Technical Assistance Bulletin

Division of Early Intervention and Special Education Services | Bulletin # 20-12

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#### Date: October 2020

#### **School Discipline for Students with Disabilities:**

**A Companion to *The Maryland Guidelines for Student Discipline***

**Purpose**

*The Maryland Guidelines for Student Discipline* (revised 2020) provides a framework for addressing student behavioral infractions that can be used by local school systems to provide a safe and supportive climate for all students. The Division of Early Intervention and Special Education Services at the Maryland State Department of Education (MSDE) has prepared a technical assistance bulletin as a supplement to *The Maryland Guidelines for Student Discipline*. This technical assistance bulletin provides additional support and guidance for supporting students with disabilities. This document is designed to serve as a guide to addressing disciplinary issues in a manner that is consistent with the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973, and other relevant federal and state regulations which provide specific procedural protections for students with disabilities. This technical assistance bulletin will help guide each of the local school systems to successfully navigate their way through a disciplinary situation that may involve a student with a disability with the goal of arriving at a more positive outcome.

**Legal Framework**

Exclusionary discipline is a last resort in responding to inappropriate or challenging student behavior; however, there may be times when school staff determine school removal is necessary. The State Board of Education passed new disciplinary regulations in 2014 that apply to the disciplinary removal of all public school students.[[1]](#footnote-2) These regulations provide all public school students with specific due process protections (e.g., notification, opportunity for the student to share their side of the story, right to appeal) and access to educational services during removal.

In addition to these general education regulations, federal and state law create additional procedural protections for students with disabilities facing disciplinary removal. This section explains the process local school systems (LSSs) must follow in removing a student with a disability from the classroom (e.g., suspension or expulsion[[2]](#footnote-3)) under state regulations.[[3]](#footnote-4) A flowchart of this process has been provided in Appendix A.

*Removal of a Student with a Disability for 10 School Days or Less[[4]](#footnote-5)*

Students with disabilities may be removed from school for up to ten school days following the same policies and procedures as general education students. The ten school days may be consecutive (e.g., a suspension for 10 days or less) or cumulative (e.g., a series of shorter suspensions throughout the school year that add up to 10 days or less). During these removals, students with disabilities are not entitled to their special education services; however, LSSs must provide any services that are delivered to general education students during a removal.

 *Removal of a Student with a Disability for More than 10 School Days[[5]](#footnote-6)*

A student with a disability who is removed for more than 10 school days is entitled to additional protections. When a student with a disability is removed for more than 10 school days (consecutive or cumulative), school personnel shall consult with at least one of the student's teachers to determine what services to provide to enable the student to appropriately:

1. progress in the general curriculum; and
2. advance toward achieving the goals of the student's IEP.[[6]](#footnote-7)

A student with a disability *may* be entitled to additional procedural due process known as a manifestation determination.[[7]](#footnote-8) This additional procedural step is required if the removal of the student is a change in placement. A removal of more than 10 consecutive school days is a change in placement, and a series of removals that cumulatively are greater than 10 school days may also constitute a change in placement. To determine if a series of removals is considered a change in placement, the IEP team must consider the:

1. length of each removal,
2. total amount of time the student is removed; and
3. proximity of the removals to one another.[[8]](#footnote-9)

*Manifestation Determination*[[9]](#footnote-10)

If the student’s removal is a change in placement, then the IEP team must meet to hold a manifestation determination review. This meeting must take place within 10 school days of the date the student received the disciplinary action. At the meeting, the IEP team must determine:

1. whether the student's behavior is a manifestation of the student's disability; and
2. the services to be provided during the removal to ensure the provision of a free, appropriate public education (FAPE).

The IEP team must find the student’s behavior was a manifestation of their disability when one or both of the following applies to the behavior that led to the discipline:

1. the behavior was caused by or had a direct and substantial relationship to the student's disability; or
2. the behavior was the direct result of the LSS's failure to implement the student's IEP.

