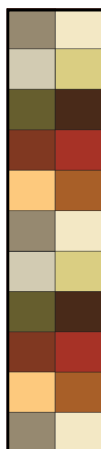


**SSJCSS Special Education
In-Service Training**

February 25, 2013
Karen Glasser Sharp

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Agenda

1. Evaluation decision and timelines
2. Reevaluation before dismissing from special education
3. IEP meetings
 - a. When required
 - b. Participants
 - c. Scheduling

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Agenda

4. Basis for IEP goals
5. Documenting IEP implementation
6. Addressing bullying and harassment
7. Discipline

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Evaluation

When is a referral appropriate?

In some cases, need for evaluation will be self-evident


If suspected ED or SLD, has RtI been attempted?



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Intervention Before Referral for ED

- Under 511 IAC 7-41-7, the CCC must determine the eligibility of a student with an ED based on the multidisciplinary team's educational evaluation report, which must include:
 - A functional behavioral assessment that includes an **analysis of any interventions used to address the behaviors leading to the referral**




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Intervention Before Referral for SLD

Under 511 IAC 7-41-12(a)(1), a Specific Learning Disability may include:

1. Reading disability
2. Written expression disability
3. Math disability
4. Oral expression disability
5. Listening comprehension disability




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Intervention Before Referral for SLD

And under 511 IAC 7-41-12(a)(2) can be evidenced through either of the following:

(A) Insufficient progress to meet age or state approved grade level standards in one (1) or more of the areas identified in subdivision (1) **when using a process based on the student's response to scientific, research based intervention.**



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Intervention Before Referral for SLD


(B) A pattern of strengths and weaknesses in performance or achievement, or both, relative to:

(i) age;

(ii) state approved grade level standards; or

(iii) intellectual development;

that is determined by the group to be relevant to the identification of a specific learning disability.



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Intervention Before Referral for SLD

The multidisciplinary team is prohibited from using a severe discrepancy between academic achievement and global cognitive functioning to meet the requirement in subsection (B) above.



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Intervention Before Referral for ED/SLD

- Hence, in either case, before the referral for evaluation, intervention must be attempted.
- There should be in the student's file prior to referral a Notice of Interventions that was provided to the parents when the student was provided an intervention that is not provided to all students in the classroom.
- This is required by 511 IAC 7-40-2(f)

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Notice of Interventions

The written notification must include:

- The amount and nature of student performance data that will be collected;
- The general education services that will be provided;
- The evidence-based strategies that will be utilized for increasing the student's rate of learning to grade level;

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Notice of Interventions

- The parent's right to request an educational evaluation to determine eligibility for special education and related services;
- An explanation that the school will initiate a request for an educational evaluation if the student fails to make adequate progress after an appropriate period of time when provided with scientific, research based interventions; and

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Notice of Interventions

- An explanation that (1) when the school initiates a request for an educational evaluation, it will provide written notice to the parent regarding the evaluation before requesting written parental consent for the evaluation, and (2) after obtaining written parental consent, the school must evaluate the student and convene the CCC within 20 instructional days.

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PLEASE NOTE!!!

- Diagnostic placements are no longer permitted under the law.
- Thus, no student will be placed in a “diagnostic placement.”
- Instead, coordinated early intervening services must be utilized before referral for evaluation.

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Coordinated Early Intervening Services

- Comprehensive and coordinated early intervening services are services provided to students in grades K-12 (emphasis on K-3) who are not currently identified as needing special education or related services, but who need additional academic and behavioral support to succeed in a general education environment

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Coordinated Early Intervening Services

- Funds for CEIS can be used for:
 - Professional development for teachers and staff to equip them to deliver **scientifically based academic and behavioral interventions**, including literacy instruction and/or the use of adaptive and instructional software
 - Providing **educational and behavioral evaluations, services and supports**, including scientifically-based literacy instruction

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Coordinated Early Intervening Services

- You can utilize these funds to provide early intervention services to at-risk students and may avoid identifying many of those students as eligible for special education and related services
- Furthermore, you must attempt intervention before identifying a student as having an Emotional Disability or Specific Learning Disability
- This can include a research-based school-wide PBIS

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Whether to evaluate?

- After a parent makes a request for an educational evaluation, the school has 10 instructional days to provide the parent with written notice of its proposal to evaluate or refusal to evaluate the student.
- Article 7 thus contemplates the possibility that the school will refuse to evaluate the student.

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Whether to evaluate?

