



Division of Student, Family, and School Support
Division of Special Education/Early Intervention Services
Division of Accountability and Assessment

In-School Suspension

According to Merriam Webster's on-line dictionary the word "discipline" comes from the Latin word "disciplina" which means teaching, learning. Over the years teachers and schools have developed many techniques to help students learn how to behave appropriately. These techniques include implementing Positive Behavioral Intervention Supports throughout a school, offering opportunities for a timeout, providing various types of behavioral interventions, developing alternative learning programs in a home school, as well as in a separate program outside a home school and removing a student for a suspension. The basic purpose of teaching students appropriate ways to act and control their reactions must form the foundation of any discussion of disciplinary techniques, including suspension.

The Individuals with Disabilities Education Act (IDEA) was reauthorized in 2004 and has been in effect since July 1, 2005. This document addresses the collection of data under 20 U.S.C. §1418 relative to disciplinary removal of children with disabilities due to in-school suspension. 20 U.S.C. §1418 (d)(1)(C) requires the "collection and examination of data to determine if significant disproportionality based on race and ethnicity is occurring in the State and the local education agencies of the State with respect to: the incidence, duration and type of disciplinary actions, including suspensions and expulsions." In order to measure the disproportionality of students with disabilities in the area of suspension, the State and local school systems need to know the rate of suspension for **ALL** students. This resource document will answer critical questions and offer guidance on the topic of in-school suspension.

1. What is an in-school suspension?

Maryland's Code of Maryland Regulations (COMAR) defines in-school suspension as "the exclusion within the school building of a student from the student's regular education program for up to but not more than 10 school days for disciplinary reasons by the school principal" [COMAR 13A.08.01.11B(4)]. In the context of in-school suspension, the term "exclusion" means removal.

2. What is the difference between exclusion in the in-school suspension definition versus exclusion in 13A.08.04?

Exclusion under in-school suspension is a removal from the student's regular education program by the school principal or by the principal's designee for disciplinary reasons. An exclusion as defined in COMAR 13A.08.04, Student Behavior Interventions, means "the removal of a student to a supervised area for a limited period of time during which the student has an opportunity to regain self-control and is not receiving instruction, including special education, related services, or support." What distinguishes the two definitions is that:

- In-school suspension exclusion is a removal for disciplinary reasons; and
- An exclusion as a behavioral intervention is a brief removal for therapeutic, not disciplinary reasons.

3. How do we distinguish between in-school suspension, a therapeutic removal or therapeutic intervention on the Individualized Education Program (IEP) or Behavior Intervention Plan (BIP) for a student with a disability?

The key issues in distinguishing in-school suspension from therapeutic intervention are:

- the purpose of the action;
- who takes the action; and
- the elements described in the student's IEP or BIP.

The definition of in-school suspension indicates the removal is for disciplinary reasons by the principal or principal's designee. On the other hand, interventions listed on a student's IEP or BIP are provided for the purpose of implementing the IEP or BIP and providing services to ensure the provision of a free appropriate public education (FAPE), as well as meet the individualized educational needs of the student. Three examples are:

- If a student is removed from the classroom and placed by the principal or principal's designee on an in-school suspension for a disciplinary reason that is considered to be an in-school suspension.
- If a student with a disability is removed from an instructional setting by the teacher in order to provide a therapeutic intervention that is specifically described on a student's IEP or BIP that is **NOT** [emphasis added] considered an in-school suspension.
- If a student is removed from the instructional setting by the teacher and is given a brief exclusion of not more than 30 minutes, that is **NOT** considered to be an in-school suspension.

4. What is meant by “the student’s regular education program?”

The student’s regular education program is the typical educational services and setting for a student during the school day. For a student with a disability, this includes the services and settings described in the student’s IEP.

5. In Maryland what are the other key elements of the definition of in-school suspension?

- Only the principal or the principal’s designee may determine that a student is to be placed on an in-school suspension.
- The action is taken for disciplinary reasons.
- There is a removal from the student’s regular education program/FAPE services.

In-school suspension must be administered in the same way as all other suspensions, including the fulfillment of the due process and reporting requirements. Failure to follow the due process requirements does not change the fact that the action was an in-school suspension. Failure to follow the due process requirements may result in an audit finding that would require corrective action.

6. Does in-school suspension apply to the IDEA 20 U.S.C. §1415(k) (1) “10 day rule” for students with disabilities?

Yes.

7. If a principal or principal’s designee provides an in-school suspension and then ensures that services are provided during the in-school suspension, is that still considered an in-school suspension?

Yes.

8. What are the required changes relative to the collection and reporting of program information which result from the reauthorization of IDEA 2004?

In addition to the previously collected and reported number of students with disabilities in each data collection category, IDEA 2004 requires the Maryland State Department of Education (MSDE) to also report the percentage of students with disabilities in each data collection category disaggregated by :

- Race/ethnicity;
- Limited English proficiency (LEP) status;
- Gender; and
- Disability.

The percentage is calculated by MSDE. LEP is also referred to as English as a Second Language (ESL). LEP students have a primary or home language other than English and have been assessed as having limited or no ability to understand, speak, read, or write English.

