


## Disciplinary Removals of Students with Disabilities

### COUNTING THE DAYS

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Special Education Mediation Services



Michigan Alliance for Families  
information, support, and education

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## Disciplinary Removals of Students with Disabilities

### Counting the Days



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## Special Education Mediation Services

| Grant-Funded   | Free  | Federally Mandated   |
|--|---|--|
| A Grant-Funded Initiative of the Michigan Department of Education Office of Special Education (OSE). | Offer FREE mediation, IEP facilitation and collaborative communication training to schools and parents across Michigan. | Enables the OSE to meet its obligation under the IDEA to provide statewide mediation services at no-cost to schools and parents to resolve special education disputes. |

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## Caution



These slides reflect general legal standards for the related presentation and are not intended as legal advice for specific situations



Future legal developments and guidance may impact these topics



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## Today's Agenda




 Broad look at discipline under IDEA

 Behavior Intervention

 Change in Placement

 Short-term and Long-term removals

 Next steps

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We will answer these questions:

Which students are included in IDEA's disciplinary regulations?

What counts as a removal?

When does a removal become a change in placement?

How is a pattern of removals determined?

What happens if there is a change in placement?



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Balance school safety with the individual student's connection to their education and ability to receive a FAPE

[illegible]

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- 34 CFR § 300.324(a)(b)(2)

[illegible]

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Which students are included in IDEA's disciplinary regulations?



- Student with an IEP
- Student without an IEP, if there is a *basis of knowledge*

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What is a *basis of knowledge*?

3 circumstances

Parent requested an evaluation in writing



Parent expressed a need for special education services in writing to a teacher, supervisor or administrator

School personnel expressed specific concern about pattern of behavior to special education director or supervisor

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What are the 3 Exceptions to *Basis of Knowledge*?

The parent of the child has not allowed an evaluation



The parent of the child has refused services under IDEA

The child has been evaluated and determined not eligible

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### Change in Placement

- Long term removal = Removal for more than 10 consecutive school days in a school year  
OR
- Series of short-term removals = Removal for more than 10 cumulative school days in a school year
  - **If there is a pattern of removals**

34 CFR § 300.536



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### Counting Removals



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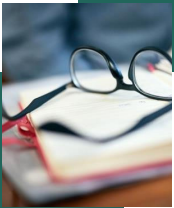
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### What is a Disciplinary Removal?

A disciplinary removal occurs when a student is excluded from his or her current placement, as written in the individualized education program (IEP), due to a violation of the student code of conduct and the student is not afforded the opportunity to:

- Continue to be involved in and make progress in the general education curriculum
- Receive the instruction and services specified in the IEP and
- Participate with nondisabled students to the extent the student would have in his or her current placement



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## What else is a Removal?



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## Partial Day

- A school day is any day, including a partial day that children are in attendance for instructional purposes and has the same meaning for all children in school, including those with and without disabilities. 34 CFR §300.11(c)(1)(2)
- Partial days are counted the same way the school counts for attendance
- Shorter removals during the school day that will not amount to something reportable in the Michigan Student Data System may still be a removal under IDEA if the overall impact limits the student's access to FAPE.
- What about Snap Suspensions?
- After school detention?



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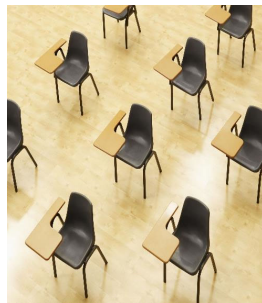
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## In School Suspension (ISS)



OSE Guidance states:  
In-school suspensions are not counted as disciplinary removals when students:

1. Are provided the opportunity to continue to be involved in and make progress in the general education curriculum **AND**
2. Receive instruction and services specified in the IEP **AND**
3. Participate with nondisabled students **AND**
4. Have instruction provided by a certified teacher



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### In School Suspension (ISS) (cont'd.)

- For MSDS reporting purposes, schools must report all In-School Suspensions that are ½ day or more as a removal
- ISS that does meet the criteria should still be included on the pattern of removals worksheet, but would not be counted as removals toward the 10 days



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### Bus Suspension



- **Is transportation part of the student's IEP?**

➤ If YES, then the bus suspension counts as a removal, unless the school district provides the transportation in another way.

