will constitute a change of placement and, if so, whether a change of placement is appropriate. Campus Administration will consider all relevant information regarding the student's behavior and, where appropriate, review the student's IEP when making this determination. This decision is subject to review through due process and judicial proceedings.

### **Notification**

On the day that a decision is made to make a disciplinary removal which constitutes a change of placement, Campus Special Education Personnel must notify the parent of the decision and provide the parent the *Notice of Procedural Safeguards*. Campus Special Education Personnel must also provide notice to the student's educational decision-maker and caseworker for a student who is homeless or in substitute care regarding disciplinary actions for which parental notice is required.

### **Functional Behavioral Assessment and Behavior Intervention Plan**

If disciplinary action that constitutes a change of placement (i.e., removal for 10 or more days or removal that constitutes a "pattern" of removals), is taken for a student with a disability, the district must, no later than 10 school days after the change in placement is made:

1. Seek consent from the parent to conduct a Functional Behavioral Assessment ("FBA") if the student has never had an FBA or the existing FBA is more than one year old;
2. Review any previously conducted FBAs and any Behavior Intervention Plans ("BIPs") developed for the student based on that FBA; and
3. As necessary, develop a BIP, if the student does not have a plan, or revise the existing BIP.

### **Additional Procedures**

#### **Disciplinary Change of Placement**

Prior to any disciplinary change of placement, Campus Administration will investigate the



alleged violation of the student code of conduct and determine whether a removal will occur in accordance with the procedures applicable to students without disabilities. See [AUTHORITY OF SCHOOL PERSONNEL]. This decision should involve a review of the student's special education file, including the student's IEP and BIP where applicable.

A disciplinary change of placement occurs if either:

- The removal proposed is more than 10 consecutive school days; OR
- The student has been subjected to a series of removals that constitute a pattern.

Removals of a student for less than 10 days, when considered with prior removals of the student during the same school year, may create a pattern of removals. If the student's behavior is substantially similar to the behaviors that resulted in the series of previous removals, this would be considered a pattern. Campus Personnel must determine whether such a pattern exists, on a case-by-case basis, based on such additional factors as:

- Length of each removal
- Total amount of time the student is removed
- Proximity of the removals to one another
- Similarities or differences in the types of infractions involved

If a disciplinary change of placement occurs as a result of a removal, an ARD Committee meeting must be convened before or not later than ten (10) school days after the decision to change the student's placement. At this meeting, the ARD Committee must determine if the behavior subject to the disciplinary action is a manifestation of the student's disability. See [MANIFESTATION DETERMINATION].

In preparation for this ARD Committee meeting, Campus Personnel should:

- Review the circumstances surrounding the student's removal as soon as possible
- Consider whether the student was receiving services in accordance with his/her IEP; and
- Consider whether the student's behavior could be addressed through minor classroom adjustments.

### **Short-Term Removals – No Change in Placement**

Only where necessary and appropriate, the District will remove a student with a disability who violates the student code of conduct from the Campus to either an interim alternative education setting ("IAES"), another setting, or suspension for not more than 10 consecutive school days. The District is only required to provide services during the



period of short-term removal if it provides services to the student without disabilities who is similarly removed. However, the District is still obligated to consider the student's behavioral needs and the effects of the use of suspensions or other short-term removals when ensuring the provision of FAPE. Thus, the ARD Committee should review any discipline removals at the annual ARD meeting and consider whether the student needs new or different behavioral interventions and supports.

The parent or adult student's procedural safeguards under the IDEA are not triggered for a removal lasting less than 10 consecutive days. Thus, while the Campus Administration will communicate the short-term removal with the student's parent, Campus Special Education Personnel do not need to provide Prior Written Notice of a short-term removal that does not constitute a change of placement to the student's parent.

### **Long-Term Removals – Change in Placement**

A long-term removal, which constitutes a disciplinary change of placement, is any removal for more than 10 consecutive school days in a school year and for additional removals of up to 10 school days in the same school year for separate incidents of misconduct. Campus Administration will monitor the total number of removals for students with disabilities.

All decisions related to long-term removals will be made following careful analysis and review of the student's IEP. Campus Administration must be aware of the fact that other short-term exclusionary disciplinary measures, such a pattern of office referrals, time outs, extended restrictions in privileges, bus suspensions, in-school suspensions, conditioning a student's return to school on a condition, and requiring a student to leave school early, could rise to the level of a change of placement if implemented repeatedly.

The District will ensure that all students continue to receive special education and related services during long-term removals. This will help Campus Personnel understand the causes of the behavior and develop interventions to help the student improve the behavior. See [SERVICES DURING PERIODS OF REMOVAL]

Campus Administration will work in conjunction with District Special Education Administration to ensure that the Campus is complying with all procedures related to disciplinary changes of placement.

