

66TH CONFERENCE ON EXCEPTIONAL CHILDREN

What Every School Leader Needs to Know about Special Education

Special Education 10145

SELF-ASSESSMENT: *A Journey of Change*

PUBLIC SCHOOLS OF NORTH CAROLINA
State Board of Education | Department of Public Instruction

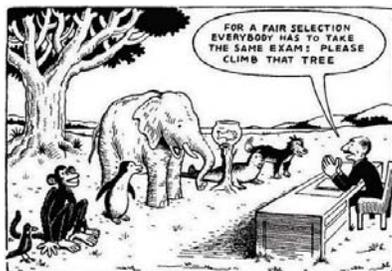
November 8-10, 2016

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SELF-ASSESSMENT: *A Journey of Change* 66TH CONFERENCE ON EXCEPTIONAL CHILDREN

SPECIAL EDUCATION 101



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Special Education Lexicon

What do they stand for?

- FAPE-
- LRE-
- MDR-
- BIP-
- IEP-
- IEE-
- ESY-
- OT-

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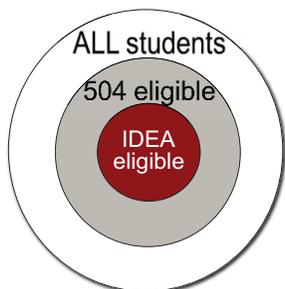
IDEA Individuals with Disabilities Education Act / 1975

- To ensure that all children with disabilities have FAPE available to them that emphasizes special education and related services designed to meet their unique needs and prepare them further education, employment, and independent living
- To ensure that the rights of children with disabilities and their parents are protected
- To assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities
- To assess and ensure the effectiveness of efforts to educate children with disabilities

Section 504

Section 504
of the Rehabilitation Act / 1973

- Federal Anti-Discrimination Law.
- Protects ALL PEOPLE with a disability that impairs one or more major life activities (such as learning).
- Prohibits discrimination in ANY program that receives Federal \$\$\$\$\$.
- Provides Services and Accommodations to remove discriminatory barriers.
- "504 Plan" removes barriers to learning and educational opportunity.



IDEA-eligible students are protected by **Both** these laws.

IDEA: 6 Core Principles

1. Appropriate Evaluation/Assessment
2. Free & Appropriate Public Education (FAPE)
3. Individualized Education Plan (IEP)
4. Least Restrictive Environment (LRE)
5. Parent (and student if appropriate) participation in the decision-making process
6. Procedural Safeguards

Free Appropriate Public Education

- Means special education and related services that--
- Are provide at public expense, under public supervision and direction
 - Meets the standards of the SEA
 - Includes an appropriate preschool, elementary school, or secondary school education
 - Are provided in conformity with an individualized education program (IEP)



How Students Qualify Disability Categories

- | | |
|-----------------------------|--|
| 1. Autism | 11. Specific learning disability |
| 2. Deaf-blindness | 12. Speech/Language impairment |
| 3. Deafness | 13. Traumatic brain injury |
| 4. Developmental disability | 14. Visual impairment, including blindness |
| 5. Emotional disability | |
| 6. Hearing impairment | |
| 7. Intellectual disability | |
| 8. Multiple disabilities | |
| 9. Orthopedic impairment | |
| 10. Other Health Impairment | |



Special Education Process

- Referral-Child Find-suspected of having a disability
- Evaluation-Comprehensive-identifies the unique needs
- Individual Education Program-specially designed instruction and related services to meet the annual goals
- Placement-Least Restrictive Environment
- Annual Review-Review/Revise as necessary to address any lack of progress
- Discipline-not punishing a student for behavior related to their disability



The IEP Team

- Parent(s)/guardian
- General education teacher (at least one)
- Special education teacher(s)
- Agency representative (must have the authority to commit school district resources)
- Student (if appropriate)
- Related service personnel (if appropriate)
- Evaluation personnel – can interpret instructional implications of evaluation results
- Others with knowledge of child or special expertise

IEP Committee members can wear more than one hat.



