



Behavior and Discipline for Students with Disabilities Frequently Asked Questions

The IDEA provides additional disciplinary protections to students with disabilities. These disciplinary protections are rooted in civil rights law and are provided in addition to – not in lieu of – the discipline protections offered to general education students. **The disciplinary protections presume the child violated the student code of conduct.** These protections are not a second bite at the guilt-innocence apple. Whether a violation of the student code of conduct occurred is a general education question, answered through general education procedures.

Schools should note that research has consistently shown suspensions and expulsions are not effective means of improving student behavior and may make it more difficult for school staff to improve students' educational outcomes. Exclusionary discipline practices, such as suspension and expulsion, have been shown to negatively affect educational outcomes, overall well-being, and social-emotional development, and can have lifelong adverse consequences. Students subjected to these practices not only lose valuable instructional time, but may also lose a sense of belonging and engagement in school, and are at increased risk of being retained in grade, dropping out of school, or becoming involved in the criminal justice system.

Students with disabilities are suspended at approximately twice the rate of their nondisabled peers across all grade levels. United States Commission on Civil Rights, [*Beyond Suspensions: Examining School Discipline Policies and Connections to the School-to-Prison Pipeline for Students of Color with Disabilities*](#),¹⁰ (2019).

Upholding these protections is therefore critical.

General Discipline and Removal Information

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General Discipline and Removal Information

Q1: Can a student with a disability be disciplined?

Yes.

The IDEA provides specific disciplinary protections that are triggered by a disciplinary removal. Accordingly, minor and non-exclusionary disciplinary consequences that do not constitute removals—such as loss of privileges, after-school detention, Saturday school, community service, etc.—do not trigger IDEA’s disciplinary protections. These consequences may be applied to students with disabilities in the same manner as students without disabilities, so long as they do not interfere with the student’s right to a free appropriate public education (FAPE).

Example: A student violates the school’s technology usage policy. Normally, loss of computer privileges is the consequence imposed. However, the student requires a computer to receive their assistive technology in accordance with their IEP. The school may impose disciplinary consequences but complete loss of all technology privileges would not be appropriate. This is not because of the IDEA disciplinary protections, but rather the student’s right to FAPE.

With respect to removals, a student with a disability may be removed for up to 10 school days in a school year in the same manner as a student without a disability. During those first 10 school days of removal, the student is entitled to no more and no less than similarly situated general education students. Therefore, the district is not required to provide services during those days unless it provides services to students without disabilities who are similarly removed.

For any removal beyond the first 10 school days, IDEA disciplinary protections apply. However, the specific protections that apply will depend on whether the removal constitutes a change in placement. (See Q17)

Even though IDEA’s disciplinary protections are not triggered by 10 or fewer days of removal, the United States Department of Education has criticized the characterization of those first 10-days as “free days” and emphasized that this does not mean that the IDEA provides “school personnel with the broad authority to implement short-term removals without restriction and without regard to whether the child’s IEP is properly addressing his or her behavioral needs.” [Dear Colleague Letter on Supporting Behavior of Students with Disabilities 12 \(Aug. 1, 2016\)](#) . Rather, frequent short-term removals may signal that a student’s IEP, or its implementation, is not adequately addressing behavioral needs, which can result in a denial of FAPE.

The Department warns against using short-term removals without considering whether additional supports are needed and emphasizes that IEP teams must continually ensure the IEP is appropriately tailored to the student’s individual needs.

Q2: What are exclusionary disciplinary actions?

OSEP has broadly defined exclusionary discipline as any exclusion “whether on a short-term or long-term basis, of a child with a disability from a class, school, or other educational program or activity for violating a school rule or code of conduct.” [Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA’s Discipline Provisions, 81 IDELR 138 \(OSEP 2022\)](#). This includes, but is not limited to, actions such as the use of study carrels, time-outs, restrictions on privileges, as well as, in-school suspensions, out-of-school suspensions, bus suspensions, and expulsions. Thus, exclusionary disciplinary actions include both actions that may or may not constitute a disciplinary removal.

Importantly, even if a particular exclusionary practice does not constitute a disciplinary removal when used briefly or in isolation, it may rise to that level when used repeatedly or for extended periods. OSEP has emphasized that patterns of practices such as frequent office referrals, extended time-outs, or prolonged restrictions on privileges can impede a student’s access to the general education curriculum and under such circumstances, constitute a disciplinary removal.

