

Key Elements to be considered for the discipline of students with disabilities:

- a. Students with disabilities may be disciplined for misbehavior that violates the school code of conduct
- b. Educational services, both regular and special education must continue during the period of suspension beginning on the 11th cumulative day of suspension.
- c. **Manifestation Determination**
The purpose of the manifestation determination is to establish whether the student's misconduct was a manifestation of the student's disability. This is based on the premise that students should not be punished for disability-related misconduct, since presumably this is not willful behavior.

The IEP Team must conduct a manifestation determination meeting no later than 10 (school) days after:

- (1) any single suspension lasting more than 10 days, or
- (2) any series of suspensions exceeding 10 cumulative days that results in a change of placement.

The team must consider all relevant information, including:

- (1) evaluation results
- (2) observations of the child
- (3) the child's IEP and placement
- (4) parental input

Manifestation Found

If the team determines that the child's behavior was a manifestation of the child's disability, then The child may **not** be suspended and the child's placement cannot be changed except through the IEP process.

No Manifestation Found:

The team may conclude the misbehavior was not a manifestation of the child's disability only if it finds that the IEP placement was appropriate (ex. IEP and 3-year reevaluation are timely, the IEP was implemented, and the IEP included behavior goals and/or FBA/BIP

d. Special Circumstances:

School personnel may remove a student to an interim alternative

educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child--

(1) Carries a weapon to or possesses a weapon at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA

(2) Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA; or

(3) Has inflicted serious bodily injury upon another person while at school, on school premises or at a school function under the jurisdiction of an SEA or an LEA.

Controlled substances means a drug or other substance:

Illegal drug means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal Law.

Serious bodily injury is defined as:

Bodily injury which involves –

(i) a substantial risk of death;

(ii) extreme physical pain;

(iii) protracted and obvious disfigurement; or

(iv) protracted loss or impairment of function of a bodily member, organ

Weapon has the meaning given the term "dangerous weapon" under paragraph (2) of the first Subsection (g) of section 930 of title 18, United States Code and includes a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such a term does not include a pocket knife with a blade of less than 2 ½ inches in length.