

DISCIPLINE OF STUDENTS WITH SPECIAL NEEDS UNDER THE IDEA: AN UPDATE (Part III)

DISCIPLINE FOR DRUGS & WEAPONS OFFENSES

A student who carries, possesses, brings or uses a dangerous weapon on school grounds or at a school function may be removed to an interim alternative education setting (IAES) by the building principal from the student's current placement for a period of up to 45 calendar days under the IDEA. A student who possesses, uses, sells, or solicits a controlled substance (drugs) may be similarly removed from the current educational placement to an IAES. Expulsion of students who commit these offenses is mandatory under Colorado state law, unless the student is entitled to procedural safeguards under IDEA. However, under both the IDEA and Colorado state law, students with special needs who are expelled must continue to receive a free appropriate public education, i.e., a set of educational services that will allow the student to continue to make progress in the general education curriculum, progress towards the student's IEP goals, and services to address the behavior that led to the disciplinary action so that the behavior does not recur. (Colorado state law requires school districts to provide educational services to any student who is expelled from the regular public school.)

DISCIPLINE FOR BEHAVIOR THAT IS DANGEROUS TO SELF OR OTHERS

A student whose behavior is dangerous to self or to others may be removed from the current educational placement for up to ten days by the building administrator as long as there is no "pattern of removal." The school district may seek an order from a hearing officer or judge placing the student in an Interim Alternative Educational Setting following an **expedited hearing**. The hearing officer may order the student to be placed in the IAES for up to 45 calendar days.

DISCIPLINE FOR ORDINARY CONDUCT CODE VIOLATIONS

If a student's behavior violates the school conduct code other than weapon, drug or dangerous behavior provisions, the student may be removed (suspended) for up to ten (10) school days per incident except when the student's Behavior Support Plan (BP) calls for a different consequence or when there is a **pattern of removal** such that they constitute a **change in placement**. A free appropriate public education does not have to be provided to the student during the first ten (10) days of removal during a school year. Commencing with the eleventh (11th) day of removal, the student must be provided a **free appropriate public education**, which is described in the regulations as being the opportunity to make progress in the general education curriculum and progress towards the student's IEP goals.

A pattern or removal may be determined based on the following: (1) the length of each removal; (2) the total amount of days the student is removed; and (3) the closeness of the removals to one another. Because a change of placement requires that the student undergo a complete assessment and the IEP team be convened to review placement, a student's placement may not legally be changed by repeated removals from the student's current educational setting.