Q3: What constitutes “an extended period of time?”

The IDEA does not establish a specific time threshold. Instead, the determination is functional. The question is whether the student’s time in the office, sensory room, special education classroom, or other separate setting was of such a nature or duration that the student was no longer able to:

- appropriately participate in the general education curriculum,
- receive the services specified in the IEP, and
- participate with nondisabled peers to the extent provided in the placement.

Thus, even a relatively short exclusion could count if it meaningfully deprives the student of access. Conversely, not every brief de-escalation or temporary removal will necessarily be a removal. The analysis turns on function and access, not simply the clock.

Q4: What is a disciplinary removal?

A disciplinary removal (also referred to as just “removal”) occurs when a student is removed from their current educational placement for behavior-related or disciplinary reasons.

Mistakenly, suspensions and expulsions are the only actions thought to constitute a removal. While suspensions and expulsions are removals, removals occur in a wide variety of ways, as noted in Q2. The following are examples of actions that constitute a removal but are commonly unrecognized as such:

- administratively shortened school days,
- requesting that a student be picked up from school,
- requiring a student to stay home until a meeting or condition is met (e.g., risk assessment or psychological evaluation),
- administratively moving a student to virtual instruction or other alternate setting, and
- extended exclusion from instruction (e.g., repeated time out, being sent to the hallway, or a pattern of office referrals).

It is the **impact on the student’s access** to their educational placement that determines whether a removal occurred, not the label used by the school.

To determine whether an action constitutes a removal, the law asks:

1. Will the child be able to appropriately participate in the general education curriculum?
2. Will the child be able to receive the services specified in the child’s IEP?
3. Will the child be able to participate with children without disabilities to the extent provided in the child’s current placement?

Iowa admin. Code r. 281-41.536(3). If the answer to **any** of these questions is no, the action is considered a disciplinary removal. This same analysis applies when determining whether an in-school suspension constitutes a removal.

Q5: What is an informal removal?

An informal removal is a removal that the district has failed to properly identify, document, or count as a removal under the IDEA. In other words, it is a removal that occurs without triggering IDEA’s disciplinary protections and is therefore impermissible.

Q6: May a student be informally removed from their current educational setting?

No. Informal removals are never permissible because a removal must be recognized, documented, and treated as a removal under the IDEA.

Q7: How do you distinguish between behavior supports and strategies in a student's IEP and disciplinary removals?

Yes, this distinction is important.

The IDEA specifically requires the IEP team to consider the use of positive behavioral interventions and supports for any student with a disability whose behavior impedes their learning or that of others. 34 CFR. §300.324(a)(2)(I).

Positive behavioral interventions and supports (PBIS) are proactive, evidence-based strategies designed to prevent and address interfering behavior while teaching and reinforcing appropriate replacement behaviors.

Examples of positive behavioral interventions and supports include, but are not limited to:

- modifying environmental triggers or antecedents,
- Counseling services
- Explicit instruction in appropriate social and behavioral skills,
- Explicit instruction in stress, anxiety, and depression management
- reinforcing positive behaviors,
- using targeted and evidence-based de-escalation and self-regulation strategies,
- providing structured routines, prompts, visual supports, or sensory supports, and
- implementing behavior intervention plans (BIPs).

The emphasis of PBIS is preventative and supportive. These strategies are used to intervene before a violation of the code of conduct or other problem behavior occurs. Their purpose is to provide the student with the skills and supports needed to maintain access to instruction, make progress, and appropriately participate in school. In short, PBIS is used to increase access to education.

By contrast, removals are reactive in nature. They are imposed after a student violates the code of conduct or engages in misconduct. Removals limit access to services and instruction.

Please see Questions 8 and 14 for additional information regarding the distinction between removals and IEP services.

Q8: If an IEP states that a special education classroom may be used as an alternative setting if the child needs it, does this still count as a removal?

Not necessarily. The use of an alternative setting, such as a special education classroom, will generally not count as a removal when:

- The setting is used as part of the student's IEP supports (preventative), not as a consequence (reactive);
- The student continues to receive instruction, services, and supports aligned with their IEP; and
- The student's access to the general curriculum and nondisabled peers remains consistent with their current placement.