If the IEP team determines the behavior is a manifestation of the student’s disability, then the student must be returned to their placement, unless the parent and LSS agree otherwise. The IEP team should also conduct a functional behavioral assessment (FBA) and implement a behavior intervention plan (BIP) if it has not done so already. If the student does have a behavior intervention plan, the IEP team should review it and revise it if necessary. Furthermore, if the IEP team determines that the behavior was a result of the failure to implement the student’s IEP, it must take steps to remedy those issues.

If the IEP team determines the behavior is not a manifestation of the student’s disability, the student may be disciplined in the same manner as students without disabilities. However, the IEP team must still determine what services are necessary to provide the student with FAPE, albeit in a different setting. The IEP team must also consider the need for a functional behavioral assessment and behavior intervention services to prevent recurrence of the inappropriate behavior.

 *Students Not Yet Eligible for Special Education and Related Services[[10]](#footnote-11)*

A student who has not yet been identified as a student with a disability can assert any of the rights and protections under COMAR 13A.08.03 if the LSS has knowledge that the student was a student with a disability before the student engaged in the behavior resulting in discipline. An LSS is considered to have knowledge if:

1. The parent of the student expressed concern in writing to supervisory or administrative personnel of the LSS or a teacher of the student that the student is in need of special education and related services;
2. The parents have requested an evaluation under COMAR 13A.05.01.04A(1); or
3. The student's teacher or other personnel of the LSS expressed specific concerns about a pattern of behavior demonstrated by the student directly to the director of special education or other LSS supervisory personnel consistent with child-find procedures.

*Interim Alternative Educational Setting[[11]](#footnote-12)*

In limited circumstances, the LSS may remove the student with a disability to an interim alternative education setting (IAES). The LSS may remove the student to an IAES for up to 45 school days if while at school, on school premises, or at a school function, the student:

1. Carries or possesses a weapon;[[12]](#footnote-13)
2. Knowingly possesses or uses an illegal drug;
3. Sells or solicits the sale of a controlled substance; or
4. Inflicts serious bodily injury on another person.[[13]](#footnote-14)

The IEP team will determine the IAES, which must enable the student to:

1. Progress in the general curriculum;
2. Receive the services and modifications included in the student's IEP;
3. Meet the goals of the student's IEP; and
4. Receive services and modifications designed to address the behavior to prevent its recurrence.

If the LSS believes that the behavior of the student is likely to result in injury to the student or others, the LSS may request a due process hearing through the Office of Administrative Hearings to seek a removal to an IAES.

 *Appeal Rights and Resolving Disputes[[14]](#footnote-15)*

If a parent and/or student disputes that the student engaged in the behavior that led to the disciplinary infraction, the student may have a right to appeal the suspension or expulsion. The appeal rights for a suspension or expulsion are governed by state regulations and local school board policy. Extended suspensions and expulsions (i.e. removals for more than 10 school days) are appealable to the local school board consistent with COMAR 13A.08.01.11(C)(4)(f)-(l). Short and long-term suspensions (i.e. removals for 10 school days or less) may be appealed consistent with local school board policy.

The state regulations also provide appeal rights specific to students with disabilities. Parents of the student may file a due process complaint if the parents disagree with the LSS regarding:

1. Disciplinary removals under COMAR 13A.08.03.03(B) and 13A.08.03.05;
2. The determination of whether the student's behavior is a manifestation of the student's disability; or
3. The interim alternative educational setting.

Due process complaints filed under the discipline regulation will be conducted in an expedited manner. The student will remain in the IAES until the administrative law judge issues a decision or the placement term expires, whichever occurs first. The LSS and parent can also agree to a different course of action.

**Supporting Students with Behavioral Challenges**

When a child with a disability experiences behavioral challenges, appropriate behavioral supports may be necessary to ensure the child receives free appropriate public education (FAPE).  As part of the development, review, and as appropriate, revision of the Individual Education Program (IEP), IEP Teams should determine whether behavioral supports should be provided.[[15]](#footnote-16)

In addition to behavioral supports that may be provided directly to children with disabilities, program modifications or supports for school personnel, provided on behalf of the child, may also be necessary to support the child’s involvement and progress in the general education curriculum, advancement towards attaining the annual goals specified in the IEP, and participation in extracurricular and other nonacademic activities. These behavioral responses should be supported by evidence.[[16]](#footnote-17) Schools are strongly encouraged to consider how the implementation of behavioral supports within IEPs could be facilitated through a schoolwide, integrated-tiered framework.