The U. S. Department of Education, Office of Special Education Programs expects states to collect and report the number of students with disabilities subjected to in-school suspension. The collection and analysis of in-school suspension of students with disabilities, by race/ethnicity as compared to nondisabled peers, is required beginning with the 2006-2007 school year.

9. What other data are local school systems (LSS) required to collect and report to MSDE relative to disciplinary actions?

The MSDE must provide for the collection and examination of data to determine if significant disproportionality based on race and ethnicity is occurring in the State and the LSS with respect to:

- The incidence, duration, and type of disciplinary actions, including suspensions and expulsions. The data relative to suspensions and expulsions is also to be disaggregated by race/ethnicity. [20 U.S.C. §1418(d)(1)(C)]

The IDEA 2004, 20 U.S.C. §1418(a)(1)(A)(v) requires MSDE to annually collect and report to the U.S. Department of Education and the public the number and percentage of students with disabilities, by race, ethnicity, limited English proficiency status, gender, and disability category, who are in each of the following categories:

- Removed to an interim alternative educational setting under 20 U.S.C. §1415(k)(1);
- The acts or items precipitating those removals; and
- The number of children with disabilities who are subject to long term suspensions or expulsions.

10. For data collection purposes, what units of time will be used for counting in-school suspension?

When a student is placed in an in-school suspension room by the principal or the principals' designee for any part of the school day up to a half a day, the student should be counted as having a half day suspension for data collection purposes, consistent with the most current Maryland Student Records Manual. When a student is placed in an in-school suspension room by the principal or the principals' designee for more than half of a school day up to a full day, the student should be counted as having a full day suspension for data collection purposes, consistent with the most current Maryland Student Records Manual.

11. What data is to be collected relative to in-school suspension?

The U. S. Department of Education expects states to report an unduplicated count of the number of children ages 3 through 21 with in-school suspensions summing to:

- Ten (10) days or less during the school year for any offense or combination of offenses; and
- Ten (10) days or more during the school year for any offense or combination of offenses.

When calculating cumulative days of in-school suspension, States must include all in-school suspensions of a half school day in length and longer.

12. What action is required if MSDE determines there are significant discrepancies in the rate of long-term suspensions and expulsions of students with disabilities compared to such rates for non-disabled children?

The legal authority for discipline reporting requirements for students with disabilities is found at 20 U.S.C. § 1418. MSDE is required to analyze the data to determine whether there are significant discrepancies in the rate of long-term suspensions and expulsions of students with disabilities compared to such rates for non-disabled children within each LSS. If such discrepancies are occurring, MSDE must review and, if appropriate, require the affected LSS to revise its policies, procedures, and practices relating to the development and implementation of IEPs, the use of behavioral interventions, and procedural safeguards, to ensure that such policies, procedures, and practices comply with the Act.

Upon revision of policies, practices, and procedures, the affected LSS is required to publicly report on the revisions. If significant disproportionality based on race and ethnicity is occurring within a LSS with respect to the incidence, duration, and type of disciplinary actions, including suspensions and expulsions, that LSS may be required to reserve 15 % of their Part B IDEA allocation to provide comprehensive coordinated early intervening services to serve such children.

[20 U.S.C. §1418(d)(2)]

13. What actions will be required of a LSS if there is a determination of significant disproportionality with respect to the discipline/placement of students with disabilities?

If significant disproportionality is identified, MSDE is to:

- Provide for the review and, if appropriate, revision of a LSS' policies, procedures, and practices used in such identification or placement to ensure they comply with the requirements of IDEA 2004;
- Require any LSS identified under 20 U.S.C. §1418(d)(1) to reserve the maximum amount of funds (15%) under 20 U.S.C. §1413(f) to provide comprehensive coordinated early intervening services, particularly to serve children who are significantly over identified.

- Require the LSS to report publicly on the revision of policies, procedures, and practices. [20 U.S.C. §1418(d)(2); 1413(f)]

Examples

In order to try to provide further clarification about the concept of a removal from the student's regular education program a few examples are provided below. These examples are not meant to describe all of the possible situations or the only possible situations that would be considered a removal from the student's regular education program.

- A student who is removed for non-disciplinary reasons from one third grade teacher/classroom and moved to another third grade teacher/classroom is not considered to have been removed from the student's regular education program as described in the definition of in-school suspension.
- A student who is removed from the third grade classroom for disciplinary reasons, sent to the school office and given an in-school suspension by the principal or principal's designee is considered to have been removed from the student's regular education program as described in the definition of in-school suspension.
- A middle school student who is removed from the language arts classroom for disciplinary reasons and given an in-school suspension by the principal or principal's designee where the student can do assigned book work and is supervised by school personnel is considered to have been removed from the student's regular education program as described in the definition of in-school suspension.
- A student with a disability who is removed from the services and setting described on the IEP for disciplinary reasons, sent to the office and given an in-school suspension by the principal or principal's designee is considered to have been removed from the student's regular education program as described in the definition of in-school suspension.

For more information, call 410-767-0858

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