The LEA Representative

- Qualified to provide or supervise the provision of specially designed instruction
- Is knowledgeable about the general education curriculum
- Is knowledgeable about the availability of LEA resources

"It is important that the agency representative have the authority to commit agency resources and **be able to ensure that whatever services are described in the IEP will actually be provided.**" Federal Register/Volume 71, No. 156, August 14, 2006



Content of the IEP

Present Level of Academic Achievement and Functional Performance (PLAFP)

- Describes how disability affects student's participation in general education/appropriate activities
- This area must describe what the student does (strengths) and does not do (weaknesses) in objective, measurable terms.
- When appropriate, the present level must reference the student's performance on district-level benchmarks and progress from the previous IEP.

Measurable Annual Goals

- Individualized goals are written by the IEP team to specifically target skills for the child to work on, based on their unique needs related to the disability or disabilities
- Need to be based on the student's assessed needs
- Must be individualized to the student. One size does not fit all.
- Goals need to be measurable and observable

Ask:

- ✓ What are the student's needs as identified in the present level of performance?
- ✓ What skills does the student require to master the content of the curriculum?
- ✓ What can the student reasonably be expected to accomplish in one school year?

Special Education and Related Services

- Special education means specially designed instruction
- Specially designed instruction means adapting, as appropriate, the content, methodology, or delivery of instruction to address the unique needs of the child that result from the child's disability or disabilities
- Related services such as developmental, corrective, and other supportive services that are required to assist a child to benefit from special education
- IEP documents the frequency, location, and duration of services
- What services are necessary for the child to achieve the annual goals

FAPE in the LRE

- LRE (Least Restrictive Environment)
- Students eligible for special education must be educated with students who are not disabled to the *maximum extent appropriate*
- A continuum of placement options must be available
- The regular education class must be considered first
- Supplementary aids/services help students be successful

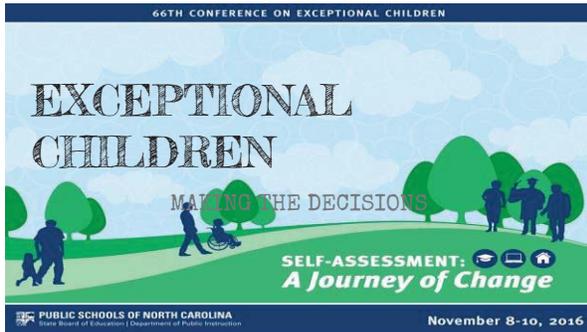
Progress Monitoring and Reporting

"...The point of requiring measurable goals in the IEP is subsequently to measure progress: to see whether the program did what it was intended to do and whether the child met that goal."

- The IEP is required to address how the child's progress toward meeting the annual goals will be measured
- Special education progress reports will be concurrent with report cards

Is it sufficient for a school to provide IEP goal progress reports that include general statements that the student demonstrated improvement or that he/she made some progress, limited progress, or significant progress?

An IEP goal progress report is not merely an administrative hoop to jump through or a meaningless paperwork requirement of the IDEA. These periodic progress reports fulfill a central focus of the IDEA, namely that parents have sufficient information to meaningfully participate in IEP meetings. Vague statements of progress provide no objective measure of a student's progress and do not meaningfully communicate with parents or demonstrate that the school actually provided the student with a free appropriate public education (FAPE). Guidance from Exceptional Student Services (ESS) is that IEP goal progress reports need to provide "sufficient information for the parents/staff to project whether or not the student will achieve his/her goals by the end of the IEP year . . . [and that] information should be provided for each goal, and the rate of progress should be reported in a manner consistent with the [present levels of academic achievement and functional progress] and/or the associated goals." [Arizona Examining Practices Manual 2014-2015, ADE/ESS, p. 29]



Role of the LEA representative in IEP meetings...

1. Ensures a proper IEP team is assembled to conduct an IEP meeting;
2. Ensure IEP is developed and implemented compliantly;
3. Ensure parent prior written notice of decisions made during the IEP meeting is developed and sent to parent;
4. Ensures proper case management of IEPs at the local school level;



LEA representative responsibilities (con't)

5. When the IEP team is not able to reach consensus regarding IEP programming, make final decision regarding programming (OSEP: Letter to Richards);
6. Ensure secure record keeping and access of EC files;
7. Ensure confidentiality policies are adhered to regarding SWD;
8. Ensure proper discipline policies are adhered to regarding SWD, when applicable.



Placement

- What are our choices for placement in special education at both the elementary and secondary level?
- What factors are considered when determining placement for special education students?
- What is the role in determining placement for special education students?



NC 1501-3.3 (Placement Decisions) requires...