Behavioral supports and program modifications can take many forms and should occur throughout the school day, whether in an in-person or virtual classroom. For example, program modifications that may be used in either an in-person or virtual classroom include pre-planned schedules, timers/clock to signal students, cue cards or manipulatives, opportunities to practice emerging skills, and the use of choice. Supports for transition may be offered through opportunities to check in with a designated staff, setting daily goals, providing the student with a peer to accompany them to an activity, and reviewing rules and expectations before each transition. Program modifications that may be more effectively integrated within the school environment include moving a seat near a positive role model, providing a designated space to take a break, and providing a classroom with minimal visual or auditory distractions.

*Integration of Academic and Behavioral Systems*

Rather than viewing academic and behavior systems as separate entities, schools should look at the possibility of shared benefits resulting from combined efforts.  Academic and behavior supports share a range of common outcomes, including maximizing time for instruction, enhancing student-teacher relationships, fostering school connectedness, and improving academic and social competency for all students (Walker & Shinn, 2002).

Implementing an evidence-based, integrated, tiered behavioral and academic framework will support schools and systems to improve experiences in school climate, emotional well-being, and academic achievement for all children, including students with disabilities. In Maryland, this approach is referred to as an Integrated Tiered System of Supports and is aligned with the Multi-Tiered System of Supports framework. Research on tiered models of support indicate that academic and behavioral supports are most effectively organized within a tiered framework that provides consistent instruction alongside clear behavioral expectations for all children, targeted intervention for small groups not experiencing success, and individualized support and services for those needing the most intensive support.

By supporting students to learn the skills and strategies that will help them reduce the number of disruptive behaviors that occur in a school setting, schools can also provide students with an opportunity to learn appropriate behavior that does not interfere with their learning or the learning of others. When addressing disciplinary infractions, schools must reserve exclusionary disciplinary practices as a last resort. The resulting behavior intervention strategies should be individualized to respond to and reduce disruptive behaviors while supporting the teaching of replacement behaviors.

Involving families in the education of our students is a critical component for the emotional and academic achievement of each student. Schools that seek family engagement and the creation of authentic partnerships between families, school, home, and community will be more successful in understanding and addressing the needs of their students. The school, community, and families can work together to provide the support, structure, and make decisions for the benefit of each student’s achievement when there is a greater focus on fostering more meaningful connections.

*Integrated-Tiered System of Supports*

The implementation of Maryland’s integrated-tiered system of supports focuses on the alignment of initiatives and resources within a school and school system to address the needs of all students. It uses data-based problem-solving to drive a purposefully integrated, comprehensive framework that aligns academic, behavioral, and social-emotional learning in a fully integrated culturally responsive and trauma informed system of support to benefit all students. It offers **predictive, proactive, and responsive** supports to enhance the ability of educators and school staff to meet the needs of all students. The integrated instruction and interventions are delivered to students at varying levels of intensity (tiers) based on individual student needs, often intermingling supports based on the needs of each individual student. The use of tiered supports offers options to staff and students to access varying levels of supports, based on student need, without first having experienced an unsuccessful intervention at a lower tier.

An ITSS is a system where resources and services are organized efficiently on a continuum of

intensity based on students’ academic and behavioral needs.  ITSS offers the potential to create systemic change to more quickly identify and meet the needs of each student. It provides a basis for understanding of how educators can work together to ensure equitable access and opportunity for every student to achieve.

**Proactive** school discipline strategies, often referred to as Tier 1 strategies, are also known as universal strategies because they are implemented for ALL students. They promote self-discipline by explicitly and intentionally teaching students expected behaviors; motivating students to commit to school rules by noticing and encouraging students who follow them; and addressing underlying conditions that provoke students to break school rules by providing opportunities for feedback and pro-social skill building. Because they reduce distractions in the learning environment and improve students’ sense of safety and belonging at school, proactive, inclusive, and restorative discipline practices also impact positive climates.

