

Understanding Removals, Suspensions, and Manifestation Determination Reviews (MDR's)

Navigating Disciplinary Processes for Students with Disabilities

1/21/25

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Change In Placement

Disciplinary Removal Any instance in which a student is removed from his/her educational placement for disciplinary purposes, i.e. behavior that is violating the code of conduct.

Change in placement is any change in the educational setting for a child with a disability that does not replicate the elements or services of the educational program of the child's previous setting

Manifestation Determination Review (MDR) is a formal process mandated by IDEA to determine whether a student's behavior that led to disciplinary action was a result of their disability or if it is unrelated, impacting subsequent disciplinary decisions and the provision of necessary supports. *MDR's are required for a disciplinary removals that result in a change in placement.

What is considered a disciplinary removal?

A removal from a placement due to a violation of a code of conduct is a disciplinary removal NO MATTER WHAT YOU CALL IT...

Examples:

- Moving a desk or chair into the hallway
- Sending a student to the office for periods of time
- Shortened day due to behavior issues
- Having parents pick up their child for the rest of the day
- Placing any condition on a student's return after a disciplinary removal, i.e. safety assessment, psych eval, etc.,
- ISS- Unless student receives full access to services and is in similar LRE environment
- OSS

*A removal alters the nature of educational services the student receives.

Ten (10) Cumulative Days

IEP teams must conduct an MDR when a removal or series of removals constitutes a change in placement.

- a.) It's considered a change of placement when a student has been suspended from school for a single incident exceeding 10 days.
- b.) It's considered a change on placement for a series of shorter removals that exceed 10 days in total that constitutes a pattern

*A change in placement creates the obligation to conduct an MDR. 34 C.F.R. § 300.530(b)(2).

Partial Days: Even partial days count towards the 10-day total, including removals for any portion of the school day.

***Classroom removals:** including instances where a student is sent to the office or the hallway for disciplinary reasons, typically count towards the 10-day rule under IDEA.

Counting 10 days (ISS + OSS + other disciplinary removals)

Starts over each year.

Begins the first day students are in session.

Any school day, in whole or part that a student is removed for disciplinary reasons.

Part day removal is counted as a part day, in the same way you would count an absence for a nondisabled student.

Analysis for determining change in placement for multiple incidents before exceeding 10 days:

Do the series of removals constitute a pattern?

1. Because the student's behavior is substantially similar to previous incidents that resulted in the series of removals

and

2. Because of additional factors like the length of each removals, total amount of time and proximity of the removals to one another

Yes= Change in placement-conduct MDR before exceeding 10 days.

No = No change in placement

*Removals of more that 10 consecutive days are always considered a change in placement.

“No,” the removal is not considered a change in placement..

School and teachers must:

Determine educational services needed that will enable student to:

- Continue to participate in the general education curriculum in another setting in another setting
- Progress toward meeting IEP goals

And...

- Provide as appropriate FBA and BIP designed to ensure behavior does not reoccur.

“Yes,” the removal is considered a change in placement..

Provide PWN and procedural safeguards

Determine educational services needed to enable the student to:

- Continue to participate in the general education curriculum in another setting and
- Progress toward meeting IEP goals

Conduct a Manifestation Determination Review (MDR) within 10 school days

Provide as appropriate, an FBA and BIP that are designed to address the behavior so it does not recur

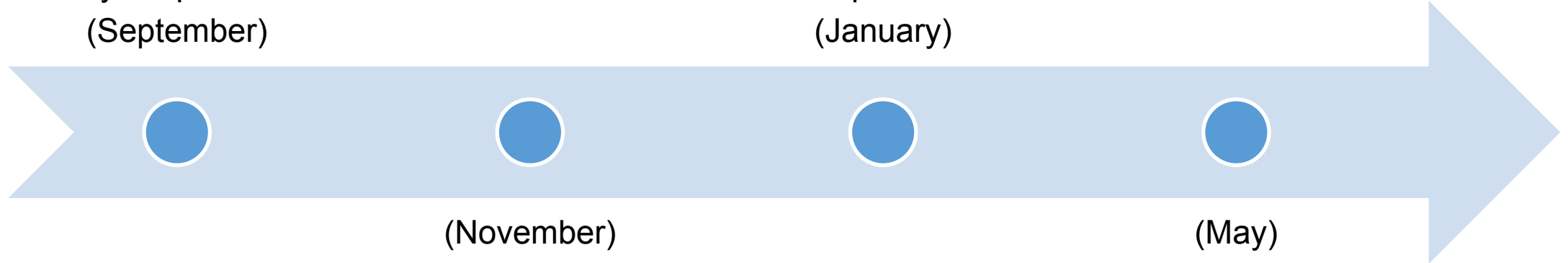
Change of Placement?