(Please see Q7 distinguishing between positive behavior intervention supports and removals)

If the setting is used as a positive behavioral intervention and support, meaning it is provided as a preventative or supportive strategy to help the student regulate and maintain appropriate behavior, it is not a disciplinary removal. However, if the student is sent to the alternative setting in response to behavior that violates the code of conduct, and the move reduces the student's access to instruction, IEP services, or nondisabled peers consistent with the current placement, then it is a disciplinary removal.

Example that would **not** constitute a removal:

- When a student becomes overwhelmed and, consistent with their IEP, is supported in briefly transitioning to a special education classroom to regulate, with staff support, and then returns to class. During this time, the student continues to receive instruction and services aligned with their IEP.

Example that would constitute a removal:

- In response to the student misbehaving, the teacher sends the student to the special education classroom for the remainder of class period. This occurs repeatedly and as such excludes the student from their current placement.

Q9: If parents choose to pick up their student following an incident and it is not school suggested, does it constitute as a removal?

No. A removal occurs when the action is school-initiated. If the school requests or prompts the parent to pick up the student due to behavior, it is a disciplinary removal and must be documented. If the parent independently removes the child without school direction, it is not considered a disciplinary removal.

Q10: If a student is missing non-instructional time (recess, lunch) for a discipline action, would this need to be entered as in school suspension/removal?

Usually no. Missing non-instructional time (recess, lunch) for discipline is generally not a removal. One-time or occasional loss of recess or lunch will generally not be considered a removal. But, it can be if it meaningfully reduces the student's access to peers, for example when it is frequent, long, or combined with other exclusions.

Q11: All students have access to in school suspension (ISS) in the office if their behavior deems it necessary. Does this mean it isn't counted as a removal?

Not by itself. The fact that the in-school suspension setting is equally available to students with and without disabilities is relevant only to the third question in the ISS analysis. For an ISS not to count as a removal, **all three questions must be answered yes:**

1. Will the child be able to appropriately participate in the general education curriculum?
2. Will the child be able to receive the services specified in the child's IEP?
3. Will the child be able to participate with children without disabilities to the extent provided in the child's current placement?

The "equally available to all students" point helps answer question three. It does not resolve questions one and two. Thus, a district cannot conclude that an ISS is not a removal merely because all students can be sent there. If the student cannot appropriately participate in the curriculum or cannot receive IEP services in that setting, the day counts as a removal.

Q12: If there are a group of students who were disciplined and the consequence is not participating on a field trip, would this be suspension?

An out-of-school suspension is the administrative removal of a student from regular classes or activities for disciplinary reasons. An in-school suspension is the administrative removal of a student from regular classes or activities for disciplinary reasons while the student remains under the supervision of the school district. The key distinction between the two is whether the student remains under school supervision.

Whether students are subjected to suspension, either out-of-school or in-school, must be applied neutrally to all students and in accordance with the district's discipline policies.

Accordingly, if students are prohibited from attending the field trip and are required to stay home or are otherwise not under the supervision of the school district during the trip, the consequence would be an out-of-school suspension. If the students report to school and remain under district supervision, but do not

participate in the field trip, the consequence would be an in-school suspension. This applies regardless of whether a student has an IEP.

However, whether the action also constitutes a removal under IDEA is a separate question. An out-of-school suspension is always a removal. An in-school suspension may or may not be a removal, depending on whether the student is able to:

1. appropriately participate in the general education curriculum;
2. receive the services specified in the IEP; and
3. participate with nondisabled peers to the same extent as in the current placement.

An in-school suspension is counted as a removal unless *all* three conditions are met.

Under the circumstances presented, if the students remain under school supervision, the discipline would be an in-school suspension. Whether that in-school suspension constitutes a removal for a student with an IEP is a fact-specific inquiry. Relevant considerations include, but are not limited to: whether the field trip directly correlates to the general curriculum, whether the student can still appropriately participate in the curriculum while excluded from the trip, what educational services are provided during the suspension, whether direct instruction is provided, and whether required IEP services continue to be delivered.

Q13: When teachers send students out of their classroom for disciplinary reasons, does that count as a suspension?

It may constitute a removal if it functionally impacts the student's ability to appropriately participate in the general education curriculum, receive services as specified in the IEP, or participate with nondisabled peers.

Accordingly, isolated incidents that are brief in duration, such as sending a student out of the classroom for 15 minutes on three occasions during the entire school year, would generally not amount to a removal. However, frequently sending a student to the hallway, or doing so for extended periods of time, such that it functionally limits the student's access to instruction, services, or peers, will constitute a removal.

See Q16 on placement versus location for more information.

