

# Discipline

## SERVICES DURING PERIODS OF REMOVAL

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Model operating procedures created by



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**CONTENTS**

SERVICES DURING PERIODS OF REMOVAL ..... 1

    What is Required..... 1

        Removals for Less Than 10 Cumulative Days.....1

        Removals for More Than 10 Cumulative Days That Are Not A Change of Placement .....1

        Removals That Are A Change of Placement .....2

        Return to Initial Placement.....2

    Additional Procedures ..... 3

        Removals of Less Than 10 Cumulative Days .....3

        Removals of More Than 10 Cumulative Days .....3

        Selection of IAES .....4

        Services Provided in the IAES .....4

        Expulsion .....4

        Return to Initial Placement.....5

    Evidence of Implementation ..... 5

    Resources ..... 6

CITATIONS ..... 6



## SERVICES DURING PERIODS OF REMOVAL

### What is Required

Should the District remove a student from the student's current placement, the District may have a responsibility to provide services during the period of removal.

### **Removals for Less Than 10 Cumulative Days**

A removal for less than 10 cumulative days is not considered a change of placement. Therefore, the District only needs to provide services to a student with a disability during a period of removal of 10 school days or less in that school year if the District provides services to a student without disabilities who is similarly removed.

### **Removals for More Than 10 Cumulative Days That Are Not A Change of Placement**

If the District is seeking to remove a student for more than 10 cumulative days, Campus Special Education Personnel in consultation with Campus Administration must conduct a Change of Placement analysis. See [DISCIPLINARY CHANGE OF PLACEMENT]. A removal for more than 10 cumulative days may not necessarily be a change of placement. It is only a change of placement if (1) the removal is for more than 10 consecutive school days or (2) 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;
- The student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series or removals; and
- There are additional factors, such as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another.

After the student has been removed from their current placement for 10 cumulative school days in the same school year, if the current removal is for 10 or less consecutive school days and is not considered a change of placement, Campus Special Education Personnel, in consultation with at least one of the student's teachers, must still determine the extent to which the student needs services to continue to participate in the general education curriculum, although in another setting, and to enable the student to progress towards meeting his/her IEP goals. The District may provide such services in an interim alternative education setting ("IAES").



## Removals That Are A Change of Placement

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 after either the student's ARD Committee determines that the behavior is not a manifestation of the student's disability and thus removal is allowed, or if the student is removed from his/her current placement due to weapons, drugs, or other serious bodily injury. See [DISCIPLINARY CHANGE OF PLACEMENT], [WHEN BEHAVIOR IS NOT A MANIFESTATION], and [SPECIAL CIRCUMSTANCES].

If a disciplinary change of placement occurs, the student must still continue to receive educational services to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the student's IEP goals. The ARD Committee must determine what educational services are necessary to provide the student a FAPE. If these services are to be provided in an IAES, the ARD Committee must determine the appropriate IAES for the student. Where appropriate, the ARD Committee should also provide a functional behavioral assessment ("FBA") and behavior intervention services and modifications designed to address the student's behavior and prevent such behavior from reoccurring. No later than 10 school days after the change in placement is made, the district must:

1. Seek consent from the parent to conduct an 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.

## Return to Initial Placement

As soon as possible after the IAES determines the date that the student will be released from the program, an IAES Administrator must provide written notice of the date to the student's parent and the Campus Administration for the campus to which the student intends to transition. The IAES Administrator must also provide the Campus Administration an assessment of the student's academic growth while attending the IAES and the results of any assessment instruments administered to the student.

Within 5 instructional days after the date of the student's release from the IAES, the Campus Administration must coordinate the student's transition to the student's prior placement. To do so, the Campus Administration must seek assistance and recommendations from school counselors, school district peace officers, school resource



officers, licensed clinical social workers, campus behavior coordinators, classroom teachers who are or may be responsible for implementing the student's personalized transition plan, and/or any other appropriate District or Campus Personnel. The Campus Administration must create a personalized transition plan for the student that includes recommendations for the best educational placement of the student, and where appropriate, the following information:

- Recommendations for counseling, behavioral management, or academic assistance for the student with a concentration on the student's academic or career goals;
- Recommendations for assistance for obtaining access to mental health services provided by the District or Campus, a local mental health authority, or another private or public entity;
- The provision of information to the student's parent about the process to request an FIE or reevaluation (if one has not already been completed); and
- A regular review of the student's progress toward the student's academic or career goals.

If practicable, the Campus Administration, or another designee, shall meet with the student's parent to coordinate the student's transition.

