

Procedures When Disciplining Children with Disabilities

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For families who have a child that receives Special Education, the Colorado Department of Education has created a Procedural Safeguards Notice called Parents and Child Rights in Special Education. [The blue booklet](#) you receive at each IEP meeting is exactly this. One of the sections within the booklet is dedicated to the procedures that take place when disciplining children with disabilities. Students who are on Individualized Education Programs (IEPs) can still be subjected to disciplinary measures, such as suspension, which are applied to students who do not have disabilities and/or IEPs as well. However, if a child with a disability violates a code of student conduct, and school personnel remove that student for more than 10 school days within the same school year, a procedure called Manifestation Determination Review (MDR) is set in motion.

“Upon the 11th school day of suspension or removal, when such suspension or removal does not result in a disciplinary change of placement, educational services shall be provided 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.” (The Student Conduct Handbook for Cherry Creek Public Schools titled “[Discipline of Students with Disabilities](#)” (JKD-2) begins on page 48.) When the removal is not a “change of placement”, then school personnel, with at least one of the student’s teachers, will determine the extent to which services are needed.

When a student with a disability is removed from his/her current educational placement, it *is considered* to be a “change of placement” when certain criteria are met. That criterion includes instances when a student is removed for more than 10 school days in a row, *or* there have been multiple removals that follow a pattern of some sort. The decision if the pattern of removals constitutes a change of placement is done on a case-by-case basis, and families do have the right to challenge that decision. This means it can be reviewed through due process and judicial proceedings.

Manifestation Determination Reviews (MDRs) are set in place within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct. The local education agency (school district), the parent(s) and relevant members of the IEP team will have a meeting to review all pertinent information in the student's file. This is done to see if the conduct was the result of the local educational agency's failure to implement the IEP; or if it was caused by, or had a direct and substantial relationship to the child's disability. For more information, see the [Colorado Department of Education's IEP Procedural Guidance: Exceptional Student Services Unit Technical Assistance Manifestation](#); the Manifest Determination is on page 52.

If the members of the IEP team come to the conclusion that the conduct was a manifestation of the child's disability, then the behavior intervention plan and IEP are reviewed, updated and changed as appropriate. This might include revising the Behavior Plan and/or adding any missing needs or accommodations to the IEP to help ensure the student is properly supported. If the student does not already have a behavior intervention plan in place, then the necessary assessments are done to create one. With the exception of several specific special circumstances, once the behavior plan is addressed, the student may generally return to the placement that he/she had previously been in.

Resources

Colorado Department of Education, Colorado IEP Forms; Procedural Safeguards

The Student Conduct Handbook for Cherry Creek Public Schools, "Discipline of Students with Disabilities (JKD-2)"

Aurora Public Schools Safe Schools Policies and Regulations Handbook, "Discipline of Students with Disabilities"

Colorado Department of Education IEP Procedural Guidance: Exceptional Student Services Unit Technical Assistance Manifestation