**Tier 1 strategies** can be viewed as **proactive** or **preventive.**They should be **integrated into academic instruction, school culture, climate, and policies and procedures.** These strategies include:

* **Core instruction** delivering effective differentiated learning opportunities;
* **Universal screenings** inacademic,behavioral, socio-emotional, resilience and/or trauma;
* **Trauma informed**, **culturally responsive** practices implemented by all school staff;
* Positive, preventive, and articulated **expectations** designed to eliminate problematic behavior before it occurs;
* Consistent, predictable, and planned **routines,** implemented consistently;
* **High quality** and **research-based** teachingpractices;
* **Explicit** social-emotional/behavioral **thinking and behavior** integrated into practices and academic instruction;
* **Formative and summative** social-emotional assessments integrated into instruction;
* **Differentiated instruction and response strategies** informed by a student academic and social-emotional present level of performance; and
* **Professional development** provided to sustain proactive classroom management strategies.

**Responsive** school discipline strategies, often referred to as Tier 2 strategies, provide more targeted support to groups of students that need alternative strategies to support their behavioral, and therefore, academic success. Classroom management supports are generated to guide and reinforce behavioral learning, data collection, discuss student outcomes, and monitor progress.

**Tier 2 strategies** can be viewed as **responsive** and are focused on addressing **ongoing behavior preventing the escalation of ongoing struggles.** They should be **integrated into academic instruction, school culture, climate, and policies and procedures.** Tier 2 strategies include:

* **Diagnostic Assessments** made up of academic, social-emotional developmental, trauma and/or resilience indicators;
* **Differentiated, scaffolded, and targeted** teaching and learning;
* **Progress monitoring** with the student(s) and those who are working to affect change on a learning cycle with continuous improvement process focusing on changes in thinking and actions;
* May include **Functional Behavioral Assessments** and **Behavior Intervention Plans;**
* **Behavior instruction** incorporated in and outside of academic instruction;
* **Check-In** & **Check-Out** planned and ongoing;
* **Restorative Circles** or other trauma informed practices integrated into behavioral teaching; and
* Focus on and **reward progress** instead of achievement.

Tier 3 strategies are employed when warranted to address significant behavior concerns, or when the proactive and responsive strategies in Tiers 1 and 2 have not been effective and can also be viewed as **responsive** strategies.  However, they are more individualized, specialized, and intensive in nature to address the specific needs and barriers to success that a student may encounter. Tier 3 interventions are typically used for less that 5% of the total population.

**Tier 3 strategies** can be viewed as **responsive and** should be **integrated into academic instruction, school culture, climate, policies and procedures.** Tier 3 strategies include:

* **Intensive interventions** focused on establishing immediate **physical safety** while acknowledging that **emotional safety** is more important;
* O**ne-on-one or small group** skill specific teaching;
* Strategies **developmentally** aligned to the student's social-emotional and academic present level of performance;
* Behavioral strategies **promoting and reinforcing progress** even when the progress is below age/grade expectations;
* **Progress monitoring**, at least daily, focused on the student's self-identification of growth and struggles; and
* Ongoing and frequent **adult reinforcement.**

The range of behavioral and academic challenges exhibited in schools require predictive, proactive, and responsive practices guided by data and evidence.  A schoolwide integrated tiered system of supports establishes the framework for schools and school systems to identify evidence-based practices and solutions that best meet the needs of their students within a culturally sensitive and trauma informed environment.

Positive relationships are a critical piece of the foundation for effective learning. Teaching, combined with acknowledgement and feedback for positive student behavior will reduce unnecessary discipline practices and promote a climate of belonging and one with greater productivity, safety, and learning.

Coming Soon: *School Discipline Basics & Integrating Supports: A Focus on Students with Disabilities* to be posted as a Guidance Document at: <http://marylandpublicschools.org/programs/Pages/Special-Education/TAB.aspx>

**Questions & Answers:**

***Q: What behaviors can result in disciplinary action?***

**A:** Each Local School System must have student discipline policies and regulations. The Maryland State Board of Education issues [The Maryland Guidelines for a State Code of Discipline](http://marylandpublicschools.org/about/Documents/DSFSS/SSSP/MDGuidelinesforStateCodeDiscipline08072014.pdf) to provide guidance to local school systems as they define disciplinary offenses and appropriate disciplinary consequences.  Local School Systems utilize it as a framework to establish local codes of conduct and to develop discipline-related policies available on each local school system’s website.