You may decide not to evaluate if:

- Student made progress with RtI
- Previous evaluation done recently and student found not eligible
- No indications of any impact on student in terms of academics, behavior, etc.
- Student previously dismissed from special education after reevaluation and there is no indication of new concerns

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Notice required

Before school can evaluate student, written notice must be provided to parent that includes:

(1) A statement that the school is proposing or refusing to conduct the educational evaluation that includes a description of each:

(A) evaluation procedure;

(B) assessment;

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Notice required

(C) record; or
(D) report;

the school used as a basis for proposing or refusing to conduct the educational evaluation.

(2) A description of other factors relevant to the school's proposal or refusal to conduct the educational evaluation.

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Notice required

(3) If the school:

- (A) is proposing to conduct the educational evaluation, a description of any evaluation procedures the school to conduct; or
- (B) refuses to conduct the educational evaluation, an explanation of the parent's right to contest the school's decision by requesting:
 - (i) mediation; or
 - (ii) a due process hearing.

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Notice required

(4) If a school is proposing to conduct an educational evaluation, the following:

- (A) The timeline for conducting the educational evaluation and convening the CCC meeting.

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Notice required

(B) An explanation of how to request one (1) or both of the following:

- (i) A copy of the educational evaluation report, at no cost to the parent, prior to the CCC meeting.
- (ii) A meeting with an individual who can explain the results of the educational evaluation prior to the CCC meeting.

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Notice required

(5) A statement that a parent of a student with a disability has protection under the procedural safeguards described in 511 IAC 7-37-1. A copy of the notice of procedural safeguards must be provided to the parent with the written notice described in this section.

(6) A list of sources for parents to contact to obtain assistance with understanding the provisions of Article 7.

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Parent Consent

After written notice is provided, the parent must give consent in writing before the school can conduct an initial educational evaluation

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Timeline for evaluation

Under 511 IAC 7-40-5(d), the initial educational evaluation must be conducted and the CCC convened within **50 instructional days** of the date that written parental consent is received by licensed school personnel, **UNLESS**:

1. Suspension/expulsion/IAES is pending and parent has requested evaluation of student not yet identified, in which case the school has **20 instructional days** to complete the evaluation and convene the CCC.

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Timeline for evaluation

2. Student has participated in Rtl, in which case the school has **20 instructional days** to complete the evaluation and convene the CCC.
3. When a child is transitioning from early intervention (Part C) to early childhood special education (Part B), in which case the evaluation must be completed and the CCC convened to ensure that the child receives special education services **by his or her third birthday.**

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Timeline for evaluation

4. When the parent of a student repeatedly fails or refuses to produce the student for the evaluation (essentially tolls the timeline for completion of the evaluation).
5. When a student enrolls in another school corporation after the relevant time frame has begun and prior to completion of the evaluation if the:

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Timeline for evaluation

- (A) subsequent school corporation is making sufficient progress to ensure a prompt completion of the evaluation; and
- (B) parent and subsequent school corporation **agree to a specific time when the evaluation will be completed.**

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Reevaluation before dismissal from special education

Under 511 IAC 7-40-3(g), the school must evaluate a student with a disability before a CCC can determine that the student is no longer a student with a disability, except when termination of the student's eligibility is due to:

- (1) graduation with a high school diploma;
- (2) exceeding the age eligibility; or
- (3) a parent's revocation of consent for special education and related services.

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IEP Meetings

When required?

Initial case conference

- Within 50 instructional days of consent for evaluation
- Within 20 instructional days of consent for evaluation after RtI
- Within 20 instructional days of consent for evaluation if suspension, expulsion or IAES pending

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IEP Meetings

- After reevaluation
 - Within 50 instructional days from parent consent for reevaluation
- At least once every 12 months
- If either parent or school believes IEP should be revised
- Within 10 instructional days of enrollment of student who received special education from another school

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When is case conference held

- Within 10 instructional days of a disciplinary change of placement to determine if the behavior is a manifestation of the student's disability
- To determine the interim alternative educational setting when school personnel remove a student to an IAES pursuant to 511 IAC 7-44-6 (weapons, drugs, SBI), unless already stated in the IEP or BIP
- At least every 60 instructional days if on homebound placement in the IEP

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Who Should Attend?

Required participants:

- Public agency representative (this may be you)
 - Knowledgeable about and has authority to commit resources
 - Qualified to provide or supervise provision of special education
 - Knowledgeable about general education curriculum

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Who Should Attend?

Required participants:

- Current Teacher of Record (or SLP if language/speech impairment only)
- Not fewer than 1 of the STUDENT'S general education teachers if the student is or MAY BE participating in the gen. ed. environment
- Individual who can interpret instructional implications of educational evaluations (can be one of above)
- Parent (if < 18) or Student (if 18 or older)

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Who Should Attend?

