

Discipline Procedures

Prior to enactment of the IDEA Amendments of 1997, the statute only specifically addressed the issue of discipline in a provision that allowed school personnel to remove a student to an interim alternative educational placement for up to 45 days if the student brought a gun to school or to a school function.

The IDEA 1997 Amendments incorporated prior court decisions and Department policy that had held that:

- schools could remove a student for up to ten school days at a time for any violation of school rules as long as there was not a pattern of removals;
- a student with a disability could not be suspended for long-term or expelled from school for behavior that was a manifestation of his or her disability; and
- services must continue for children with disabilities who are suspended or expelled from school.

In addition, the IDEA 1997 Amendments:

- expanded the authority of school personnel regarding the removal of a student who brings a gun to school, to also apply to all dangerous weapons and to the knowing possession of illegal drugs or the sale or solicitation of the sale of controlled substances; and
- added new authority for schools to request a hearing officer to remove a student for up to 45 days if keeping the student in his or her current placement is substantially likely to result in injury to the student or to others.

The IDEA Amendments also added new provisions that require schools to evaluate a student's troubling behavior and develop positive behavioral interventions to address behavior, and that describe how to determine whether the behavior was a manifestation of the student's disability.

The final regulations incorporate the statutory provisions described above, and provide additional specificity on a number of key issues:

Removals of Up to Ten School Days at a Time:

The final regulations clarify that school personnel may remove a student with a disability for up to ten school days and for additional removals of up to ten school days for separate acts of misconduct as long as the removals do not constitute a pattern.

Providing Services During Periods of Disciplinary Removal

- Schools do not need to provide services during the first ten school days in a school year that a student is removed.
- During any subsequent removal that is for ten school days or less, schools provide services to the extent determined necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals of his or her IEP. In cases involving removals for ten school days or less, school personnel, in consultation with the student's special education teacher, make the service determination.
- During any long-term removal for behavior that is not a manifestation of a student's disability, schools provide services to the extent determined necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals of his or her IEP. In cases involving removals for behavior that is not a manifestation of the student's disability, the student's IEP team makes the service determination. MN statutes place additional protections/requirements on LEAs related to students with disabilities removal from school (see Chapter 11B, Minnesota Rule – Pupil Fair Dismissal Act).

Vision Statement

Students Experiencing Success In School And Life