



DISCIPLINE FOR SPECIAL EDUCATION STUDENTS

Federal IDEA requirements for special education discipline are found in IDEA § 300.530. Michigan state rules (MARSE) do not have any requirements for discipline beyond what is stated in IDEA.

1. Authority of School Personnel, IDEA § 300.530

When a special education student is disciplined, the school may discipline the student just like other general education students for the first 10 days of suspension.

On the 11th day of suspension or removal, the school must determine if the removal will cause a Change in Placement. A Change in Placement may occur because the student is suspended for more than 10 consecutive days OR the student has been subjected to a series of removals that constitutes a pattern.

A series of removals constitutes a pattern because (1) the series of removals totals more than 10 school days in a year and (2) the student's behavior is substantially similar to behavior in previous incidents resulting in removal and (3) because of such additional factors as the length of each removal, the total time the student has been removed, and the proximity of the removals to each other.

If a change of placement occurs, the school must *immediately* provide FAPE and document services, regardless of the seriousness of the offense, and must notify the parent of the discipline decision and provide procedural safeguards.

The school must also conduct a Manifestation Determination Review (MDR) within *10 school days* of the decision to remove the student. The MDR will determine the relationship between the student's disability, the quality of IEP implementation, and the behavior in question, and may result in the team proceeding with the pending disciplinary action, an immediate return to school, or the IEP Team meeting to revise the student's IEP and/or Behavior Intervention Plan (BIP) or conducting a Functional Behavioral Assessment (FBA).

If the student's behavior involved weapons, drugs, and/or serious bodily harm, the student may attend an alternate education setting for no more than 45 days, even if the behavior was related to the student's disability.

2. What Parents Can Expect

Your child can be disciplined just like other general education students for the first 10 days of suspension. After the first 10 days of suspension, your child receives special rights & protections – it is federal law

Although the content of this page reflects general aspects of the law on discipline of students with disabilities as of the date of its creation, it is not intended to constitute or serve as legal advice for any particular student scenario. Districts should consult legal counsel for advice with regard to specific situations.

Your Child's Right and Protections

After the first 10 days of discipline, your child's school will determine if your child qualifies for special rights and protections based on the total days of suspension and if there is a pattern of related behavior. Your child's school may then review whether the behavior is related to his/her disability and if his/her IEP was implemented appropriately. Your child will continue to receive a free, appropriate public education when required under special education discipline law

Your Child's Services

Your child can be disciplined just like a general education student for the first 10 days of suspension. These 10 days are a "disciplinary interruption" of your child's free and appropriate public education (FAPE) and the school does not have to provide special education services on these days. After the first 10 days of suspension, your child's school must provide access to FAPE and document any services provided.

Your Rights as a Parent

As a parent, you have the right to receive notice of discipline decisions and procedures, to participate in meetings to determine if your child's behavior is related to her disability, and to participate in IEP team meetings.

Special Circumstances

If your child's behavior involved weapons, drugs, and/or serious bodily harm, the school may remove your child to an alternate educational setting for no more than 45 days, even if the behavior was related to your child's disability.

3. Consequences of Suspension & Expulsion

In the 2010-11 school year, Michigan's 226,680 students with IEPs lost 251,410 instructional days to suspension and expulsion (Special Education Child Count Data). National and state data continue to indicate students with IEPs (especially minority students) are suspended and expelled more than general education students. Removing a student from school can contribute to low attendance, educational disengagement, lost instructional time, low academic achievement, dropout, and poor outcomes after leaving school.

Although the content of this page reflects general aspects of the law on discipline of students with disabilities as of the date of its creation, it is not intended to constitute or serve as legal advice for any particular student scenario. Districts should consult legal counsel for advice with regard to specific situations.