Other required participants:

- If initial case conference, a member of the multidisciplinary team
- If student is/may be enrolled in alternative school, a representative of the alternative school
- If student is/may attend a state-operated school, a representative of the state-operated school

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Who Should Attend?

Other required participants:

- If student is/may be placed in non-public school, a representative of the non-public school and a representative of the local public school providing any special ed.
- If unilaterally enrolled by parent, a representative of the nonpublic school

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Who Should Attend?

Other required participants:

- If transitioning from Part C (early childhood), at the request of the parent, an invitation must be sent to the Part C Service Coordinator or other Part C representatives
- If developing a transition IEP, must invite the student
- If developing a transition IEP, and the parent provides consent, must invite a representative of any agency that may provide transition services


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Who Should Attend?

Other potential participants:


- At the discretion of the parent or the school, other individuals who have knowledge or special expertise regarding the student, including related services personnel
- At the discretion of the parent, the student may participate



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Excusing CCC Members


- A required member may be excused from attending if the parent and school agree, in writing, that the member's attendance is not necessary because that member's area of the curriculum or related services is not being modified or discussed in the meeting



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Notice of Case Conference

- Case conference must be scheduled at a mutually agreeable date, time and place
- Parent must be contacted in advance in an effort to find a mutually agreeable date
- Document efforts to contact parent
- Send written notice
- Notice should include reason for case conference
- Notice should include expected participants (name and title)



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Importance of IEP Goals

- The IDEA and Article 7 require the School to provide a FAPE to students with disabilities who need special education and related services
- FAPE is 2-part analysis:
 - Did the School follow the legally required procedures in developing the IEP?
 - Is the IEP reasonably calculated to provide the student a meaningful educational benefit?
- Progress on IEP goals generally is viewed as evidence that the IEP is reasonably calculated to provide the student a meaningful educational benefit

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Importance of IEP Goals

- The IEP is the foundation of a student's special education program
- The IEP goals are the cornerstone of the IEP
- The IEP goals are derived from the student's present levels of performance
- You can't set goals unless you have accurate PLOP
- You can't measure progress unless you have measurable goals

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IEP Goals

- Goals should be framed in terms of annual measurement – where do you want the student to be in a year?
- All students with IEPs must have annual goals that address their educational needs related to their disability
- Only those students who are assessed using an alternate assessment to ISTEP or ECA must have benchmarks or objectives

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IEP Goals

- Goals are based on the student's needs
- Needs are determined by looking at PLOP to see in which areas the student is not performing at the same level as his nondisabled peers
- The goals should be what we expect of nondisabled students
- The IEP goals explain how the student gets from "here" to "there"

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IEP Goal Components

5 Components of Goal:

1. The direction we want to go (i.e., increase or decrease)
2. The problem we are addressing
3. The present level
4. The amount of change we want to see by the end of this IEP year
5. Measured by (standardized test, curriculum-based assessment or other method of objectively measuring progress)

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IEP Goals: Progress Monitoring

- The 2008 reauthorization of the IDEA has a strong emphasis on data collection – the part of IEP reporting also known as “progress monitoring.”
- Regular data collection will be part of your weekly routine.
- Writing goals that clearly define what it is that the student will learn/do and how you will measure it will be essential.

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IEP Goals Checklist

Present levels assessment based on:

- Current evaluations
- Observations
- Data collection
- FBA
- Have you used an assessment method that can be employed to determine progress throughout the year?

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IEP Goals Checklist

Goals/Objectives

- Address all needs based on PLOP
- Have you obtained a baseline for each goal using an assessment method that can be employed to determine progress through the year?
- Are the goals related to academic standards?
- Are the goals objectively measurable?
 - Need to have some objective measure of progress each nine weeks
 - Can someone picking up the IEP understand what is required to implement it?

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IEP Goals Checklist

Goals/Objectives

- Can the goals be achieved in 12 months?
- If the student will be assessed using an alternate assessment method, have you developed benchmarks?
- Are these benchmarks related to the goal?
- Are these benchmarks logically stated in the order you expect them to be achieved during the school year?

