

Directions for Discipline for Students with Disabilities

Putting Student Behavior into Context while
Putting Teacher Response into Alignment
with State and Federal Laws

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A Quick Soapbox Stance: Discipline is not Punishment

- When many individuals think of *discipline*, the idea of *punishment* or corrective action comes to mind. *Discipline*, in its purest form, refers to self-control or training. Everyone should have *discipline* in their lives.
- I always prefer to use the word *punishment* when in reference to making corrective action, rather than using the term *discipline*. We need to stop making these terms synonymous.
- When educators mistakenly use *discipline* to refer to *punishment*, we unintentionally imply that *discipline* is harmful and should be avoided. This is a bad implication.

- Punitive actions are a response to a child's poor

Executive Summary

- Both IDEA and Section 504 of the Rehabilitation Act provide protections for students with disabilities. Students with disabilities cannot be unjustly punished for actions they commit which are directly related to their disability.
 - For example, a student identified as having Tourette's syndrome cannot legally be punished for involuntarily making noise in class, if that noise were a result of Tourette's.
- Long term suspension or expulsion from school is prohibited unless a manifestation determination meeting concludes that the student's offending actions were not a result of the student's disability.

Three Exceptions to the Rule

- IDEA states that there are three clear exceptions to the general regulations in regards to removing a student with disabilities from a school [IDEA § 300.530(g)]
- Students with disabilities may automatically be removed from school (and sent to an interim alternative educational setting for up to 45 school days) if they conduct any of the following at school, on school property, or at a school-sponsored function:
 - The student possess a **weapon**
 - The student knowingly possess illegal **drugs** OR attempts to sale a controlled substance
 - The student inflicts **serious bodily injury** onto another person

Services Provided While Suspended

- **For Short-Term Suspensions:** special education services are only required to be provided to a student with a disability if a student without a disability in a would be provided educational services as a result of a similar behavior or situation.
- **For Long-Term Suspensions (11 or more total days):** special education services are required to be given to the student in order to help the student progress toward meeting his or her IEP goals and to continue to participate in the general education curriculum.
 - However, the special education and related services provided are not required to be exactly the same services as were outlined in the student's IEP.

11th Day Rule

- When students with disabilities break a rule in the student code of conduct, a school administrator may choose to enact a punitive action in the form of a short-term suspension.
 - A short-term suspension is defined as the student being removed from the school for not more than ten school days. These days are cumulative throughout the school year (non-consecutive days of suspension accumulate).
 - This action by the school administration does not require any formal changes to the student's IEP. This is often informally referred to as "10 FAPE-free days."
- If the student is suspended into the 11th school day, a manifestation determination meeting must occur.

Manifestation Determination

- Refers to a team meeting when a student with a disability is suspended for greater than 10 school days (which is cumulative.), The team must determine if the student's behavior in question is caused by (or a manifestation of) the student's disability.
- The manifestation determination meeting also determines if the student's behavior is the result of the failure of the LEA and/or the IEP team to properly implement the student's IEP.
- The manifestation determination meeting must occur within 10 school days of the decision to change the student's placement (including long-term suspensions.)

Manifestation Determination, Cont.

- If the team concludes that the behavior is a result of the failure of the IEP team to implement the IEP appropriately, then the student must be reinstated into school and the IEP team will realign their practices to ensure that the IEP will be followed forthright.
- If the team concludes that the student's behavior is a result of the student's disability, then the suspension must be revoked and the student shall be allowed to return to school (unless the behavior falls under one the three previous exceptions.)
 - The IEP team may agree to change the placement of the student, but this is not a requirement.

Manifestation Determination, Cont.

- If the team concludes that the student's behavior is not a result of the student's disability, then the suspension/expulsion may continue.
- If the student's behavior is determined to be a result of the disability, then a functional behavior assessment (FBA) should be conducted.
 - The purpose of the FBA is to determine what changes can be made to the student's IEP which will reduce the likelihood that the behavior will occur again.
 - If an FBA had been conducted prior to the manifestation meeting, a behavior intervention plan (BIP) should be created (or modified, if a BIP is already in place.)

Is this Fair?

- The protections in place in both IDEA and Section 504 legislation are designed to prevent students with disabilities from being unjustly punished for behaviors which are beyond their control.
- One common concern with this model is that some individuals perceive these protections as allowing students with disabilities to break student conduct codes without punitive action.
- This question is often raised by parents of students without disabilities who have a student who was expelled because of a behavior similar to that of a student with a disability who was not expelled.

Yes! It's Fair.

- Using the earlier example of Tourette's syndrome, it becomes clear why the same behavior (making noises during class) should receive different consequences from students who have disabilities than from those who do not have disabilities.
- **Fair not does mean "the same"**. In fact, in this situation, the only way to be "fair" is to treat the behavior of a student with a disability in a different manner than the behavior of a nondisabled student.
- The IEP team (including both LEA representatives and parents) work together to ensure that each student has an appropriate (and fair) education provided to them.