Q14: Is it considered an out of school suspension when it is stated in the student's IEP to send them home if their behavior reaches a certain level?

Yes. Sending a student home under those circumstances is a disciplinary removal, and including such a provision in an IEP is inappropriate.

A disciplinary removal occurs when the student is removed from their current educational placement for behavior-related or disciplinary reasons. A student is considered removed from their placement when the action denies the student the opportunity to appropriately participate in the general curriculum, receive the services and supports required by the IEP, or participate with nondisabled peers to the same extent provided in the current placement.

Sending a student home obstructs access to instruction, IEP services, and participation with peers and, as such, constitutes a removal. Embedding this practice in an IEP does not change its nature as a removal; to do so would impermissibly allow the circumvention of the disciplinary protections provided under IDEA.

Further, such a provision reflects a failure to appropriately address the student's behavioral needs through the IEP process. The IDEA specifically requires the IEP team to consider the use of positive behavioral interventions and supports for any student whose behavior impedes the student's learning or that of others. 34 C.F.R. § 300.324(a)(2)(i). These supports are proactive, evidence-based strategies designed to prevent and address interfering behavior while teaching and reinforcing appropriate replacement behaviors. Planning in advance to send a student home is inconsistent with the purpose of the IEP, which is to provide the individualized services and supports necessary for the student to access FAPE. It substitutes exclusion from

school for the supports needed to address the underlying behavior and maintain the student's access to education.

Q15: When we have a student who has violated the student code of conduct we may have them participate virtually. The student(s) will have access to instruction, IEP services, and their peers through listening but not full interaction. Is this a removal?

Yes, this is a removal.

Q16: What is the distinction between educational placement and location?

“Placement” refers to the overall educational program—that is, the level of restrictiveness and the nature of the services a student receives. It reflects the IEP team’s decision about the type and level of services, how and with whom the student is educated. This is a decision made by the IEP team and must be based on the student’s individual needs and the requirement to provide education in the least restrictive environment (LRE).

“Location” refers to the physical setting (for example, Classroom 12). This is generally an administrative decision, so long as the student still receives the services and level of inclusion (placement) required by the IEP. Location changes can occur without changing the student’s placement. For example, a student being moved from Classroom A to Classroom B when both provide the required services, supports and access to peers.

Additionally, a change in location that does not provide the same services, supports, or access to peers may occur without changing the student’s placement when it is used sparingly and for brief periods of time. For example, when a student is sent to the hallway for five minutes and then returns to class.

However, if the student is sent to the hallway frequently and/or for extended periods of time, the cumulative effect may functionally limit the student’s access to instruction, services, supports, or nondisabled peers (i.e., the student’s educational placement). When that occurs, the repeated location changes constitute a removal from the student’s educational placement and may amount to a disciplinary change in placement when they total more than 10 school days. (See Q3 on removals and Q17 on disciplinary changes in placement).

Q17: When do disciplinary actions and programmatic changes constitute a change in placement?

Normally, the phrase “change in placement” refers to a programmatic placement decision made by the IEP team. In the disciplinary context, however, “change in placement” is based on the number and pattern of disciplinary removals.

A disciplinary change in placement occurs when:

- the child is removed from their current educational placement for more than 10 consecutive school days, *or*
- the child is removed for more than 10 cumulative school days in a school year and the removals constitute a pattern.

A pattern exists when:

- the series of removals totals more than 10 school days in a school year,
- the behavior is substantially similar to the behavior in previous incidents that resulted in the series of removals, and
- Additional factors are present such as the length of the removals, the total amount of time the child has been removed, and the proximity of the removals to one another.

There have been requests for OSEP to define “substantially similar” and OSEP has rejected these requests and the use of any bright-line rule. Therefore, policies or practices that limit finding behaviors as substantially similar to those that fall within the same “category” or “type” are inappropriate.

Instead, schools must determine “whether the behavior that resulted in the removals is substantially similar on a case-by-case basis and include consideration of any relevant information”. This should include the setting, antecedent, behavior, and consequence of each incident. Additionally, while a child’s IEP may provide relevant information to consider, substantially similar behaviors are not limited to those recognized by the IEP Team or included in the child’s IEP as related to the child’s disability.

These determinations can be difficult. But, under Iowa law, districts may always determine, as a matter of local policy, that 11 cumulative days of removal will automatically be deemed a change in placement and therefore preventing the need to engage in the “pattern analysis.”

