

# **Federal Regulations Governing Discipline of Disabled Students as Specified by IDEA**

## **Definitions**

For the purposes of this policy, the following terms are defined:

*1. Change of Placement:* Any removal of a disabled student from his or her assigned classroom or service specified in an IEP or by multidisciplinary committee responsible for determining placement for other than short-term crisis management, for a period of more than ten consecutive days or cumulative days within the year. Multiple suspensions, which accumulate to more than ten days, may constitute a change in placement and should be evaluated on a case-by-case basis. Factors to be considered in determining whether a pattern of suspension is present include the number and length of suspensions, their proximity to each other, and the total amount of time a student is suspended from school.

Interventions established by a multidisciplinary committee which continue the provision of special education and related services, or interventions which do not substantially interrupt the provision of services identified by a multidisciplinary committee, or those in an IEP, will not count toward the ten-day limit.

A disabled student who brings a firearm (as defined in 18 U.S.C 921) on school property may be placed in an interim appropriate educational setting for not more than 45 days.

*2. Disabled Student:* A student identified as disabled as defined in P.L. 94-142/IDEA or Section 504 of the Rehabilitation Act.

*3. Suspension:* Removal of a student from school for a definite period of time for misconduct. A suspension of more than ten days constitutes a change of placement.

*4. Expulsion:* Removal from school for an indefinite period of time for serious misconduct.

## **Procedures**

1. If a disabled student is charged with misconduct that may result in a suspension, the student and the student's parent(s) or guardian shall be given oral and written notice of the charges. If the student denies the charges, the student, parent or guardian shall be given an oral and written explanation of the facts that form the basis of the proposed suspension. The student, with assistance from a parent or guardian, shall then be given an opportunity to present his or her version of the incident.
2. The Assistant Superintendent shall keep a record of all disciplinary action taken against a disabled student who has been suspended, which, if continued for more than 10 consecutive/cumulative days, would amount to a change in placement.
3. The student shall be accorded all procedural rights under federal and state law for discipline

involving suspension and expulsion including:

- a. notice of the proposed action
  - b. the right to examine the record
  - c. re-evaluation if a significant change in placement is proposed;
  - d. a hearing with representation of counsel
  - e. the right to remain in the current placement during the pendency of the proceedings if consent is not obtained for a change; and
  - f. the right to appeal
4. If the discipline proposed would result in a change in placement, the committee shall determine whether the behavior for which discipline is proposed is related to the child's disability, and whether the child is currently placed in the appropriate least restrictive environment based on a multidisciplinary evaluation.
  5. If the committee determines that the behavior is unrelated to the disability, discipline resulting in a change of placement may be imposed, including suspension or expulsion. A determination that the student's behavior is unrelated to the disability indicates that normal disciplinary measures recommended by the administration are appropriate. The committee's determination may be appealed. The nature and extent of educational services to be provided during any such period of suspension or expulsion, if any, shall be based on recommendations of the multidisciplinary committee, subject to the right to appeal.
  6. If the committee determines that the behavior is related to the student's disability, the student shall remain in the current placement pending completion of the administrative process. Disciplinary action resulting in a change in placement may not be taken against such a student. The committee shall modify the student's placement or IEP as appropriate.
  7. Due process procedures, applicable to suspension or expulsion under state law as provided in sections 167.161 and 167.171, RSMO, shall be provided prior to suspension or expulsion of disabled students.

***Legal Refs: Individual with Disabilities Education Act, P.L. 94-142***

***SS 504 of the Rehabilitation Act of 1973***

***SS 160.261, 162.955-.963, 167.161-171, RSMO.***

***Honig v. Doe, 108 S. Ct. 592 (1988)***

***Americans with Disabilities Act (42 U.S.C. 12101 et seq.)***