

Feature Article

The Idea Amendments:

What You Need To Know

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A) STUDENT DISCIPLINE

Here is a quick walk around the discipline block.

1) The Authority of School Personnel

School personnel may remove a child with a disability who violates a code of student conduct from their current placement to an appropriate interim alternative educational setting, another setting, or suspension, *for not more than 10 school days* (to the extent such alternatives are applied to children without disabilities.) 20 U.S.C. 615(k)(1)(B). Keep in mind that on the same day the district makes a discipline decision, they must notify parents of the decision and their rights.

The new law makes the disciplinary setting the stay-put placement if the parent requests a hearing to challenge the placement or manifestation determination.

2) Consideration of Case-By-Case Circumstances

"School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a student with a disability who violates a code of student conduct." Section 615(k)(1)(A).

3) Some Additional Authority

If school personnel seek to order a change in placement that would exceed 10 school days and the behavior that gave rise to the violation of the school code is determined not to be either (1) directly and substantially related to the child's disability, or (2) a result of the school district's failure to implement the IEP, *the relevant*

disciplinary procedures for nondisabled students may be applied to the child with a disability in the same manner and for the same duration as would be applied to a nondisabled child. 20 U.S.C. 615(k)(1)(C)

Keep in mind the child with a disability who is removed for disciplinary reasons for more than 10 school days must be provided a "free appropriate public education" (FAPE).

B) MANIFESTATION DETERMINATION (MD)

It is no longer the IEP team that does the manifestation determination... but relevant members of the IEP team responding to two inquiries.

- 1) *Within 10 school days of any decision to change a child's educational placement for disciplinary reasons for more than 10 school days*, the school district, the parent, and the relevant members of the IEP team (20 U.S.C. 615(K)(1)(E)(i).) shall review all relevant information in the student's file, the IEP, any teacher observations, and other 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 child's disability*.
- ii) If the conduct in question was the *direct result of the school district's failure to implement the IEP*.

If either (i) or (ii) is applicable, the conduct shall be determined to be a manifestation of the child's disability. 20 U.S.C. 615(k)(1)(E).

Remember, the IEP team still determines the interim alternative education setting. Section 615(k)(2).

C) DETERMINATION THAT BEHAVIOR WAS A MANIFESTATION

If the child's conduct was a manifestation of the disability, the IEP team shall:

- Conduct a *functional behavior assessment*, and implement a *behavior intervention plan* (if no FBA had been done prior to the conduct);
- If a BIP had been developed prior to the conduct, *review and modify the existing BIP* if necessary to address the behavior; and
- *Unless an IAES is in place, return the child to his/her previous placement*, unless the school district and parent agree to a change of placement as part of the modification of the behavior plan. 20 U.S.C. 615(k)(1)(F)

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