Each LEA must ensure that the placement decision--

- A. Is made by the IEP Team, which includes the parents and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options;
- B. Conforms to LRE requirements based on the child's placement on the continuum is determined at least annually and based on the student's need on the IEP

NC 1501-3.3 (Placement Decisions) requires...

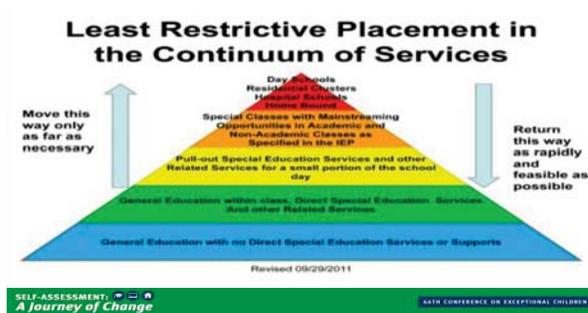
Additional considerations--

(1) The child is educated in the school that he or she would attend if nondisabled, unless the IEP of a child with a disability requires some other arrangement.

(2) If the child cannot be educated in the school he or she would attend if nondisabled, the child is educated as close to the child's home as possible;

NC 1501-3.3 (Placement Decisions) requires...

- (3) Consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs; and;
- (4) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.



Consideration of Class Structures

General Education:

1. AP & Honors courses
2. Virtual classes
3. General courses with modifications
4. Classes with inclusion services (Co-teaching with Spec. Ed. Teacher)



Consideration of Class Structures

Special Education:

1. Resource Classroom
2. OCS classroom
3. Virtual OCS classroom (co-taught with highly qualified Spec. Ed. Teacher)



Consideration of Class Structures

4. Self - Contained classroom
5. Alternative School

Is there a possibility of a combination of these?



Factors to consider...

- Student Disability
- Academic Skills Level
- Legal requirements
- Non-academic performance
- Documentation of greatest educational benefit



Outside Factors:

- Local Policies
- Federal and State Accountability
- Resources
- Teacher allotments



The IEP Team:

1. Parent;
2. General Education Teacher;
3. Special Education teacher;
4. LEA Representative; and
5. Student with Disability (SWD), whenever appropriate.



The IEP Team (con't)

Special circumstances regarding personnel:

1. Related services personnel - if student has services on IEP;
2. Person(s) who can interpret evaluation results - if in an initial referral meeting or re-evaluation;
3. Person(s) who has special knowledge or expertise regarding the child.



Things to remember...

IDEA obligates the school to prepare the student for...

1. Further education
2. Employment
3. Independent living

The team should determine placement for only after the IEP is complete!



Thoughts about placement...

1. If the IEP is appropriate... then the placement should be appropriate as well;
2. IDEA mandates that students be placed in settings where they have the most contact possible with non- disabled peers;
3. Use the continuum of placements as an organic part of the process.



Scheduling of SWD

Things to consider:

1. Student needs
2. Resources/Programs
3. Staff
4. Federal and State policies regarding SWD



Student Scenarios

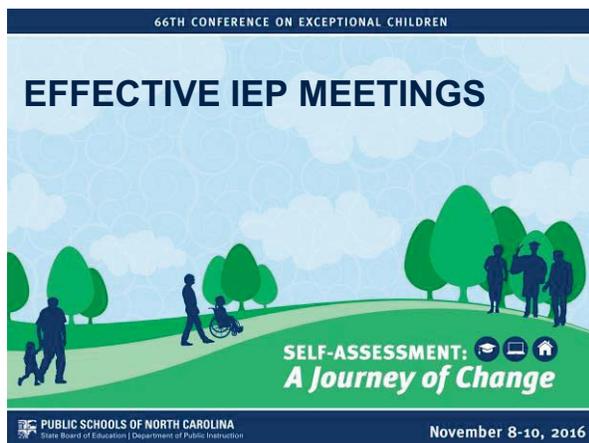
Scenario 1: Scheduling/ Ways to support



Student Scenarios

Scenario 2: Discipline





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SHARE...

An IEP meeting that turned out well:

- What conditions made it turn out that way?
- What did you do that had a positive impact on the outcome?
- What did other team members do that had a positive impact on the outcome?



PRIOR to the meeting...

