



ABA & VERBAL BEHAVIOR
GROUP

Behavior Modification & Policies

(over 5 years old)

September 2022

Facts

- Males externalize behavior more than females
- Students with disabilities and African Americans are more likely to get disciplined
- Parents can deny to sign an IEP, they have 45 days to review
- During this review time the previous IEP would be implemented
- A student does not need to be picked up unless they have been suspended/expelled.

Short-Term/Long-Term Removals

- Short-Term:

- In school, without the student leaving campus (examples; may be removed from the classroom, placed in a temporary setting)
- Out of school suspension

- Long-Term

- Expulsion
- Students never recover time out of class

Pattern of removal – suspended/removed for similar types of behaviors, series of removals that may constitute a change of placement, over 10 consecutive days

Manifest Determination IEP

- Must be held each time there is a cumulative pattern of removal
- Or when the Local Education Agency (LEA) determines a series of removals that constitutes a change of placement (within or outside of the school setting)
- Mandatory if there is a suspension that is over 10 school days
- This IEP Must occur within 10 days of any change (child placement)
- Parents have the same rights as any other IEP
 - All participants must be present
 - Parents must supply any information that could be important to the meeting
- Functional Based Assessment (FBA) is required when a change of placement exceeds in 10 school days

Emergency IEP

- This does not exist
- Parents are in control of the time and date for any IEP meeting
- “Emergency” may elicit a sense of urgency and parents may not consider having an attorney present and feel required to attend

Out of Compliance with IEP

- Each district has its own written complaint investigation process.
- Request a copy of the district's complaint investigation process before you file for a complaint.
- Send the complaint to the district superintendent of schools or director of special education.
- Describe the situation fully and attach any documents such as the IEP if they are relevant to the complaint.

Further Action (if applicable)

- File a compliance complaint with the California Department of Education (“CDE”).
- The complaint is investigated by the school district or the CDE and a written determination of whether the district was/is “out of compliance” is made.
- If you and the school district do not agree about the following, child’s eligibility, placement, program needs, integration or related services, a request for a due process hearing may be made

Due Process Hearing

- If you decide to file a request for due process hearing, you must file your request within two years from the date that you knew (or had reason to know) of the facts of your complaint.
- At the hearing, both parties present evidence to an independent hearing officer hired by the State of California.
- The hearing officer will decide on the facts and the law and issue a written decision.

Two Prong Test

•1. Was it a manifestation of the student's disability?

- If so, cannot be forced to have a change of placement
- Built into the IEP
- If not a manifestation of disability, then the student can be treated as any neuro-typical developing student

•2. Conduct was a direct result of the district's failure to implement the IEP?

- What if the IEP was implemented and didn't offer FAPE (ineffective/not well done/incomplete?)
- Does not matter (was signed) district implemented IEP (Weak or strong)
 - That is why it matters to incorporate target behavior issues during the IEP

Two Prong Test

- If either prong is “yes”
 - Student cannot be expelled
- If both are “no”
 - The school can discipline as any other student without disabilities
 - Student require FAPE in new placement
- Considerations:
 - IEP team should discuss the reasons for the student’s behavior and resolve any underlying issues
 - FBA is required if there is a change of placement that exceeds 10 suspended school days
 - School must conduct an FBA (unless LEA has already conducted this AND is implementing a BIP based on the FBA) or if BIP is already developed, review and modify if necessary

When to request a Behavior Emergency Report

- If the child was restrained or secluded from school
- A school must notify a family of this within one school day with an incident report
- The incident report should include:
 - *Events leading up to the event*
 - *The emergency intervention used*
 - *Description of the intervention*
 - *Who performed the intervention*

Request Sample

[Name of Director]

Director of Special Education

[Name of School District]

[Address]

[City, CA, Zip Code]

Re: Request for Behavioral Emergency Report for [Student Name] and Request for an IEP Meeting

Dear Director [Name]:

I am the [parent/guardian] of [Student name], who is currently enrolled at [school name] in [grade level] in the [name of school district] "District." I understand that on [date], [describe incident], and the school used an emergency behavior intervention on my [child/student].

[NOTE: Emergency behavior interventions can include school staff physically grabbing or holding down a student (restraint) or putting them separate room (seclusion). [Click here for more information](#) about what interventions a school can or can't use.]

Under Cal. Ed. Code Sec. 56521.1(e), the District was required to immediately create a Behavior Emergency Report and to notify me within one school day after using the emergency behavior intervention on [Student name]. I [did/did not] receive a notification within that time period.

District Expulsion Process

- District Administrative Hearing involves
 - Public safety officer
 - Teacher
 - Counselor/Psychologist
 - Student records
- School Board Approval
 - Will most likely endorse the district's administrative hearing decision
 - Were parents notified of meeting? Was their native language provided? Did they have a right to speak?
 - Parent have the right to postpone/request a translator & attorney
 - Require student to attend the meeting (unless there was crime committed)

The California Board of Education will review the process and determine whether the process was completed accordingly and if any of the steps were skipped. If that happens, then the process would have to start all over.

Important Links

Manifestation Determination Process:

<http://charterselpa.org/wp-content/uploads/2018/01/SUSPENSION-EXPULSION-AND-MANIFESTATION-DETERMINATION.pdf>

IDEA:

<https://sites.ed.gov/idea/>

How to file to CDE:

<https://serr.disabilityrightsca.org/serr-manual/chapter-6-information-on-due-process-compliance-procedures/6-6-how-do-i-file-a-compliance-complaint-with-the-cde/>

Complaint to the local school district:

<https://serr.disabilityrightsca.org/serr-manual/chapter-6-information-on-due-process-compliance-procedures/6-13-how-do-i-file-a-compliance-complaint-with-my-local-district/>

Important Links

Due process Hearing:

<https://serr.disabilityrightsca.org/serr-manual/chapter-6-information-on-due-process-compliance-procedures/6-29-when-would-i-request-a-due-process-hearing/>

Behavior Emergency Report:

<https://www.disabilityrightsca.org/publications/steps-to-take-after-your-child-with-an-iep-has-been-restrained-or-secluded-in-school>