Q18: What are examples of removals that are not changes in placement? Removals that are changes in placement?

A change in placement occurs when:

- the student is removed more than 10 consecutive school days; OR
- when removals exceed 10 cumulative schooldays and form a pattern.

Therefore, a removal is not a change in placement if it totals ten or fewer school days in a year or when it totals more than ten school days in a year but the removals did not occur consecutively and the series of removals do not constitute a pattern.

Examples of removals that constitute a change in placement:

1. The student is suspended for 11 consecutive school days
2. The student is suspended for 5 days for fighting; upon returning the student is suspended for 7 days for bullying/harassment. All relevant information was reviewed and It was determined that these removals constituted a pattern.

Examples of removals that do not constitute a change in placement:

1. The student is suspended for 10 consecutive school days.
2. The student is suspended for 5 days for using tobacco on school grounds; 3 months later the student is suspended for 9 days for bullying/harassment. All relevant information was reviewed and it was determined these removals do not constitute a pattern.

Q19: When the parent of a child with a disability and school personnel agree about changing the child’s placement after the child has violated a school’s code of student conduct, is the change considered a removal under the discipline provisions?

No. When the parent and school personnel agree to change the child’s placement, the change is not considered a disciplinary removal. Instead, it is treated as an IEP team placement decision to ensure the student receives a free appropriate public education (FAPE) and any change in placement must still comply with IDEA’s placement requirements, including consideration of the least restrictive environment (LRE) and the provision of prior written notice.

In short, when a placement change is made collaboratively with parent agreement and for purposes of providing FAPE, it is not counted as a disciplinary removal, even if it follows a behavioral incident.

Manifestation Determination

Q20: Does a manifestation have to happen before a student hits 10 days of OSS?

No. The law does not require a manifestation determination *before* a change in placement occurs. Rather, a manifestation determination must be conducted within 10 **school** days of the decision to impose a disciplinary removal that constitutes a change in placement. Remember, this deadline starts the date of the decision.

Example: prior suspensions in the school year = one 3-day suspension, and one 4-day suspension. The district now decides to impose a 5-day suspension that will push cumulative removals over 10 ($3 + 4 + 5 = 12$) and the removals are found to constitute a pattern. The MDR must be held within 10 school days of the decision to impose that 5-day suspension.

A change in placement occurs when the removal is for more than 10 consecutive school days, or when the student has been subjected to a series of removals totaling more than 10 school days that constitute a pattern.

Q21: What does the notice on the 11th day all entail?

When the district decides to impose a disciplinary removal that constitutes a change in placement, it must provide written notice explaining the decision, the reason for the removal, and the length of the removal, along with a copy of the procedural safeguards notice. 34 C.F.R. § 300.530(h).

The notice and copy of procedural safeguards must be given the day the district decides to impose the removal that constitutes a change in placement. The notice provided is not “prior written notice” in the usual sense, because the disciplinary decision has already been made. This notice may be provided in the same manner the district ordinarily notifies families of disciplinary removals, so long as the necessary information is clearly conveyed.

See Q17 for what constitutes a change in placement.

Q22: How does the manifestation process documentation align with the 11th day notification?

They are related, but they are not the same thing. They are separate requirements triggered by the same decision.

The notice requirement and the requirement to conduct a manifestation determination review are both triggered on the day the district decides to impose a removal that constitutes a disciplinary change in placement. The required notice must be provided on the day of that decision, and the manifestation determination review must be completed within 10 school days of that decision.

So, the sequence is:

- first, the district determines it is imposing a removal that constitutes a change in placement,
- that same day, the district gives written notice and procedural safeguards,
- then, within ten school days, the manifestation determination meeting occurs.

Q23: What is the definition of direct and substantial relationship?

There is no fixed definition of a “direct and substantial relationship.” Instead, this determination must be made on a case-by-case basis and “done carefully and thoroughly with consideration of any rare or extraordinary circumstances presented.” [*Analysis of Comments and Changes, 71 Fed. Reg. 46,540, at 46,720 \(Aug. 14, 2006\)*](#). The analysis must be based on child-specific data, rather than diagnostic labels, classroom assignments or placements, or the services listed in the IEP. *Id.*

Accordingly, the following are inappropriate “snap judgments” during the manifestation determination process:

- The child has a BIP, so the behavior is a manifestation of the disability.
- The child has ODD, so the behavior is a manifestation of the disability.
- The child is in a self-contained BD classroom, so the behavior is a manifestation of the disability.
- The child generates a certain level or type of funding, so the behavior is a manifestation of the disability.
- The child’s IEP does not include a behavior goal, so the behavior is not a manifestation of the disability.
- The child is on medication for ADHD and missed a dose, so the behavior is a manifestation of the disability.