- Be aware of any issues that may come up.
- Pre-conference with team members if issues are expected.
- Ask case manager...purpose of the meeting...has an Invitation to Conference been mailed...will s/he have drafts ready...how you can assist at the meeting...will the documents be projected for all team members to see...other pertinent questions.
- Know who will fulfill the roles of facilitator, minutes taker, timekeeper, etc.



Consider an Agenda

- Introductions
- Purpose of meeting
- Regular education report (hold to time limit if necessary)
- Special education report
- Review progress on goals from last IEP
- Complete DEC 4/IEP or other documents
- Complete DEC 5/Prior Written Notice
- Review decisions & who does what
- Decide on next step(s) if necessary
- Approve and initial minutes

Team Member Roles: or

- Team member who conducts the meeting, can be the...
 - Special Ed. Teacher or
 - Special Ed. Case manager or
 - LEA Representative

Facilitator/LEA Rep.

- | | |
|--|--|
| <ul style="list-style-type: none"> • Plans & leads meeting process in partnership with members • Sets a positive and welcoming tone • Clarifies purpose of meeting and desired outcomes • Keeps discussion focused on child • Encourages full participation from all team members • Monitors pace of meeting | <ul style="list-style-type: none"> • Focuses on child's needs – not parent's expectations or district's resources • Addresses what is most important for the student's needs • Builds consensus - focus on what team agrees on • Facilitates decision-making process based on data |
|--|--|

Team Member Roles: Note –Taker for Meeting Minutes

- Is familiar & comfortable with this role
- Understands that purpose of minutes is to...
 - document important points
 - document actions taken (such as parent permission for member substitutions.)
 - highlight discussion and reasons behind decisions made or rejected
 - capture information not on forms
 - help with memory recall



Meeting Minutes

Common Errors:

- Unnecessarily including what's on the forms such as IEP goals, accomms, etc.
- Omitting the discussion around the decisions
- Omitting parent disagreements
- Omitting section of minutes for Follow-up needed? Task? Person responsible?

Team Member Roles: Timekeeper

- When meeting must end at an agreed upon time
- When meeting is going on & on without resolution
- States any time issues at start of meeting
- Reminds team of time constraints when necessary
- LEA Rep. responsibility?

During the meeting...

- Assist in keeping the meeting on course...keep purpose of meeting in mind.
- Demonstrate respect and keep a cool head.
- Maintain integrity of the team.
- Remember: What is APPROPRIATE for this child?



WHAT YOU SAY & HOW YOU SAY IT IS IMPORTANT!

Words to Avoid	Words to Use Instead
○ Budget	✓ Appropriate
○ Money	✓ Individual
○ Funds	✓ Progress
○ Can't	✓ Consider
○ Won't	
○ Best	
○ Highest potential	
○ That's the way we do it here	

If meeting gets tense...

- Listen and show respect
- State your position calmly and clearly
- Keep a check on attitudes
- Refocus on purpose of meeting
- Agree to disagree & move on

If meeting gets tense...

- Stay professional
- Take a break and confer with spec ed teacher or your administrator and/or call spec. ed. services
- Suggest a future meeting to continue discussion
- End meeting if necessary and agree to reschedule to complete IEP process

At end of meeting...

- Develop the DEC 5
- Restate the decisions reached
- Develop an action plan for who does what
- Give and/or send copies to parents
- End on a positive note and thank participants for their contributions

STATE LEVEL DISPUTE RESOLUTION PROCESSES

INFORMAL

- Facilitated IEP meeting

FORMAL

- Mediation
- State Complaint
- Due Process Hearing

Facilitated IEP Team Meetings (FIEP)

- **Facilitation** is a process utilizing an impartial facilitator to guide the process of the meeting to assist members of the IEP Team in communicating effectively. The facilitator is NOT a decision-maker.
- An IEP should be developed by a collaborative team whose required members share responsibility for the process, content, and the results.

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Mediation

- **Mediation** is a formal meeting of the parents and school representatives led by a neutral third party, the mediator. Mediation is a mutually agreeable process, which the parties themselves control. The mediator helps the parents and school system to resolve disagreements concerning the child's identification, evaluation, program or placement. Mediation can help the parties reach agreement about specific issues, as well as build a better working relationship for the future. Mediation can help resolve differences between parents and schools efficiently and effectively.

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Formal State Complaint

An organization or individual may file a signed written complaint with NC DPI on violations they believe have occurred in regards to special education policies and procedures.