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Data Collection and Progress Reports

Data Collection Strategy

- Data to be collected – specific to goal, student, environment
- Data collection sources – examples:
 - Rubrics, checklists, observation, record of verbal responses, portfolios, shortened tests, open book tests, teacher-made tests, illustrations, reports/observations from internships and vocational experiences, hands-on performance, self-evaluation

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Data Collection and Progress Reports

Data Collection Strategy

- Data collection schedule – examples:
 - Quarterly, mid-year, monthly, 30 consecutive days, last week of each month
- Data collection person – examples:
 - General education teacher, special education teacher, related service provider, aide

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Data Collection and Progress Reports

Progress Report

- Answers the following questions:
 - What is the student's progress toward meeting the annual goal?
 - Is the progress sufficient to enable the student to achieve the annual goal by the end of the IEP period?
- Assures that the student's learning is continuous

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IEPs

Checklist: documentation of progress

- Is it documented as often as required by the IEP?
- Is it stated in terms that have meaning?
- Has the parent been advised of progress in writing?
- How is lack of progress addressed? When?
- Problem: goals that don't change

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IEP Implementation

Must maintain documentation of:

1. Implementation of goals/objectives
2. Provision of accommodations
3. Implementation of BIP
4. Provision of services in IEP
5. Progress reports
6. Manner in which progress reports were transmitted to parent

REMEMBER, according to IDOE, if it's not documented, it didn't happen

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Bullying vs. Harassment

Ind. Code 20-33-8-0.2 "Bullying":
"bullying" means overt, **repeated** acts or gestures . . . by a student or group of students **against another student with the intent to harass, ridicule, humiliate, intimidate, or harm** the other student.

- Must be **repeated** acts
- There is a **targeted student**
- **Intent** must be assessed

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HEA 1423 – Anti-Bullying

Amends the definition of bullying under I.C. 20-33-8-0.2 and the student discipline bullying rule under I.C. 20-33-8-13.5.

Expands the definition of bullying and expands the reach of the bullying student conduct rule to wherever the physical location of the bullying takes place by a student toward another student attending the same school corporation where discipline is necessary to avoid a substantial interference with school operations or to prevent an unreasonable threat to a safe and peaceful learning environment.


Effective date was July 1, 2013.



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Bullying vs. Harassment

- But even if certain behaviors are not within the definition of bullying, they may constitute “harassment” within the meaning of the various civil rights statutes
- Schools are obligated to investigate instances of harassment on the basis of disability even if it does not meet the definition of bullying




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OCR Guidance

OCR issued a “Dear Colleague Letter” on October 26, 2010, which:

- Clarifies the relationship between bullying and discriminatory harassment under the civil rights laws enforced by OCR
- Explains how student misconduct that falls under an anti-bullying policy also may trigger responsibilities under one or more of the anti-discrimination statutes



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OCR Guidance

- Reminds schools that failure to recognize discriminatory harassment when addressing student misconduct may lead to inadequate or inappropriate responses that fail to remedy violations of students' civil rights
- Discusses racial and national origin harassment, sexual harassment, gender-based harassment, and disability harassment and illustrates how a school should respond in each case

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OCR Guidance

Purpose of the DCL:

- The DCL was issued to clarify the relationship between bullying and discriminatory harassment and to remind schools that by limiting their responses to a specific application of an anti-bullying or other disciplinary policy they may fail to properly consider whether the student misconduct also results in discrimination in violation of students' federal civil rights

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OCR Jurisdiction

OCR enforces:

- Title VI
- Title IX
- Section 504
- Title II of the ADA

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OCR Guidance

School's obligations under these statutes:

- Once a school knows or reasonably should know of possible student-on-student harassment, it must take immediate and appropriate action to investigate or otherwise determine what occurred

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OCR Guidance

- If harassment has occurred, a school must take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment, and prevent its recurrence
- These duties are a school's responsibility even if the misconduct also is covered by an anti-bullying policy and regardless of whether the student makes a complaint, asks the school to take action, or identifies the harassment as a form of discrimination

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OCR's 10-26-10 DCL

Difference between bullying and harassment:

- Bullying is repeated acts, directed at a specific student, and includes intent to harm
- Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents

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What this means to schools

- Danger in addressing bullying solely as a disciplinary issue if the basis for the bullying is harassment due to membership in a protected class
- If a student is bullied because of his/her disability, the school cannot simply discipline the perpetrator but must investigate and remediate the harassment
- May be harassment even if not "bullying"
- Failure to investigate could violate Section 504

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Reasons to investigate

- Must address bullying under discipline code
- Must investigate potential harassment
- Even when bullying or harassment is not a civil rights violation, schools should still seek to prevent it in order to protect students from the physical and emotional harms that it may cause

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Steps to prevent liability

- Policy prohibiting harassment on the basis of disability - current
- Procedures for filing a complaint and investigation of complaints
- Publication and dissemination of policy and procedures
- Education and training
- Reporting harassment
- Investigation and remediation – timely
- Oversight to prevent retaliation
- Documentation and records retention

