This policy statement from the Michigan Department of Education interprets federal provisions and the laws of the state as they may pertain to children receiving special education services. It describes disciplinary procedures for students already receiving special education services, students not yet eligible for special education, students receiving a suspension for 10 school days or less, students receiving a suspension for more than 10 days, students removed for bringing drugs or weapons to school, and students removed for dangerous behavior not involving drugs or weapons. Flowcharts are provided for illustrating legal requirements for parental notice, manifestation determination, functional behavioral assessments, and behavior intervention plans. (CR)
Special Education Considerations in Student Discipline Procedures

Michigan Department of Education
Office of Special Education and Early Intervention Services

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Whenever a superscript (1, 2, or 3) is used in a box in the following flow charts, the reader may refer to this page for an explanation of the action or decision involved.

1. On the day on which the decision is made to remove the student, the school provides parent notice of special education rights and procedures

This box refers to notice given to the parent whenever the school proposes to begin a discipline procedure that will result in an accumulation of more than 10 school days of removal in a school year for a student who is receiving special education. Such a removal constitutes a proposed change in placement and triggers a parent notice required for special education action by the school. The notice is given on the day on which the decision to remove the student is made. The parents must be notified of the decision and provided procedural safeguards.

2. The individualized educational planning team (IEPT) reviews the need for a Functional Behavior Assessment (FBA) and Behavior Intervention Plan (BIP)

This box refers to an IEPT meeting to consider the status of an FBA and BIP for the student. Within 10 business days after first removing a student for more than 10 school days, the IEPT must:
1. Review the appropriateness of a BIP if one already exists.
2. If a BIP does not exist, plan an FBA to complete a BIP as soon as practicable.
3. When further removals occur during the school year, meet to review the BIP upon request of any IEPT member.

3. Does the IEPT consider the behavior a manifestation of the disability?

This box refers to an IEPT meeting (held within 10 school days of the decision to remove a student from school for discipline) in which the relationship between the behavior subject to discipline and a disability are determined. A behavior is not considered a manifestation of a disability only if:

A. The IEPT first considers:
   1. Evaluation and diagnostic results;
   2. Observations of the student;
   3. The individualized education program (IEP) and placement.

B. And then determines that all of the following are true:
   1. The IEP and placement were appropriate;
   2. Supplementary aids and services were provided consistent with the IEP;
   3. Behavioral interventions were provided consistent with the IEP;
   4. The student understood and could control the behavior.
An incident of student behavior occurs that results in a disciplinary removal from school

Is the student receiving special education?  
Yes  
No See Student Not Yet Eligible for Special Education (p. 3)

Is this removal for 10 school days or less?  
Yes See Removal - Not A Change in Placement (p. 4)

No

Is this removal for drugs or weapons?  
Yes See Change in Placement: Drugs or Weapons (p. 6)

No

Is this removal for dangerous behavior not involving drugs or weapons?  
Yes See Change in Placement: Dangerous Behavior (p. 7)

No See General Change in Placement (p. 5)
Student Not Yet Eligible for Special Education
(Student is not currently in referral and does not currently receive special education)

School sends parent notice of disciplinary action according to general education policy.

Are any of the following true?
1. Parent expressed concerns in writing to school personnel?
2. Student behavior or performance shows need for special education?
3. Parent request for special education evaluation prior to incident?
4. Teacher or other personnel have expressed concern via Child Find or referral procedures?

No

Is parent or other person requesting an evaluation after the incident?

No

Immediate evaluation per district procedures

Yes

Immediate evaluation per district procedures

Student may assert protections from procedures for eligible students until eligibility is resolved (see other charts)

District implements general education discipline procedures which can include removal without educational services (concurrent with evaluation if requested after the incident).
Removals Not A Change of Placement
(10 or less school days per incident)

School sends parent notice of disciplinary action according to general education policy.

Has student accumulated more than 10 school days of removal in the school year?

Yes

On 11th school day of removal in a school year, school provides special education services determined by school and special education teacher.

Do a series of removals form a pattern of exclusion (change of placement) taking into account:
1. length of removals;
2. total amount of time removed;
3. proximity of removals to each other?

Yes

See General Change in Placement (p. 6)

No

District implements general education discipline procedures

2The IEPT reviews the need for a Functional Behavior Assessment (FBA) and Behavior Intervention Plan (BIP)
Removals - General Change of Placement

1 On the day on which the decision is made to remove the student, the school provides parent notice of special education rights and procedures.

2 The IEPT reviews the need for a Functional Behavior Assessment (FBA) and Behavior Intervention Plan (BIP)

3 Does the IEPT consider the behavior a manifestation of the disability?

- Yes
  - General disciplinary procedures are terminated. The student returns to placement of last IEP or other placement determined by the IEPT.

- No
  - The IEPT meets to determine services that will occur when the school implements general education discipline procedures. The services must:
    1. enable student to appropriately progress in the general curriculum, and
    2. appropriately advance toward IEP goals.

School and parent agree on manifestation determination and new IEP

Begin the new IEP decided by the IEPT.

Parent disagrees and requests due process hearing

Parent may request expedited hearing to appeal the manifestation determination and/or services. During due process, student placement remains in the last uncontested IEP.

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Change of Placement: Drugs or Weapons

1 On the day on which the decision is made to remove the student, the school provides parent notice of special education rights and procedures.

2 The IEPT reviews the need for a Functional Behavior Assessment (FBA) and Behavior Intervention Plan (BIP).

3 Does the IEPT consider the behavior a manifestation of the disability?

IEPT meets to determine services that will occur in the interim alternative educational setting (IAES) for up to 45 calendar days (and consistent with general education discipline procedures). The IAES must:
1. enable the student to continue to progress in the general curriculum; and
2. continue services and modifications to enable the student to meet the goals in the IEP; and
3. include services and modifications that are designed to prevent the behavior from recurring.

School and parent agree on manifestation determination, IAES, and services

Parent disagrees and requests due process hearing

IAES and services decided by the IEPT begins.

Parent may request expedited hearing to appeal the manifestation determination and/or IAES. During due process, student placement remains in the IAES proposed by the school.
Change of Placement: Dangerous Behavior

1. On the day on which the decision is made to remove the student, the school provides parent notice of special education rights and procedures.

2. The IEPT reviews the need for a Functional Behavior Assessment (FBA) and Behavior Intervention Plan (BIP).

3. Does the IEPT consider the behavior a manifestation of the disability?
   - Yes
     - Student returns to placement of last uncontested IEP. Agency must take immediate steps to remediate any deficiencies in the IEP.
   - No
     - Manifestation appeal unsuccessful

   Manifestation appeal successful

   Relevant disciplinary procedures applicable to children without disabilities may be used. (Service standards are the same as for General Change of Placement, see p. 5).

   Expediting Hearing - Manifestation
   A hearing officer may also, at district request, order a placement to an IAES for not more than 45 calendar days. (Service standards are the same as for Drugs and Weapons, see p. 6). Other placement may be used if school and parent agree.

   School placement proposal granted

   Parent appeal?

   Placement ordered by hearing officer begins.

   Placement ordered by the hearing officer is in effect pending further appeal.

   School placement proposal rejected

   Parent may appeal manifestation determination. Student continues placement in effect for last uncontested IEP during manifestation hearing.

   During parent appeal, district may also request hearing to propose placement of the student in an IAES.

   Student continues placement in effect for last uncontested IEP during appeal.
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