### **Decision**

When making a case-by-case analysis as to whether a change of placement is appropriate, the Campus Administration will consider any unique factors related to the student that are relevant to the analysis, including the student's disciplinary history, ability to understand actions and consequences, and ability to make constructive decisions



related to improving the student's behavior. Further, the Campus Administration will consider whether the District provided appropriate supports to the student prior to the student's misbehavior.

When the Campus Administration recommends a disciplinary change of placement, a Change of Placement Analysis will be made. To make this analysis, the Campus Administration will first need to calculate the number of days of disciplinary removal. This calculation should include portions of a school day that the student has been suspended, unless the student has been able to appropriately progress in the general curriculum during that time, has continued to receive the services specified in the student's IEP, and has continued to participate with nondisabled students to the extent the student would have in the current placement. If a student whose IEP requires transportation has been suspended from the bus and not otherwise provided alternate means of transportation, the days the student is suspended from the bus will be included in the calculation. Then, the Campus Administration will use this calculation to determine whether the disciplinary removal constitutes a change of placement. The Campus Administration will also consider the proximity of multiple removals to one another and any similarities or differences in the types of infractions involved to determine a pattern. If the Campus Administration determines that the removal is a change of placement, the Campus Administration will provide the parent with proper notice, including the *Notice of Procedural Safeguards*, on the day the decision is made. The ARD Committee will then hold an MDR within 10 school days of the decision. See [MANIFESTATION DETERMINATION].

### Notification

On the day that a decision is made to make a disciplinary removal which constitutes a change of placement, Campus Personnel must notify the parents of that decision and provide the parent with the *Notice of Procedural Safeguards*.

If a change of placement is determined by the ARD Committee in accordance with the MDR process, Special Education Personnel shall also provide the parent with Prior Written Notice regarding its decision to change the student's placement. See [PRIOR WRITTEN NOTICE]. This notice, at a minimum, will describe the proposed change of placement, explain why the District is seeking the change of placement, and describe the information the District considered in making the decision to propose the change of placement. Campus Personnel will also notify Behavior and/or Assessment Personnel of the removal to begin the process to attain consent for a FBA and/or review an existing FBA or BIP.

The District will maintain documentation requirements of compliance associated with Texas Student Data System (TSDS), Public Education Information Management System





(PEIMS), and State Performance Plan (SPP). District staff will provide training, with follow up, to ensure the documentation required is in place and compliant.

### **Functional Behavioral Assessment and Behavior Intervention Plan**

If a disciplinary change of placement occurs for a student, and that student has an FBA that is less than one year old, Special Education Personnel will review any previously conducted FBA, as well as any BIP developed for that student, no later than the 10<sup>th</sup> school day after the change of placement. As necessary, the ARD Committee will revise the BIP.

If consent is required to conduct an FBA, Special Education Personnel will seek consent to conduct the FBA from the student's parent no later than the 10<sup>th</sup> school day after the change of placement. Special Education Personnel will document the parent's consent and discuss a timeline of completion of the FBA. The FBA will be completed expeditiously once consent is obtained. Once the FBA is completed, the ARD Committee, including the parent, will review the results of the FBA and determine if a BIP is needed based on the outcomes of the FBA and any other relevant factors.

### **Evidence of Implementation**

- Student Code of Conduct
- *Notice of Procedural Safeguards*
- ARD/IEP
- MDR ARD
- FIE
- BIP
- Behavior Documentation
- Prior Written Notice
- Documentation of Communication With Parents
- Consent for FBA
- Documentation for the state in TSDS, PEIMS, and SPP

### **Resources**

[The Legal Framework for the Child-Centered Special Education Process: Disciplinary Change of Placement - Region 18](#)

[The Legal Framework for the Child-Centered Special Education Process: Services During Periods of Removal - Region 18](#)



Disciplinary Change of Placement

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[Discipline and School Removals - Texas Education Agency](#)

[Behavior and Discipline - SPEDTex](#)

[Questions and Answers on Serving Children with Disabilities Eligible for Transportation \(Nov. 2009\) - U.S. Department of Education](#)

[OSERS Letter to Sarzynski \(June 21, 2012\) - U.S. Department of Education](#)

[OSERS Questions and Answers on Discipline Procedures \(Revised June 2009\) - U.S. Department of Education](#)

[OSERS Dear Colleague Letter \(Aug. 1, 2016\) - U.S. Department of Education](#)

[OSEP Letter to Owoh \(Aug. 21, 2009\) - U.S. Department of Education](#)

[House Bill \(HB\) 785: Frequently Asked Questions - Texas Education Agency](#)

## **CITATIONS**

Board Policy FO and FOF; 34 CFR 300.504, 300.530, 300.536; Texas Education Code 25.007(b)(10)(D), 37.004