



BRANCH LINE SCHOOL
CULTIVATE LEARNING

Discipline Procedures for Students with Disabilities

The Individuals with Disabilities Education Act (IDEA) §300.530 requires local education agencies (LEA's) and public-school academies (PSA's) to follow specific procedures when removing a student with a disability from their educational placement for disciplinary reasons in such cases when the removal constitutes a **"change of placement"**.

Additionally, in accordance with IDEA §300.324(a)(2)(i), an IEP team must, in the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior as part of the IEP process.

Per IDEA §300.536, with regard to disciplinary removals, a **"change of placement"** occurs in one of two situations:

1. The removal is for more than 10 consecutive days; or
2. The student has been subjected to a series of **"removals that constitute a pattern"**.

The term **"removal"** refers to the removal of a student with a disability from instruction for disciplinary reasons, without the opportunity to continue to progress in the general education curriculum, continue to receive services specified on the student's IEP, or continue to participate with nondisabled students to the extent they would have in their current placement [Fed. Reg. p. 46715 (2006)].

Per IDEA §300.536 (a) (2), a student has been subjected to a **"pattern of removals"** when all three of the following criteria have been met:

1. A series of removals that total more than 10 school days in a year.
2. A recurrence of substantially similar behavior in a series of removals subject to discipline.
3. Such additional factors as:
 - a. Length of each removal
 - b. Total time removed
 - c. Proximity of removals to each other

The following recommended procedures are based upon the requirements of the IDEA. For compliance purposes, LEA's/PSA's should have written district-wide discipline procedures. Additionally, LEA's/PSA's must maintain documentation of the procedures followed and the services provided. The forms included in this document are recommended to meet these compliance requirements.



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Tracking the Number of Days of Removal

1. The issuing of school removals will include taking immediate steps to ascertain whether the pupil is a student with a disability.
2. The school building administrator will notify the appropriate special education staff of removals issued to a student with a disability.
3. The Discipline Tracking Record (DTR) will be maintained by special education staff to track the number of days of removal¹ issued to the student in order to implement the procedures of this section. The DTR will include a specific description of the problematic behavior.
4. If the length of a removal is not immediately known, the date that the removal length is determined will be documented in column 3 of the DTR.
5. The DTR will be monitored to immediately determine when a removal has been issued that will result in the student having accumulated more than 10 days of removal in the current school year.
6. See the Discipline Tracking Record Instructions for more details on tracking the number of days of removal.

Notification of a Change of Placement as a Result of a Disciplinary Removal

1. Written notification must be sent to the student's parents on the date that the decision is made to make a removal that constitutes a **"change of placement"** because of a violation of a code of conduct.
2. The notice will be sent on the date that is recorded in column 3 of the student's DTR.
3. The notification will inform the parent(s) that a change of placement has occurred and that an MDR meeting will be scheduled.
4. The notification will include a copy of the special education procedural safeguards.
5. Documentation of the parent notification will be maintained.

Manifestation Determination Review (MDR)

1. Following notification pursuant to the above section, the special education staff will take the necessary steps to schedule a MDR meeting that will involve the student's IEP Team.
2. The Meeting Invitation form should be used to schedule the MDR meeting. Additionally, since the outcome of the MDR may result in the need for an interim alternative educational setting (IAES) for the student, it would be expeditious to include the IAES meeting on the meeting invitation as well.



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3. The MDR meeting will be convened to review the problem behavior no later than 10 school days from the date that the decision was made to make a removal that constitutes a change in placement, which is located in column 3 of the DTR.
4. *If subsequent removals occur after the initial MDR meeting*, the removals will be reviewed with respect to their relationship to the other removals on the student's tracking record. If the special education staff determine that the removals constitute a **pattern of removal** as defined by IDEA regulations, or if the student is being issued a single removal that will exceed 10 consecutive school days, the student's parents will be notified as described above and a new MDR meeting will be convened within 10 school days.
5. Documentation of pattern of removal determinations will be maintained in the DTR.
6. If an MDR results in the determination of the behavior to be a manifestation of the student's disability², then the student will be immediately returned to his/her present school placement. If any adjustments to the placement are deemed necessary, an IEPT meeting must be convened.
7. Exceptions to the student's reinstatement described in #6 are as follows:
 - Special Circumstances
 - i. The behavior involved possession of a dangerous weapon³;
 - ii. The behavior involved possession, use, sale, or soliciting of illegal drugs⁴;
 - iii. The behavior involved serious bodily injury⁵ upon another person; or
 - The student's parents agree to a change in placement.
8. The district also reserves the right to deny the reinstatement of the student when it believes that such reinstatement will result in a substantial likelihood of injury to the student or other individuals. In such a circumstance, a special education due process hearing request will be submitted to the Michigan Department of Education.
9. See the Manifestation Determination Review (MDR) Instructions and Information for more details on the MDR process.