***Q: What principles should guide school personnel in their approach to student behavior?***

**A:** Evidence-based practices, within an integrated tiered system of supports are intended to be used to increase the occurrence of behaviors that school personnel want to encourage and to decrease behaviors that school personnel want to lessen or eliminate. COMAR specifies the need for an "array" of positive approaches. Depending on the nature of the challenging behavior, it may be necessary to implement several interventions, strategies, or supports; or a combination of approaches, in order to address the behavior. It is important for the IEP Team to focus on the student’s "target behaviors".  A process of identifying target behaviors, planning how to address them, and deciding on the particular interventions, strategies, and supports is necessary.

***Q: What types of assessments could be completed when a student has behavioral challenges that impede his or her learning or that of others?***

**A:** The IEP team has an obligation to assess a student in all areas of suspected disability. When a student is engaging in challenging behavior, the IEP team should consider whether there are unidentified areas of disability that need to be addressed. Therefore, the IEP team should consider, as appropriate, whether additional assessments are needed, such as:

* Educational Assessment
* Cognitive Assessment
* Psychological Assessment
* Intelligence Quotient Testing
* Occupational Therapy Assessment
* Speech and Language Assessment including Audiological Assessment
* Assistive Technology Assessment
* Physical Therapy Assessment
* Functional Behavioral Assessment

***Q: When should the IEP include positive behavioral interventions, restorative practices, or other interventions?***

**A:** In a [*Dear Colleague*](https://sites.ed.gov/idea/files/dcl-on-pbis-in-ieps-08-01-2016.pdf)letter dated August 1, 2016, the United States Department of Education reiterated that: “Under the IDEA, the primary vehicle for providing FAPE is through an appropriately developed individualized education program (IEP) that is based on the individual needs of the child.”[[17]](#footnote-18) In the case of a child whose behavior impedes the child’s learning or that of others, the IEP Team must consider – and, when necessary to provide FAPE, include in the IEP – the use of positive behavioral interventions and supports, and other strategies, to address that behavior.[[18]](#footnote-19)

***Q: What data should the IEP team consider when conducting a manifestation determination***

***review?***

A: During the manifestation determination review, the IEP team must make a determination about whether (1) the behavior was caused by or had a direct and substantial relationship to the student's disability; or (2) the behavior was the direct result of the LSS's failure to implement the student's IEP. In order to make this determination, the IEP team shall review all relevant information in the student's file, including the child’s IEP, any teacher observations, and any relevant information provided by the parents to determine [20 U.S.C.A. § 1415(k)(1)(E)(i)]. The conversation at the manifestation determination meeting needs to be centered on the student's disability and whether the school team followed that student's IEP and/or BIP. It is not appropriate to make a manifestation determination based on whether the student knew right from wrong or whether the student is contrite for their actions. The IEP team must be able to connect the disability and implementation data reviewed to the IEP team's manifestation determination decision, and the IEP team should document the basis for their final decision.

**Resources:**

#### **Integrated Multi-Tiered System of Supports**

Center on Multi-Tiered System of Supports: [Essential Components of MTSS](https://mtss4success.org/essential-components)

Kent McIntosh, University of Oregon: [Integrated MTSS Overview](https://assets-global.website-files.com/5d3725188825e071f1670246/5d7bd8a446d296b53108ea52_integrated%20mtss%20overview%202017-5-19.pdf)

PBIS Rewards: What is MTSS?