## **Additional Procedures**

### **Removals of Less Than 10 Cumulative Days**

While the IDEA mandates that services must only be provided after the 10th day of removal, the Campus Administrator shall ensure that the special education student is treated the same as students without disabilities who have been similarly removed. For example, if a general education student is allowed to make-up work during a short-term removal or has access to tutoring services during that time, the special education student should have similar access.

Further, if a student displays behavior that impedes the student's learning or the learning of others, the Special Education Case Manager should consider whether an ARD meeting is necessary to discuss completing an FBA or implementing a BIP to provide additional supports to improve the student's behavior.

### **Removals of More Than 10 Cumulative Days**

For days of removal in excess of 10 school days in a school year, members of the ARD Committee must determine the extent to which services are 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. These services should be initiated no later than the 11<sup>th</sup> day of the student's removal from the IEP placement.

Further, if members of the ARD Committee determine that the behavior is not a manifestation of the student's disability, or if special circumstances exist, relevant disciplinary procedures may be applied in the same manner and for the same duration as the procedures would be applied to students without disabilities. However, the District must continue to provide the student with FAPE since all students with disabilities are entitled to FAPE, including students who have been suspended or expelled from school. These services must be provided after the 10<sup>th</sup> day of removal.

### **Selection of IAES**

Where necessary, the ARD Committee will determine the appropriate IAES setting for the student. Because the selected IAES must allow the student to continue to participate in the general education curriculum and progress towards IEP goals, the District cannot limit the ARD Committee's choices for an IAES to only one setting. The ARD Committee may determine that the student's home is an appropriate IAES on a case-by-case basis depending on the student's individual needs and educational goals, the length of the removal, and the extent to which the student has previously been removed from the regular placement. The student's parent(s) should be included in any ARD meeting where decisions regarding educational placements are made. See [ADMISSION, REVIEW, AND DISMISSAL COMMITTEE MEMBERSHIP].

If the student is not progressing towards IEP goals once in the IAES placement, the ARD Committee will need to review the IAES setting and determine if another setting is more appropriate.

### **Services Provided in the IAES**

The District does not need to provide all services in the student's IEP when a student has been removed to an IAES. The ARD Committee will need to make an individualized determination for each student regarding the type, duration, and frequency of services to provide the student while in the IAES placement. If the student is not progressing towards IEP goals once in the IAES placement, the ARD Committee will need to review and revise the determination of services.

A teacher in an IAES placement providing special education and related services must be properly certified to provide these services.

### **Expulsion**



If the ARD Committee determines that the student's conduct is not a manifestation of the disability or due to the District's failure to implement the student's IEP, the student may be expelled. However, the ARD Committee will still need to determine the special education and related services the student will need during the period of expulsion. If the student is being expelled to a JJAEP, a JJAEP Administrator must participate in the ARD meeting where the services are discussed.

### **Return to Initial Placement**

Within 5 days of the special education student returning to the Campus from the IAES, the student's Campus Administrator, in consultation with the Special Education Personnel, will consider whether an ARD meeting should be held to coordinate the student's transition to the student's prior placement transition plan. This decision should be made on a case-by-case basis, considering the student's unique needs and the circumstances surrounding both the removal and the return. An ARD meeting will only be necessary where the student's current needs were not already addressed during the MDR ARD meeting prior to the student's removal.

Should an ARD meeting be necessary, all Campus Personnel who may be able to provide assistance or recommendations to assist in the student's transition should be included in the meeting. The ARD Committee should consider whether the student needs counseling or additional behavior supports, as well as additional mental health services provided through the District, a local health organization or authority, or another private or public entity. Additionally, the ARD Committee should review the student's progress towards IEP goals and provide the student's parent information about the possibility of another FIE.

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.

### **Evidence of Implementation**

- Student Code of Conduct
- ARD/IEP
- MDR ARD
- FIE
- FBA/BIP
- Behavior Documentation
- Prior Written Notice
- Documentation of Communication With Parents



- Documentation Regarding Communication with JJAEP Administrators
- Documentation of Services in IAES
- Documentation of Return to Initial Placement Transition
- *Notice of Procedural Safeguards*
- *Parent's Guide to the Admission, Review, and Dismissal Process*
- FBA Consent
- Documentation for the state in TSDS, PEIMS, and SPP

## **Resources**

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

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

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

[Special Education Discipline Q&A - Region 13](#)

[Parent's Guide to the Admission, Review, and Dismissal \(ARD\) Process - Texas Education Agency](#)

[Notice of Procedural Safeguards - Texas Education Agency](#)

[Discipline Flow Chart - Region 7](#)

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

## **CITATIONS**

Board Policy FO and FOF; 34 CFR 300.101, 300.530(b),(d), 300.531; Texas Education Code 37.004(b), 37.0022, 37.023