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### Behavior Plans



- Removals under a behavior intervention plan are counted when determining if there is a pattern of removal.

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“Come pick up your child”

- Counted as a removal

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### What is a Pattern of Removal?

The short removals total more than 10 school days in a school year

AND

The behavior is substantially similar to behavior that resulted in previous removals

AND

- Length of each removal, total amount of time removed and the proximity of removals to one another is factored in

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### Pattern of Removal: Let's look at an example

|                            |                      |                                |
|----------------------------|----------------------|--------------------------------|
| September 21 <sup>st</sup> | Tardy                | 3 day after school detention   |
| September 28 <sup>th</sup> | Profanity in class   | 1 class period Snap Suspension |
| October 15 <sup>th</sup>   | Insubordination      | 3 day ISS                      |
| October 20 <sup>th</sup>   | Out of seat on bus   | 3 day bus suspension           |
| December 3 <sup>rd</sup>   | Fighting with peer   | 10 day OSS                     |
| January 6 <sup>th</sup>    | Profanity to teacher | 3 day OSS                      |
| January 19 <sup>th</sup>   | Profanity in hallway | 3 day OSS                      |

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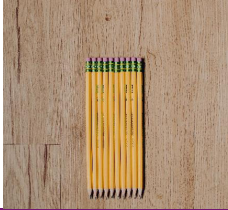
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### What about this?



- A High School student with a disability has been removed from History class for 25 of the last 55 school days for failing to follow direction, cell phone violation, making noise, and insubordination.
- Removals under IDEA?
- Pattern/change in placement?



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### What happens if there is a Change in Placement?



- Must convene a Manifestation Determination Review (MDR) within 10 school days of the decision to change the placement
- Must provide the parent a copy of the Notice of Procedural Safeguards on the date the decision is made to make the change of placement



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### Services if Removed more than 10 Days



Short term removal that is not a pattern (no change in placement):

- ✓ District determines services by consulting with at least one of the student's teachers

Long term removal or short-term removal that is a pattern:

- ✓ IEP team determines services

Services must enable student to:

- ✓ Continue to participate in the general education curriculum and
- ✓ Progress toward their IEP goals



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### Resources

[MDE OSE Guidance: Responding to and Counting Disciplinary Removals](#)  
[MDE OSE Individuals With Disabilities Education Act \(IE Discipline Requirements \(October 2022\)](#)  
[MDE OSE Guidance: Determining a Change in Placement](#)  
[MDE OSE Conducting a Manifestation Determination R](#)  
[MDE OSE MDR Model Form](#)  
[MDE OSE Guidance: Shortened School Day](#)  
[OSERS Questions and Answers on Discipline Procedure \(June 2009\)](#)  
[OSEP Dear Colleague Letter on Supporting Behavior of Students with Disabilities \(August 1, 2016\)](#)  
[OSERS Q & A on Discipline Procedures \(July 2022\)](#)  
[OSERS Positive, Proactive Approaches to Supporting Children with Disabilities: A Guide for Stakeholders \(Jul 2022\)](#)  
[OSEP Dear Colleague Letter on Implementation of IDEA Discipline Provisions \(July 2022\)](#)  
[Positive Behavioral Intervention Supports](#)

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### QUESTIONS?

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### THANK YOU!

- Laura Zangara, Intake Coordinator
- [www.MiKids1st.org](http://www.MiKids1st.org)
- 833-Kids-1<sup>st</sup> (833-543-7178)

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**We are here to support you!**

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For more information visit:  
<https://www.michiganallianceforfamilies.org>

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En Español 313-217-1060  
Statewide Email: [info@michiganallianceforfamilies.org](mailto:info@michiganallianceforfamilies.org)



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**Michigan Alliance for Families**

Michigan Alliance for Families is an IDEA Grant Funded Initiative of the Michigan Department of Education, Office of Special Education, and Michigan's federal Parent-Training and Information Center (PTIC) funded by U.S. Department of Education, Office of Special Education Programs (OSEP).

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