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ARTICLE 7:
Basic concepts of discipline procedures

- Short term removal of student from his/her current placement pursuant to the IEP is not a suspension
- Part of a day suspension is considered a full day of suspension
- A suspension is a removal

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ARTICLE 7:
Basic concepts of discipline procedures

- No services required unless the student has already been suspended for ten cumulative days in that school year
- No manifestation determination conference if 10 cumulative days or less

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ARTICLE 7:
Basic concepts of discipline procedures

- No functional behavioral assessment (FBA) or behavioral intervention plan (BIP) required if 10 cumulative days or less

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ARTICLE 7:
Basic concepts of discipline procedures

ISS doesn't count as suspension if:

- Services are provided to allow student to make progress in the general education curriculum
- Student receives special education services in IEP
- Student participates with non-disabled students as in current placement

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Scenario #1:

- Kristy Kutter is in 8th grade
- Kristy was placed in ISS for 2 days for fighting in October
- Kristy got a 1-day OSS in November for fighting
- Kristy next received a three-day OSS for fighting in January
- Kristy just got caught fighting again at school in March
- Can you suspend her for 5 days without convening a case conference?

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Scenario #1:

Issues:

- Does the 2-day ISS count towards the 10-day limit?
- If the ISS is included, is there a change of placement?
 - Look at the suspensions to determine whether there is a pattern of behavior
 - Although not close in time, they were all for fighting, so it probably is a change of placement
 - You must convene a manifestation determination case conference
- If the ISS is not included, then no need to determine if there has been a change of placement because you only have 9 days total

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ARTICLE 7:
Basic concepts of discipline procedures

- If bus transportation is part of a student's IEP, a suspension from the bus constitutes a removal (subject to all of the limitations on suspension from school) unless the school provides alternative transportation

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Repeated suspensions of ten days or less

- 511 IAC 7-44-1(h) provides that once the student has received 10 days of suspension in any one school year, for any subsequent suspensions that are 10 days or less the school must determine whether a change in placement has occurred under 511 IAC 7-44-2
- The school administration makes this determination on a case-by-case basis

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Repeated suspensions of ten days or less

In determining whether a change of placement has occurred, the school must determine whether the series of removals constitutes a pattern because:

- The series of removals cumulate to more than 10 instructional days in a school year;
- The student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals; and

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Repeated suspensions of ten days or less

- Of such additional factors as the:
 - Length of each removal;
 - Cumulative amount of time the student has been removed; and
 - Proximity of the removals to one another

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Scenario #2:

- Johnny Badapple is in 5th grade
- Johnny was sent home early on September 4, September 7, September 11, September 14, September 21, September 25, October 2, October 9, and October 12, 13 and 14.
- Each time he was sent home for throwing things in class at the teacher and his peers.
- What should the School be doing?

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Scenario #2:

- Each day sent home is a day of suspension
- He has reached 11 days total
- You need to determine if there is a change of placement
- Because of the proximity in time of the removals and the reason for the removals, it likely is a pattern and thus constitutes a change of placement
- You must convene a manifestation determination case conference

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Removals of More than 10 Cumulative Days that Do NOT Result in a Change of Placement

School personnel, in consultation with at least one of the student's teachers, determine the extent to which services are needed to allow the student to:

- a. Continue to participate in the general curriculum, although in another setting;
- b. Progress toward meeting the goals set forth in the IEP.


These services may be provided in an interim alternative educational setting (IAES).



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Repeated suspensions of ten days or less

The extent of necessary services is decided upon by "school personnel" (not defined) in consultation with at least one of the student's teachers (formerly, the law required services to be decided by the principal in consultation with the special education teacher)




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Repeated suspensions of ten days or less

The school may consider any unique circumstances on a case-by-case basis when determining **whether a change in placement is appropriate (OR NOT)** for a student who violates the code of student conduct, including:

- Student's disciplinary history;
- Student's ability to understand the consequences;
- Supports provided to the student prior to the violation;
- Other relevant considerations



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Repeated suspensions of ten days or less

Consider alternatives to suspension:

- Community service
- Drug/alcohol treatment
- Form 16 – Waiver of Due Process Rights
- Other possibilities

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Repeated suspensions of ten days or less

Parent consent is not required for a disciplinary change of placement

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Repeated suspensions of ten days or less

A parent who disagrees with a disciplinary change of placement can request:

- Mediation;
- Due process hearing; or
- Both

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Repeated suspensions of ten days or less

