

Parents of children with disabilities may experience calls from the school with the expectation that they need to pick up their child due to behavior. This may cause parents to leave work or suspend other commitments.

### What reasons may the school send a child home?

Anytime a child is sent home (ages 3-21) by school staff it should be documented through school records as:

- illness/injury or;
- suspension.

**School districts are required to provide ALL students a minimum amount of instructional time per year, which equals 180 days or 1080 hours, with the exception of preschool. \*See Iowa Code 256.7 (19)**

### What are my child's rights when I am called to pick up my child due to behavior?

It is important for parents to understand their child's rights when the school requests parents to pick up their child due to behavior. Section 504 of the Rehabilitation act protects students with disabilities, including those with IEPs, from discrimination. Guidance from the federal Office of Special Education Programs (OSEP) defines disability discrimination as excluding or denying benefits (which includes access to education) based on disability.

Students with disabilities are entitled to educational services and supports that are designed to meet their individualized needs as adequately as the needs of students without disabilities. If the school requests that a parent pick up their child and he or she has not been officially suspended and is not ill parents should be sure that it is NOT documented as "parent choice". An appropriate question to ask when the school is calling for a parent to pick up their child is whether or not the child is being suspended or is ill. If the answer to those questions is "no" then the child has the right to be at school.

### What are possible next steps for the team, including parents, to prevent future removals?

- Examine the *antecedents* or what happened before the behavior took place. What were possible triggers? What was the response to the behavior?
- If a student has an IEP, the parent will want to make sure that the plan that was determined by the IEP team is being followed.
- The IEP team should meet to review data and Behavior Intervention Plan (BIP) anytime there are new behaviors that are interfering with a student's progress at school, or if the current BIP does not seem to be working. If the child does not currently have a BIP, the team should consider conducting a Functional Behavior Assessment (FBA).
- Documentation of when and how parents should be contacted by the school about behavior can be written in the IEP.
- The IEP can also include how and when ongoing behavior will be communicated with the parents.
- If the student does not have an IEP, the school and parent(s) could begin discussing behavioral interventions.

### What is a Disciplinary Removal?

Disciplinary actions can be put into place when any child violates the student code of conduct. This includes:

- In-School Suspension: Removal of a student from regular classes or activities to a setting where the student is under supervision of school personnel.
- Out-of-School Suspension: Removal of a student from regular classes or activities to another setting (maybe home or behavior center). If the removal is at ten or more days school board action is required.
- Expulsion: School board action resulting in the removal of a student from enrollment of that district unless a student has an IEP and requires

continuing services. IEP services may look different than what was in place prior to expulsion.

Schools sometimes have informally excluded or removed students without invoking the school's disciplinary procedures, such as by requiring a parent or guardian to pick up their child early from school or limiting a student with a disability to a shortened school day schedule without first convening the student's Section 504 or IEP team. Informal removals are subject to the same procedural requirements (described below) as formal disciplinary actions.

### **Can a child with an IEP or 504 plan be suspended?**

A student with a disability can be suspended, like any other student, up to ten days in a school year before it is considered a “change of placement”. The IEP or 504 team is required to conduct a Manifestation Determination to determine if the child’s behavior was related to their disability:

- once a student has been suspended for more than 10 consecutive school days;
- when a child is suspended on multiple occasions for similar behaviors that add up to more than 10 school days in a school year or;
- if a child’s school day is shortened due to behavior which is considered a change of placement.

In-School suspensions do not count towards the ten days if the student:

- is provided an opportunity to make progress in the general curriculum;
- continues to receive IEP services;
- is with non-disabled peers as much as their IEP outlines.

Suspending a student from the school bus could also count as a removal which would be considered a change of placement if transportation is written into the child’s IEP.

The IEP team can hold a Manifestation Determination any time a pattern of behavior has been identified to be proactive.

### **What is the purpose of a Manifestation Determination?**

In the Manifestation Determination meeting the team’s goal is to determine whether or not the behavior was caused by the child’s disability or the failure of the school to follow the child’s individual behavior plan. If the behavior is determined to be a manifestation of the

child’s disability or a failure to follow the plan, the student should be returned to the placement that he or she was removed from and continue the IEP services. The IEP team could also determine a more appropriate alternative.

If the behavior is not a manifestation of the disability then the suspension can continue, but the child should continue participating in the general education curriculum and progressing toward IEP goal(s).

### **What if the school shortens a child’s school day?**

Prior to the IEP team considering shortening a child’s school day the team could:

- conduct additional evaluations and/or assessments;
- request that a Behavior Strategist from the school district or Area Education Agency’s (AEA) Challenging Behavior Team become involved and/or;
- consider a unique placement in or out of the district.

A decision to shorten a child’s school day should be the last resort and based on the student’s needs, not the school’s inability to address the behavior. A reintegration plan indicating how data will be used to move the student toward a full day should be established by the IEP team if it is determined that a child’s school day will be shortened.

### **Related Resources**

Look for the following resources on our website:

- Challenging Behavior in School
- ABC’s of Behavior
- Manifestation Determination
- Ten Day Rule
- Discriminatory Use of Student Discipline guidance released in July 2022 from the federal Office of Civil Rights.

### **ASK Essential Questions**

- If the IEP team has determined to shorten my child’s school day, is there a reintegration plan in place to move him/her towards full day school?
- Has a Prior Written Notice been provided to document any changes?