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Formal State Complaint

- Complaint must allege violation that occurred not more than one year prior to the date the complaint is received.
- Process must be completed in 60 days of the receipt of the complaint.

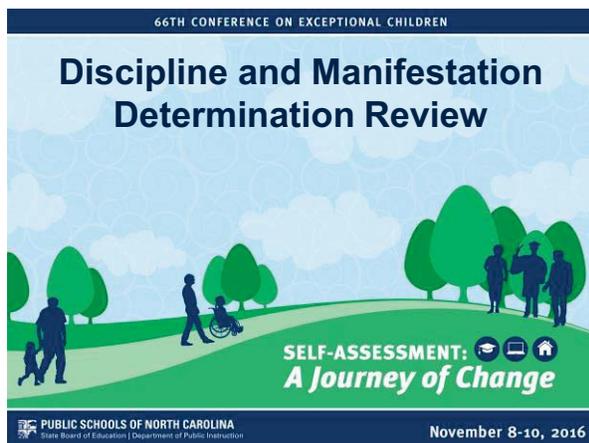
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Due Process Petition

A parent or an LEA may file a request for a due process hearing on matters related to the identification, evaluation or educational placement of a child with a disability, the provision of FAPE to a child or manifestation determination.

Questions and Answers



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Discipline Policies

According to the *NC Policies*, "For purposes of **removal** of a child with a disability from the child's current educational placement, a change of placement occurs if—(1) The **removal** is for more than 10 consecutive school days or (2) The child has been subjected to a series of removals that constitute a pattern—(i) Because the series of removals total more than 10 school days in a school year; (ii) Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and (iii) Because of such additional factors as the length of each removal, the total amount of time the child has been **removed**, and the proximity of the removals to one another." [NC1504-2.7(a)]

The *NC Policies* states, "On the date on which the decision is made to make a **removal** that constitutes a change in placement of a child with a disability because of a violation of the code of student conduct, the LEA must notify the parent of that decision, and provide the parent, the procedural safeguards notice described in NC1504-1.5." [NC1504-2.1(h)]



Discipline Policies continue...

As stated in the *NC Policies*, "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 LEA, the parent, and relevant members of the IEP Team (as determined by the parent and LEA) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parent to determine—(i) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or (ii) If the conduct in question was the direct result of the LEA's failure to implement the IEP." [NC1504-2.1 (e)(1)]

According to *NC Policies*, "a child with a disability who **removed** from the child's current for more than 10 days must continue to receive educational services, as provided in NC 1501-1.1(a), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and (ii) Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. If a behavioral intervention plan already has been developed, it must be reviewed and modified, as necessary, to address the behavior." [NC 1504-2.1(d)]



Counting Days: What is a removal???

- Definition of School Day
- In School Suspension
- Partial-Day Suspensions



The U.S. Department of Education opined that a day of ISS placement is not considered the same as a day of removal addressed by 34 CFR 300.530 , assuming that:

1. The student is afforded the opportunity to continue to appropriately progress in the general curriculum.
2. The district continues to provide the services specified in the student's IEP.
3. The student continues to participate with nondisabled students to the same extent as he does in his current placement.

71 Fed. Reg. 46,715 (2006).

Proactive strategies to consider

- Develop a procedure/document to record removals in your school
- Implement positive behavioral supports
- If a student is starting to have behavioral issues with or without removals, call an IEP meeting. Team may need to revise behavior goals, revise the BIP or initiate a functional behavior assessment.
- Talk to the parents and student about the concerns.
- Request assistance from others in your district

Change In Placement

- A change of placement occurs if the removal is for more than 10 consecutive days; or
- The student has been subjected to a series of removals that constitute a pattern because:
 - Of More than 10 cumulative school days in a school year;
 - The child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and
 - Of such additional factors as the length of each removal, the total amount of time removed and the closeness in time
- Whether there is a change of placement is determined on a case-by-case basis by school personnel

Change In Placement

- If there is a change of placement --
- Parents must be notified of the decision and provided a procedural safeguards notice
- Services are determined by the child's IEP team
- A manifestation determination is required

Manifestation Determination Review

- A manifestation determination review is only required in situations that constitute a disciplinary change in placement
- Manifestation Determination Review must be held within 10 school days after the date on which the decision to change the child's placement is made because of a violation of a code of student conduct
- The school district, the parent and relevant members of the IEP team determine whether the conduct is manifestation of the child's disability
- In making the determination, all relevant information in the student's file must be reviewed, including the child's IEP, teacher observations, and information provided by the parents.