- If a parent requests a due process hearing, it is an expedited hearing
- The IHO can order the student returned to his or her previous placement if the IHO determines the removal of the student "was a violation of this rule"

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Notice of Procedural Safeguards

511 IAC 7-37-1(d) states that a copy of the notice of procedural safeguards must be provided to the parent at least one time per school year and:

1. upon initial referral or parent's request for evaluation;
2. upon receipt of the first filing of a complaint under 511 IAC 7-45-1 in a school year;

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Notice of Procedural Safeguards

3. upon receipt of the first due process hearing request under 511 IAC 7-45-3 in a school year;
4. on the date the school decides to make a removal that results in a disciplinary change of placement under 511 IAC 7-44-2, which includes removals to interim alternative educational settings for drugs, weapons and serious bodily injury under 511 IAC 7-44-6; and
5. upon the request of a parent.

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Repeated suspensions of ten days or less

- When a decision is made to make a removal that constitutes a change of placement (i.e., the school has determined the existence of a “pattern” resulting in a change of placement), the school must **notify the student’s parent and provide the parent with a copy of the Notice of Procedural Safeguards**
- **Notice can be notice of suspension or separate form you complete and send with procedural safeguards**

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Repeated suspensions of ten days or less

- Notice must be provided **on the date that the school decides to make a removal** that constitutes a change of placement
- The school must make and document reasonable efforts to notify the parent and provide the parent with the Notice of Procedural Safeguards
- If the school is unable to notify the parent on the date the decision is made, notice must be mailed to the parent not later than the following business day

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Repeated suspensions of ten days or less

Within 10 instructional days of the decision to change the placement of a student with a disability for violating the code of student conduct, the CCC must meet to determine whether the student’s behavior is a manifestation of the student’s disability

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Repeated suspensions of ten days or less

The CCC must review:

- All relevant information in the student's file
- The student's IEP
- Any teacher observations
- Any relevant information provided by the parent

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Repeated suspensions of ten days or less

The CCC must determine if the conduct was:

- Caused by or had a direct and substantial relationship to the student's disability; or
- The direct result of the school's failure to implement the IEP

If the answer to either question is yes, then the conduct is a manifestation of the student's disability

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Repeated suspensions of ten days or less

If the student's conduct was the result of the school's failure to implement the IEP, the school must take immediate steps to remedy those deficiencies

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Repeated suspensions of ten days or less

If the conduct is a manifestation of the student's disability, the CCC must:

- Conduct a FBA, unless a FBA previously was conducted, and develop a BIP for the student or if a BIP has been developed, review and modify the BIP, as necessary, to address the behavior; and
- **Return the student to the placement from which the student was removed**, unless the parent and the school agree to a change of placement as part of the modification of the BIP

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Repeated suspensions of ten days or less

If the conduct is not a manifestation of the student's disability, then school personnel may apply the relevant disciplinary procedures to the student in the same manner and for the same duration as non-disabled students

However, during any removal the student must receive services

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Repeated suspensions of ten days or less

The CCC must determine the appropriate services to enable the student to:


- Continue to participate in the general education curriculum, although in another setting;
- Progress toward meeting the goals in the student's IEP;
- Receive, as appropriate, a FBA and behavioral intervention services and modifications that are designed to address the behavior violation so it does not recur

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Repeated suspensions of ten days or less

These services may be provided in an interim alternative educational setting as decided by the CCC




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Repeated suspensions of ten days or less

If the parent disagrees with the determination that the student's conduct was not a manifestation of his or her disability, the parent may request:

- Mediation;
- Due process hearing; or
- Both




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Repeated suspensions of ten days or less

If a parent requests a due process hearing, it is an expedited hearing

The IHO can order the student returned to his or her previous placement if the IHO determines the student's conduct was a manifestation of the student's disability




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Suspension of more than 10 consecutive days

A removal for **more than 10 consecutive school days** for disciplinary reasons is a disciplinary change of placement


Such removals are subject to the same requirements as repeated suspensions of 10 days or less that constitute a change of placement because they constitute a patterns of removals



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Suspension of more than 10 consecutive days


The parent of a student who is suspended for more than 10 consecutive school days who disagrees with the decision regarding a student's disciplinary change of placement and/or the determination that a student's behavior is not a manifestation of his or her disability has the same right to request mediation or due process hearing as does the parent of a student who has received repeated suspensions of 10 days or less



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**Interim Alternative Educational Settings
511 IAC 7-44-6**

- It is highly recommended that you confer with SSJCSS administrators in making any decision to place a student in a 45-instructional day IAES.
- Article 7 allows the principal or the principal's designee to remove the student to an IAES for not more than 45 instructional days without regard to whether the behavior is manifestation of the student's disability if the student:



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Interim Alternative Educational Settings
511 IAC 7-44-6

1. Carries a weapon to school or posses a weapon; OR
2. Knowingly possess or uses illegal drugs or sells or solicits the sale of a controlled substance; OR
3. Has inflicted serious bodily injury upon another person

at school, on school premises, or at a school function under the jurisdiction of the Department of Education or a school.