Response to Intervention Action Network: [Integrating Academic and Behavior Supports within an RtI Framework](http://www.rtinetwork.org/learn/behavior-supports/integrating-behavior-and-academic-supports-general-overview)

#### **Positive Behavioral Interventions and Supports**

Center on Positive Behavioral Interventions and Supports: [PBIS Resources](https://www.pbis.org/)

National Center on Intensive Intervention*:* [Returning to School: Considerations for Students with the Most Intensive Behavioral Needs](https://intensiveintervention.org/sites/default/files/Return_School_Intensive_Behavior_508.pdf)

**The United States Department of Education, Office of Special Education and Rehabilitation Programs**

[Letter on the Inclusion of Behavioral Supports in Individualized Education Programs](https://www2.ed.gov/policy/gen/guid/school-discipline/files/dcl-on-pbis-in-ieps--08-01-2016.pdf)

#### **Maryland State Department of Education, Division of Early Intervention and Special Education Services, Technical Assistance & Guidance Documents**

#### [Gen. Ed - Student Behavior Interventions: Restraint & Seclusion](http://marylandpublicschools.org/about/Documents/DSFSS/SSSP/TA/GuidanceStudentBehaviorInterventionsRestraintSeclusion.pdf)

#### [19-02 - Student Behavior Interventions: Physical Restraint and Seclusion - Supplement on Students with Disabilities](http://marylandpublicschools.org/programs/Documents/Special-Ed/TAB/19-02_StudentBehaviorSupplementSWD_Final-508.pdf)

#### [Supporting Students with Disabilities During COVID-19 and Afterwards](http://marylandpublicschools.org/programs/Documents/Special-Ed/TAB/SpecialEducatorsGuideCOVID-19.pdf)

#### [Maryland Procedural Safeguards Notice](http://marylandpublicschools.org/programs/Documents/Special-Ed/mpsn/MDProceduralSafeguardsNoticeEnglish.pdf): English [Amharic](http://marylandpublicschools.org/programs/Documents/Special-Ed/mpsn/AMHARICMDProceduralSafeguardsNotice.pdf) | [Arabic](http://marylandpublicschools.org/programs/Documents/Special-Ed/mpsn/ARABICMDProceduralSafeguardsNotice.pdf) | [Bengali](http://marylandpublicschools.org/programs/Documents/Special-Ed/mpsn/BENGALIMDProceduralSafeguardsNotice.pdf) | [Burmese](http://marylandpublicschools.org/programs/Documents/Special-Ed/mpsn/BURMESEMDProceduralSafeguardsNotice.pdf) | [Chinese](http://marylandpublicschools.org/programs/Documents/Special-Ed/mpsn/CHINESEMDProceduralSafeguardsNotice.pdf) | [French](http://marylandpublicschools.org/programs/Documents/Special-Ed/mpsn/FRENCHMDProceduralSafeguardsNotice.pdf) | [Gujarati](http://marylandpublicschools.org/programs/Documents/Special-Ed/mpsn/GUAJARATIMDProceduralSafeguardsNotice.pdf) | [Haitian](http://marylandpublicschools.org/programs/Documents/Special-Ed/mpsn/HAITIANCREOLEMDProceduralSafeguardsNotice.pdf) | [Hebrew](http://marylandpublicschools.org/programs/Documents/Special-Ed/mpsn/HEBREWMDProceduralSafeguardsNotice.pdf) | [Hindi](http://marylandpublicschools.org/programs/Documents/Special-Ed/mpsn/HINDIMDProceduralSafeguardsNotice.pdf) | [Japanese](http://marylandpublicschools.org/programs/Documents/Special-Ed/mpsn/JAPANMDProceduralSafeguardsNotice.pdf) | [Korean](http://marylandpublicschools.org/programs/Documents/Special-Ed/mpsn/KOREANMDProceduralSafeguardsNotice.pdf) | [Nepali](http://marylandpublicschools.org/programs/Documents/Special-Ed/mpsn/NEPALIMDProceduralSafeguardsNotice.pdf) | [Polish](http://marylandpublicschools.org/programs/Documents/Special-Ed/mpsn/POLISHMDProceduralSafeguardsNotice.pdf) | [Portuguese](http://marylandpublicschools.org/programs/Documents/Special-Ed/mpsn/PORTUGUESEMDProceduralSafeguardsNotice.pdf) | [Russian](http://marylandpublicschools.org/programs/Documents/Special-Ed/mpsn/RUSSIANMDProceduralSafeguardsNotice.pdf) | [Spanish](http://marylandpublicschools.org/programs/Documents/Special-Ed/mpsn/SPANISHMDProceduralSafeguardsNotice.pdf) | [Tagalog](http://marylandpublicschools.org/programs/Documents/Special-Ed/mpsn/TAGALOGMDProceduralSafeguardsNotice.pdf) | [Turkish](http://marylandpublicschools.org/programs/Documents/Special-Ed/mpsn/TURKISHMDProceduralSafeguardsNotice.pdf) | [Urdu](http://marylandpublicschools.org/programs/Documents/Special-Ed/mpsn/URDUMDProceduralSafeguardsNotice.pdf) |