The manifestation determination is intended to “analyze the child’s behavior as demonstrated across settings and across time” and to be “broad and flexible,” including consideration of the interrelated and individualized challenges associated with the child’s disability. *Analysis of Comments and Changes*, 71 Fed. Reg. at 46,720.

However, the relationship between the disability and the behavior must nonetheless be causative or direct and substantial. *Analysis of Comments and Changes*, 71 Fed. Reg. at 46,720. Attenuated or indirect connections are not enough. *Id.*

Consider the following example. Two children are part of a group that vandalizes a high school’s science lab. One has a significant intellectual disability. The other is deaf. The student with an intellectual disability does not comprehend the concept of property or ownership. The student who is deaf participated in the vandalism because he was trying to fit in. The former student’s actions are much more likely to be considered a manifestation of a disability than the latter student’s conduct.

Q24: If a student reaches 10 days of suspension, does a full FBA and BIP need to occur at that point?

No. Reaching 10 days of suspension does not, in and of itself, require a functional behavioral assessment (FBA) or behavioral intervention plan (BIP).

When the child’s behavior that resulted in the disciplinary removal is determined to be a manifestation of the child’s disability, the law requires the child’s IEP team to:

- conduct an FBA, unless one was already conducted; and implement a BIP, or
- if a BIP already exists, review and modify it as necessary.

Iowa Admin. Code r. 281—41.530(6); 34 C.F.R. § 300.530(f)(1).

If the child’s conduct is determined not to be a manifestation of the child’s disability, or the conduct involves one of the three special circumstances (weapons, drugs, or serious bodily injury), the child must receive, “as appropriate”, an FBA and behavioral intervention services and modifications designed to address the behavior so that it does not recur. Iowa Admin. Code r. 281—41.530(4)(a)(2); 34 C.F.R. § 300.530(d)(2)(ii). Whether an FBA or behavioral interventions are “appropriate” depends on the facts of the individual case, with the goal of preventing recurrence and ensuring the child continues to access a FAPE.

Additionally, the law requires IEP teams to, “in the case of a child whose behavior impedes the child’s learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior.” Iowa Admin. Code r. 281—41.324“b”(1); 34 C.F.R. § 300.324(a)(2)(i). As such, even before removals total more than 10 school days, frequent short removals or other exclusionary practices may indicate the IEP is not addressing behavior and should trigger an IEP team meeting to consider an FBA/BIP.

Q25: How does a disciplinary change in placement apply if the student is still attending the same building and programming and there is no actual change to the educational placement?

Remember a disciplinary change in placement is not the same as programmatic change in placement. Whether a disciplinary change in placement has occurred and whether a programmatic change in placement (i.e. a change in the student's educational placement) has occurred, are two separate and distinct determinations.

A disciplinary change in placement under the IDEA does not depend on whether the student is moved to a different building or program. Rather, a disciplinary change in placement occurs when a student is *removed* from their current educational placement for more than 10 consecutive school days, or nonconsecutive school days and the removals constitute a pattern. The removal(s) may occur in a variety of ways.

See Q4 for information on what constitutes a removal.

Q26: How might we address the provision of FAPE after 10 days?

After the first 10 school days of removal, whether these occurred consecutively or nonconsecutively, a student with a disability becomes entitled to services. Beginning on the 11th day of removal, and for any subsequent days of removal, the district must provide the student with the services necessary for the student to receive FAPE.

However, this does not mean the school must replicate the student's exact daily schedule or provide every service in the student's IEP in the same manner. Instead, in the context of disciplinary removals, the legal standard requires that the student receive services sufficient to:

- continue to participate in the general education curriculum, although in another setting; and
- progress toward meeting the goals in the student's IEP.

What does "services" mean in this context?

The obligation to provide services during disciplinary removals extends beyond delivering specially designed instruction (SDI) minutes. It includes access to the general education curriculum, as well as the instruction, supports and services necessary for the student to continue making progress. The specific services required will vary based on the individual student's needs. Accordingly, a school may not rely on a one-size-fits-all approach or offer only a single placement option (such as home instruction).