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Scenario #3:

- Rush Reefer is in 10th grade
- Rush came to school with some Ritalin
- Rush gave the pills to another student
- Rush has a prescription for the pills
- Rush's mom claims the other kid told him he would get in trouble for having them, so he gave the pills to the other student
- Can Rush be disciplined?
- What are the School's options?

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Scenario #3:

- Rush has a prescription for Ritalin, so you can't impose a 45-day IAES for drugs because it does not constitute "illegal drugs" and there was no "sale"
- However, it violates the student code of conduct, and you can move for expulsion
- You would need to conduct a manifestation determination case conference before proceeding to expulsion

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Scenario #3:

- Same facts, except instead of Ritalin, Rush brings marijuana to school and gives it to another student
- Under this scenario, you can impose a 45-day IAES and also move for expulsion
- You would need to conduct a manifestation determination case conference before proceeding to expulsion
- But even if the CCC concluded that bringing the marijuana to school was a manifestation of Rush's disability, he can still be maintained in the 45-instructional day IAES

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**Interim Alternative Educational Settings
511 IAC 7-44-6**

1. A manifestation determination case conference must be conducted within 10 instructional days of the move to the IAES. However, the student stays in the IAES even if the behavior is a manifestation of his disability.

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**Interim Alternative Educational Settings
511 IAC 7-44-6**

2. The CCC must determine the IAES and appropriate services to allow the student to: (1) continue to participate in the general curriculum, although in another setting, (2) progress toward the goals in his IEP, and (3) receive an FBA and/or BIP to address the behavior violation so that it does not reoccur.
3. Parent may challenge the placement through mediation and/or expedited due process hearing.

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Interim Alternative Educational Settings
511 IAC 7-44-6

Under 511 IAC 7-32-82, "Serious bodily injury" means bodily injury that involves:

- (1) a substantial risk of death;
- (2) extreme physical pain;
- (3) protracted and obvious disfigurement;
or
- (4) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

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Scenario #4:

- Junior Felon forces a female student into the restroom and has sex with the girl without her consent
- He has bruised her face where he held his hand over her mouth to keep her quiet
- Can you place Junior in a 45-day IAES for serious bodily injury?

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Scenario #4:

- Probably not.
- Serious bodily injury means "bodily injury that involves: (1) a substantial risk of death; (2) extreme physical pain; (3) protracted and obvious disfigurement; or (4) protracted loss or impairment of the function of a bodily member, organ or mental faculty.
- However, you can move to expel him and you can report this crime to law enforcement

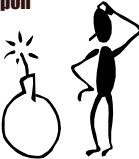
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Interim Alternative Educational Settings (IAES)

When triggered by drugs, dangerous weapons or serious bodily injury

**Student "carries" or possesses a weapon
or
knowingly possesses or uses
illegal drugs or sells or solicits sale
of controlled substance
or
has inflicted SBI on another
at school, on school premises, or at
school function**



(Immediately)

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IAES: when triggered by drugs, dangerous weapons, or serious bodily injury

Principal suspends student and decides to trigger the 45 instructional day IAES

(On the day decision is made)

School notifies parent of decision and provides notice of procedural safeguards

(within 10 instructional days)

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IAES: when triggered by drugs, dangerous weapons, or serious bodily injury

CCC meets for manifestation determination but student remains in IAES regardless of determination

(ASAP after decision to impose IAES)

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IAES: when triggered by drugs, dangerous weapons, or serious bodily injury

Case conference committee convenes to design IAES which:

- 1) Provides appropriate services to enable the student to participate in the general curriculum (in another setting) and allow student to make progress on IEP goals**
- 2) Includes FBA and behavioral intervention services and modifications to address behavior and prevent recurrence**

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IAES: when triggered by drugs, dangerous weapons, or serious bodily injury

Parent requests hearing to challenge the IAES

Expedited hearing to decide IAES. Student remains in IAES pending decision of hearing officer (no more than 45 instructional days)

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Expulsion

Student violates the code of conduct


Principal decides to request expulsion and/or move the student to an IAES for a period of more than ten school days

(on the day the decision is made)

School notifies parent of decision and provides notice of procedural safeguards

(immediately)