Preparing for the MDR meeting

- Discuss with the parent PRIOR to the meeting the purpose. Assist the parent in understanding this meeting is NOT an appeal to the discipline or to debate the facts of the incident. Provide parent with information on how to appeal the suspension and facts of the incident.
- Gather all documentation, including the student's IEP, most recent evaluations, any medical information, information from the student's teachers and other staff, observation data, discipline reports, FBA, BIP and any other information pertinent to this process.
- Talk to the teachers/staff about the how each implement the student's IEP, including accommodations, modifications, BIP and related services. Allow teachers to give input on the student's behavior in their classroom.
- Gather specific information about the removal including any facts prior to the incident that led to the behavior in question.
- Do your best to ensure the parent's participation. Inform the parents they may bring any documentation they feel is relevant to the process.

Things to remember during the meeting

- Remember the purpose of the meeting and stay to the facts
- Review all information, including information provided by the parents
- Allow for input from each member, including the parents
- Keep the process professional (teachers may need to vent prior to the meeting)
- If the team does not agree, the LEA representative makes the decision.

Manifestation Determination Form

- <http://ec.ncpublicschools.gov/policies/forms/statewide-forms>

Manifestation Determination Review

- The conduct must be determined to be a manifestation of the child's disability if it is determined that:
- The conduct was caused by, or had a direct and substantial relationship to, the child's disability; or
- The conduct was the direct result of the agency's failure to implement the IEP.

When the behavior is not a manifestation of the child's disability

- The school district may proceed with the change in placement
- Services must be provided as determined by the IEP team
- The IEP team also determines where the services will be provided

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- The school district may proceed with the change in placement
- Services must be provided as determined by the IEP team
- The IEP team also determines where the services will be provided

Exception/Interim Alternative Educational Setting

- 45 school days
- IAES must be determined by the IEP team
- Only for
- Weapons
- Illegal drugs or controlled substances
- Serious bodily injury

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Exception/Interim Alternative Educational Setting

- 45 school days
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May a public agency offer “home instruction” as the sole IAES option?

- No. For removals under 34 CFR § 300.530(c), (d)(5), and (g), the child’s IEP Team determines the appropriate IAES (34 CFR § 300.531). Section 615(k)(1)(D) of the IDEA and 34 CFR § 300.530(d) are clear that an appropriate IAES must be selected “so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child’s IEP.” Therefore, it would be inappropriate for a public agency to limit an IEP Team to only one option when determining the appropriate IAES. As noted in the Analysis of Comments and Changes accompanying the regulations published on August 14, 2006, and became effective on October 13, 2006, at 71 Federal Register 46722:

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Interim Alternative Educational Placement

Whether a child’s home would be an appropriate interim alternative educational setting under § 300.530 would depend on the particular circumstances of an individual case such as the length of the removal, the extent to which the child previously has been removed from his or her regular placement, and the child’s individual needs and educational goals. In general, though, because removals under § 300.530(g) and 300.532 will be for periods of time up to 45 days, care must be taken to ensure that if home instruction is provided for a child removed under § 300.530, the services that are provided will satisfy the requirements for services for a removal under § 300.530(d) and section 615(k)(1)(D) of the Act.

Where the removal is for a longer period, such as a 45-day removal under 34 CFR § 300.530(g), special care should be taken to ensure that the services required under 34 CFR § 300.530(d) can be properly provided if the IEP Team determines that a child’s home is the appropriate IAES.

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Protections for Children Not Yet Eligible for Special Education

- District must have knowledge that the child was a child with a disability prior to the behavior that led to the disciplinary action
- The district does not have knowledge if...
 - The child's parent did not consent to an evaluation or refused special education services; or
 - The child was evaluated and determined not to be a child with a disability
- A district must evaluate a child referred for special education during a period of disciplinary removal
- The evaluation must be conducted in an expedited manner.

The Aftermath

- Discuss with the student's teachers any revisions made the student's IEP and/or BIP.
- Ensure the student is receiving services (if suspension was served).
- Ensure student is making IEP progress and has access to the general curriculum.
- Frequent check ins with the student and teachers regarding student's progress.
- Share positive feedback to the parent

Questions and Answers

Resources will be located in a Google folder for this session

Email invitation will be sent to participants