Who determines the services?

For removals that do not constitute a change in placement, school personnel, in consultation with at least one of the student's teachers, determine the extent of services needed to provide FAPE, as well as the location where those services will be delivered. For removals that do constitute a change in placement, the IEP team determines the services to be provided and the educational setting in which those services will occur.

What are things that should be considered when determining services and setting?

These determinations must be individualized to the student's specific circumstances and needs. Factors to consider include, but are not limited to:

- the length of the removal,
- the extent to which the student has previously been removed,
- the student's current performance level, including whether the student is performing at grade level,
- the services and goals identified in the student's IEP, and
- the supports and interventions needed to address the behavior and prevent recurrence.

Possible settings may include another setting within the same school, a different school within the district, a public or community-based setting, or homebound instruction delivered in-person, virtually, or through a hybrid model. However, in order to be an appropriate setting it must allow the student to receive the services necessary to continue participating in the general education curriculum and to make progress toward IEP goals. Please note that OSEP has emphasized that homebound instruction must be used carefully and thoughtfully and should not be presumed to be appropriate for students.

Q27: What is the responsibility of the public school when we are providing special education services for the parochial school?

Parochial schools are free to implement their own disciplinary policies and procedures. However, the public school district is required to ensure the student's rights under the IDEA, including the disciplinary protections, are maintained. As such, the district must ensure it is monitoring disciplinary action taken against the student (including the nature, number and length of time) and implementing the appropriate disciplinary procedures (i.e. services during removals beyond 10 school days, notice, manifestation determinations, etc.)

The district must work with the parochial school to ensure it is receiving updated and accurate information regarding any and all disciplinary action taken against the student for the purposes of both reviewing and revising the child's IEP as necessary to provide FAPE and for maintaining the disciplinary protections provided under the IDEA.

Counting Days

Q28: How do we count days of removal? (i.e. full days, partial, class periods)

How to count days of removal is a local decision that is aligned with your district's regular attendance practices. For example, if attendance is recorded in half-day increments, disciplinary removals should likewise be counted in half-day increments. If attendance is tracked by class period, disciplinary removals should be counted by class period. Under that method, a full day of removal would equal the total number of class periods in the student's school day. (The exception to this is bus suspensions. Please see the transportation section for more specifics on counting of bus suspensions.)

It is recommended by the Department to ensure alignment of practices across the district. For more information on Length of Removal, please refer to the School Reporting in Iowa Data Dictionary.

Q29: Are informal removals, such as administratively shortened school days, considered a school day when calculating a disciplinary change in placement?

The law provides that a "school day" has the same meaning for all students, including students with and without disabilities. 34 C.F.R. § 300.11(c). District attendance practices may vary by grade span. For example, an elementary school may track attendance in half-day increments, while a high school may track attendance by class period. This is permissible so long as the methodology is applied consistently across the district within the relevant grade span.

Importantly, when attendance and removals are tracked in smaller increments (for example, by class period), a substantial number of administratively shortened school days or other partial-day removals may occur before they total more than 10 school days and thereby trigger IDEA's additional disciplinary protections. This does not mean the district is free to impose such removals until they exceed the 10-day threshold.

A student may be denied a FAPE well before cumulative removals total more than 10 school days. Repeatedly sending a student home early, shortening the school day, or excluding the student from classes or services is likely to significantly interfere with the student's access to instruction, services, and ability to make appropriate progress.

Accordingly, districts must not assume that repeated partial-day removals are acceptable simply because they have not yet totaled more than 10 school days. While the counting method determines when specific disciplinary protections are triggered, the district must always consider the cumulative educational impact of the practice and the student's independent right to FAPE.

Transportation

Q30: How do you count days when a student is suspended from the bus?

If transportation is listed as a related service in the student's IEP and the student is suspended from the bus **without** the district providing alternate transportation, the suspension counts as a removal, even if the student still attends school. This is counted as a full day removal.

If transportation is **not** included in the student's IEP, a bus suspension does not constitute a disciplinary removal under the IDEA. The bus suspension is treated the same as it would be for a general education student. The district is not obligated to provide alternate transportation, even if the parents do not have the means to transport the student. If the student then misses school due to lack of transportation, this is considered an absence, not a disciplinary removal.

The IEP team should consider whether the behavior leading to the bus suspension indicates that the student requires specialized transportation and revise the IEP as appropriate.