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Expulsion

Student is suspended or is placed in a 45-day IAES if the offense involves drugs, weapons or serious bodily injury

(within ten instructional days of decision to remove student)

CCC meets for manifestation determination

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Expulsion
If the IEP team decides that the misbehavior is:

<p>Manifestation</p> <p>↓</p> <p>Student may not be suspended or expelled for the behavior</p> <p>↓</p> <p>Case conference committee determines if a change in service and/or placement is warranted and remedies any deficiencies in the IEP</p>	<p>Not a manifestation</p> <p>↓</p> <p>School sends notice of decision and notice of procedural safeguards to parents</p> <p>↓</p> <p>Principal requests appointment of expulsion examiner</p>
--	---

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Expulsion
If the IEP team decides that the misbehavior is:

<p>Manifestation</p> <p>↓</p> <p>CCC must conduct an FBA and implement a BIP or revise the BIP to address the behavior</p>	<p>Not a manifestation</p> <p>↓</p> <p>Superintendent decides whether to appoint expulsion examiner</p> <p>(if expulsion examiner appointed)</p>
--	--

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Expulsion
If the IEP team decides that the misbehavior is:

Manifestation	Not a manifestation
Student must be returned to placement from which student was removed unless student placed in a 45-day IAES or parents agree otherwise	School proceeds with expulsion and sends the student's special education and discipline records to the expulsion examiner, who notifies parents and student of their right to request and appear at an expulsion meeting

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Expulsion

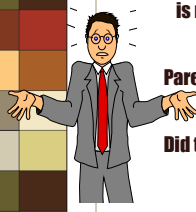
If the parent files for a special education hearing to contest the manifestation determination, the student will not return to his previous placement.

The CCC will determine the appropriate services needed for the student to participate in the general education curriculum and make progress toward IEP goals and to receive a FBA and behavioral intervention services to address the behavior and prevent recurrence

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Students Not Yet Identified



Student violates code of conduct and is recommended for expulsion

Parent notifies school that student has disability

Did the school have knowledge of the disability prior to the violation?

The school is deemed to have knowledge if:

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Students Not Yet Identified

1. The parent has expressed concern in writing to licensed personnel or student's teacher that the student is in need of special education
OR
2. The parent or the school has requested an evaluation of the student
OR

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Students Not Yet Identified

3. The student's teacher or other school personnel has expressed specific concern about a pattern of behavior demonstrated by the student directly to supervisory personnel of the school

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Students Not Yet Identified

Student may exercise all Article 7 rights relative to expulsion, beginning with right to evaluation

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Students Not Yet Identified

The school is deemed not to have knowledge if:

↓

1. The parent has not allowed an evaluation

OR

2. The parent has refused services

OR

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Students Not Yet Identified

3. The school conducted an evaluation, determined the student was not eligible, and provided prior written notice of its determination to parent

OR

4. The parent has revoked consent for special education and related services pursuant to 511 IAC 7-42-15

↓

School may proceed with expulsion

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Students Not Yet Identified

If parent requests an evaluation, school conducts an expedited evaluation*

(within 20 days of signing of consent for evaluation)

↓

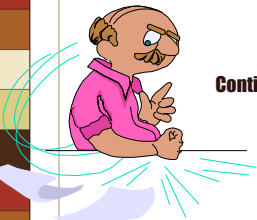
CCC convenes to discuss eligibility and (if necessary) make a manifestation determination

*Until the evaluation is complete, the student remains in the educational placement determined by school authorities (may include suspension or expulsion with no services)

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Students Not Yet Identified



Continue with expulsion flow chart

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**Referral to Law Enforcement and
Judicial Authorities
511 IAC 7-44-10**

1. Article 7 does not prohibit the school from reporting a crime allegedly committed by a student with a disability to appropriate authorities OR prevent state law enforcement or judicial authorities from exercising their authority in accordance with state or federal law.

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**Referral to Law Enforcement and
Judicial Authorities
511 IAC 7-44-10**

2. The School must ensure that copies of educational records provided to law enforcement or judicial authorities are transmitted in accordance with FERPA and Article 7's confidentiality rules.
3. Parental consent is not required to release records in this instance.

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What NOT To Do

- Don't forget to count in-school suspension as a day of suspension in reaching the first 10 days (unless exception is met)
- Don't forget that a partial day equals a full day of suspension

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What To Do

- Keep updated records
- Keep running total of days suspended
- Make the punishment fit the crime
- Maintain communication with parents
- If behavior is problem, reconvene the case conference to discuss whether an FBA/BIP is needed

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Questions???

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