

CHAPTER 10. BEHAVIORAL SUPPORTS, DISCIPLINE, SUSPENSION AND EXPULSION

How are my child's behavioral issues addressed through the IEP?

Special procedures apply to students with IEPs who have behavioral challenges. If the teachers using their standard classroom rules and consequences can manage his/her behavior, the IEP will indicate that there are not significant concerns in this area of his/her program. If a student's behavior interferes with their learning or the learning of others, this must be indicated on the IEP, and a behavior intervention plan must be developed to address the behavior.

What is a Behavior Intervention Plan (BIP)?

Education Code Section 56521.1 (b) says: In the case of a child whose behavior impedes the child's learning or that of others, the individualized education program team shall consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior, consistent with Section 1414(d)(3)(B)(i) and (d)(4) of Title 20 of the United States Code and associated federal regulations. If the IEP team determines that a BIP would be appropriate for the child, it must be included in the IEP. (20 USC sections 1415(k)(1)(D)(ii); 1415(k)(1)(F)(i) and(ii); 34 CFR sections 300.530(b)(2); 300.530 (d)(ii); 300.530 (d)(5); 300.530(f); See Sections 56525-56520 of the California Ed Code for detailed information about the development and implementation of a behavioral intervention plan.

When a student for whom an IEP has been written exhibits behavior that interferes with the implementation of the goals and objectives of the student's IEP, including serious behavior challenges that could lead to suspension or expulsion, a behavioral intervention case manager must be assigned to the student's IEP team and a behavioral intervention plan (BIP) written. The case manager must be someone trained in behavioral analysis with an emphasis on positive behavioral interventions.



The behavioral intervention plan, which is to become a part of the student's IEP, is to:

- Summarize information gathered in the process of analyzing the purpose the maladaptive behavior serves;
- Describe the maladaptive behaviors and the positive behaviors proposed as replacements;
- Describe the goals and objectives of the behavioral plan;
- Describe in detail the behavioral interventions to be used and the circumstances in which they will be used (no interventions that cause pain or trauma may be used);
- Specify a schedule for use of behavioral interventions that will be phased out or replaced with less restrictive interventions; and
- Specify dates for periodic review of the behavioral intervention program by the IEP team.



Can students with exceptional needs be suspended or expelled from school for misbehavior?

School personnel may suspend a child with a disability who violates a code of student conduct for not more than ten (10) days (to the extent applied to children without disabilities), A change in placement may be considered after a child with a disability has been removed from his or her current placement for ten (10) school days in the same school year. During any subsequent days of removal, the public

agency must provide services to the extent required to enable the child to continue to participate in general education curriculum as progress toward meeting IEP goals.

What is a "Manifestation Determination?"

A student with exceptional needs may be suspended or expelled if it is determined that the student's misconduct thought to warrant disciplinary action is not directly and substantially related to the student's disability or if the conduct in question was the direct result of the LEA's failure to implement the IEP. Refer to the Procedural Safeguards section for further details.

School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child:

- Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function;
- Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function; or
- Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function.

Under what conditions may a student be removed from the school campus?

School personnel have the authority to, on a case by case basis; consider unique circumstances when determining whether to order a change in placement of a child with a disability who violates a code of student conduct. School personnel may remove a student to an interim alternative setting (without a hearing officer) for up to 45 school days. In addition, school personnel may remove a student who "has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function" to such an interim placement without a hearing officer ruling.

The Individualized Education Program (IEP) team will determine the AES. The AES should enable the child to continue to participate in general education, although in another setting, and to receive services that enable the child to meet the goals in his or her current IEP and that address the behavior subject to discipline.

An LEA shall not be deemed to have knowledge that the child is a child with a disability if the parent of the child has not allowed an evaluation of the child or has refused services, or the child has been evaluated and it was determined that the child was not a child with a disability.