Provision of FAPE/Interim Alternative Educational Placements

1. Once a student with a disability has reached 10 days of removal in a school year, services will be provided during any additional days of removal (i.e., beginning with the 11th day) so as to enable the student to continue to participate in the general education curriculum and to progress toward meeting the goals set out in the student's IEP.



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2. In situations where there is not a removal, one of the student's teachers will be appointed to confer with the student's other teachers/service provider(s) and the school administrator to determine the extent of services to be provided during the additional day(s) of removal. These services are documented on the **Discipline Services Record**.
3. In situations where the removal constitutes a removal and the student continues to be removed from school following the conclusion of a MDR (*because the student's behavior was not a manifestation of his disability, because the behavior involved a weapon, illegal drugs, or serious bodily injury, or because a special education due process hearing request has been made regarding concern about a substantial likelihood of injury if the student was to be reinstated*), the determination regarding services during the on-going removal will be made by the IEP Team at the conclusion of the MDR meeting and will be documented on the Interim Alternative Educational Setting (IAES) form. (Note: in some circumstances it may be advisable to document the IAES on an IEP form instead of the IAES form). See number 2 under the MDR section above for meeting notice requirement.
4. The "Notice for Provision of Programs and Services" must be completed and provided to the parent(s) of the student with a disability following an IAES determination.
5. See the Interim Alternative Educational Setting (IAES) Instructions and Information for more details on the IAES process.
6. For compliance purposes, districts must maintain documentation of how and when they provide a Free and Appropriate Public Education (FAPE) to the student. In each of the circumstances above (#2 and #3), the **Discipline Services Log** may be used for this purpose.

Functional Behavior Assessment (FBA) / Behavior Intervention Plan (BIP)

1. A FBA/BIP will be developed in all cases where a MDR determines that the student's behavior is a manifestation of his/her disability. If the student already has a FBA/BIP, then the student's IEP Team will review the BIP and make any necessary revisions.
2. The student's BIP may need to be reviewed/revised in the event subsequent removals are issued to the student. Staff involved in implementing the BIP will decide whether it is appropriate and necessary to do so.
3. In situations where a MDR determines that the behavior is not a manifestation of the disability, a

FBA/BIP will be developed if it is determined appropriate to do so by the IEP Team.

4. The respective IEP Teams for students with disabilities will also review each student's need for behavioral strategies, including positive behavioral supports, as part of the on-going IEP planning process.



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¹ **Days of Removal:** *In the context of recording disciplinary removals issued to students with disabilities;*

- *A partial day counts as a full day of removal and will be recorded as such on the student's on going tracking record.*
- *If the district imposes restrictions or conditions upon the student's return to school, each day, until the conditions are met, is considered a day of removal/removal (e.g., parent meeting, psychiatric evaluation).*

*The term does **not** include;*

- *Bus suspensions, unless this service is on the student's IEP and the student is unable to make it to school as a result of the removal*
- *In-school removals that are continually supervised by a certified teacher or a paraprofessional who is supervised by a certified teacher, and that afford the student the opportunity to progress in the general curriculum, to participate with students without disabilities to the extent that they normally do, and to receive the services specified in the student's IEP*
- *Class removals for no longer than 1 class period. However, consideration should be given when looking at repeat behaviors/removals as part of a "pattern"*
- *Necessary delays in admitting the student due to a lack of required documentation, e.g., immunization records*

² **Manifestation of the student's disability:** *A manifestation is found: a) if the behavior in question is directly and substantially related to/caused by the student's disability, or b) if it is the direct result of the school's failure to implement the student's IEP. If **either** factor is affirmed, then the behavior is a manifestation of the student's disability.*

³ **Dangerous Weapon:** *This means 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 term does not include a pocket knife with a blade of less than 2 ½ inches in length.*

⁴ **Illegal Drugs and Controlled Substances:** *Controlled substances are defined as drugs or other substances identified under schedules I, II, III, IV, or V of Section 812 (c) of Title 21 of the United States Code (see Appendix A). Illegal drugs are defined as controlled substances except where the controlled substance is legally possessed or used under the supervision of a licensed physician, or is legally possessed under other provisions of Federal law.*



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⁵ **Serious Bodily Injury:** *This means bodily injury which involves—a) a substantial risk of death; b) extreme physical pain; c) protracted and obvious disfigurement; or d) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.*



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