Student
insubordinate/foul
language in class- 2
day suspension
(September)

Student uses school
computer to access
inappropriate
websites- 3 days
suspension
(January)

(November)
Student caught
stealing from
cafeteria- 5 day
suspension

(May)
Student gets in a
scuffle with another
student- 5 day
suspension



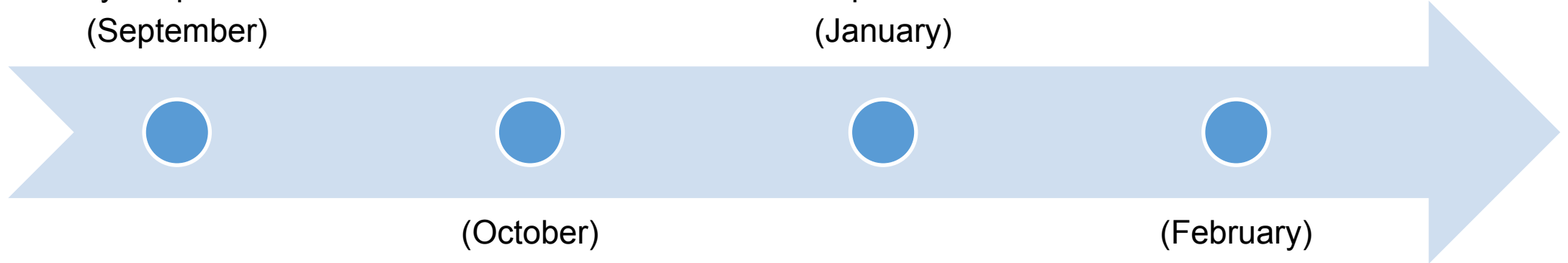
Change of Placement?

Student loses control in classroom, tipping desks throwing papers- 3 day suspension
(September)

Student brings alcohol to school in her backpack- 5 day suspension
(January)

(October)
Student pushes a peer and leaves the building without permission-3 day suspension

(February)
Student gets in a fight with another girl over her boyfriend- 5 day suspension



Manifestation Determination Review (MDR) Relevant Information

Details of the behavior incident leading to the proposed disciplinary action

The student's Individualized Education Program (IEP), including accommodations, goals, and supports

Evaluations or assessments related to the student's disability

Previous behavior intervention plans and their outcomes

Documentation of the student's educational and behavioral history, including past disciplinary actions

Input from teachers, school administrators, parents/guardians, and any other professionals involved in the student's education and support

Manifestation Determination Review (MDR)

Questions to answer

Was the behavior in question caused by, or did it have a direct and substantial connection to the child's disability?

Was the conduct in question a direct result of the school's failure to implement the IEP?

Determine

Discipline without regard to disability

and

Provide FAPE in the disciplinary setting



Conduct (or review) FBA

Implement (or review) and revise) a BIP

and

Return student to pre-disciplinary placement

DISCIPLINE ZONES

may not apply when drugs, weapons, or serious bodily injury are involved



DAY 11



SCHOOLS MUST ANALYZE:

If the series of removals constitute a pattern because:

- ✓ The removals total more than 10 cumulative school days in a school year;
- ✓ The behavior is substantially similar to behavior in previous removals;
- ✓ Because the student's behavior is substantially similar to previous incidents that resulted in the series of removals, AND
- ✓ Because of additional factors like the length of each removal, total amount of time, and proximity of removals to one another.

SCHOOL AND TEACHER(S) MUST:

1. Determine educational services needed to enable the student to:
 - ✓ Continue to participate in the general education curriculum *in another setting*, AND
 - ✓ Progress toward meeting IEP goals.

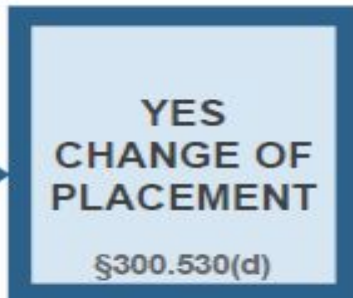
AND
2. Provide, *as appropriate*, and FBA and BIP that re designed to address the behavior so it does not recur.

COUNT:
ALL days (whole and part) of removal for violations of the code of conduct.

10 days or less may be without service.

Discipline without regard to disability.

ALL
removals exceeding 10 consecutive school days.



IEP TEAM MUST:

1. Provide PWN and Procedural Safeguards.
2. Determine educational services needed to enable the student to:
 - ✓ Continue to participate in the general education curriculum *in another setting*, AND
 - ✓ Progress toward meeting IEP goals.
3. Conduct a **Manifestation Determination** in 10 school days.
AND
4. Provide, *as appropriate*, an FBA and BIP that are designed to address the behavior so it does not recur.