#### [Vietnamese](http://marylandpublicschools.org/programs/Documents/Special-Ed/mpsn/VIETNAMESEMDProceduralSafeguardsNotice.pdf)

**APPENDIX A: School Discipline Flowchart**

\*This flowchart provides a step by step walk through of the discipline process for students with disabilities under state regulations.

Is this a student with a disability (i.e. a student with an IEP or Section 504 plan)?

Is the removal for more than 10 consecutive school days?

Or

Does the removal constitute a pattern of removals for more than 10 school days?

Is this a student with a suspected disability?

Follow standard discipline procedures for all students.

For IEP students who have been removed for 10 days:

Determine the extent to which services are needed, so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP.

Hold a manifestation determination meeting.

* Was the behavior caused by or does it have any direct and substantial relationship to the student’s disability?
* Was the behavior caused by the school’s failure to implement the IEP/Section 504 plan?

Yes

Yes

No

No

Follow standard discipline procedures for all students.

IEP Only: Determine the extent to which services are needed, so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP.

Follow standard discipline procedures for all students.

No

No

Either—

Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the student;

or

If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior.

Yes

Return the student to the placement from which the student was removed, unless the parent and the LEA agree to a change of placement as part of the modification of the behavioral intervention plan.

And

The parent may assert any of the due process protections under the IDEA, including requesting an expedited eligibility evaluation. for eligibility.

Yes

For more information, call 410-767-0249

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1. COMAR 13A.08.01.11. [↑](#footnote-ref-2)
2. State regulations define in-school suspension, out-of-school suspensions, and expulsion. See COMAR 13A.08.01.11(B). [↑](#footnote-ref-3)
3. COMAR 13A.08.03. (Discipline of Students with Disabilities). [↑](#footnote-ref-4)
4. COMAR 13A.08.03.03(A). [↑](#footnote-ref-5)
5. COMAR 13A.08.03.03(B). [↑](#footnote-ref-6)
6. The provision of services after the 10th day of removal applies only to students with IEPs. Section 504 students must be provided with the same services provided to all students during a removal. [↑](#footnote-ref-7)
7. Students with IEPs and students with 504 plans are both entitled to manifestation determinations consistent with COMAR 13A.08.03.08. [↑](#footnote-ref-8)
8. COMAR 13A.08.03.05(B). [↑](#footnote-ref-9)
9. COMAR 13A.08.03.08. [↑](#footnote-ref-10)
10. COMAR 13A.08.03.10. [↑](#footnote-ref-11)
11. COMAR 13A.08.03.06. [↑](#footnote-ref-12)
12. A weapon is defined as 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. (34 C.F.R § 300.530(i)(4); 18 U.S.C. § 930(g)(2)). [↑](#footnote-ref-13)
13. Serious bodily injury is bodily injury that 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. (34 C.F.R § 300.530(i)(3); 18 U.S.C. § 1365(h)(3)). [↑](#footnote-ref-14)
14. COMAR 13A.08.03.09. [↑](#footnote-ref-15)
15. 34 CFR §300.320(a)(4). [↑](#footnote-ref-16)
16. 34 CFR §300.320(a)(4). [↑](#footnote-ref-17)
17. See 34 CFR §§300.17 and 300.320-300.324. [↑](#footnote-ref-18)
18. 34 CFR §§300.324(a)(2)(i) and (b)(2); and 300.320(a)(4). [↑](#footnote-ref-19)