



## MINIGUIDE 4

# Discipline for Students in Special Education



*The Oregon Department of Education created this series of miniguides for Indigenous families with children in special education.*

*Miniguide 4 shares one family's experience when their child receives a suspension from school. It may be similar to what you have encountered or will go through. At the end of the guide, we include some common questions and answers on this topic.*

*This series supports a comprehensive guide that has specific details and legal information to help you navigate the education system and get the right support for your child. For more detail, see **The Journey to a Free Appropriate Public Education for Students with Disabilities: A Guide for Indigenous Families.***

## Talia's Surprise Phone Call

Talia knew her son, Eli. She knew when he was overwhelmed and when school felt harder than it should. Eli had a learning disability that made reading especially stressful, and earlier in the year, Talia had worked with the school to create an Individualized Education Program (IEP). One accommodation was clear: Eli did not have to read aloud in class.

Talia was new to special education and trusted that the school would follow the IEP. Over the next few months, however, Eli became more anxious about school. Around the same time, Talia was told that Eli had received three in-school suspensions for being "defiant" or "disrespectful." She was not given details and was never told the incidents were happening during reading time.

Then one afternoon, Talia received another call. This time, she was told Eli had been suspended for refusing to read aloud in class. Talia was stunned. Reading aloud caused Eli significant anxiety, and his IEP said he did not have to do it. This was the first time she learned that reading was at the center of the discipline.

Talia asked for the discipline records. As she reviewed them, she saw a clear pattern: each incident involved reading tasks without the supports in Eli's IEP. The school had treated each incident as a separate behavior issue, rather than stepping back to look at the bigger picture.

Talia felt frustrated but clear. She knew her child, and she knew something wasn't working. Even though she was still learning the system, she knew she could ask for an IEP team meeting if Eli's needs were not being met. She contacted the school and requested a meeting so the team could look at what had been happening and make sure Eli was getting the support he needed.

## Summary

When it comes to school discipline, there are special considerations for students with IEPs.

- **10-Day Rule.** If a student receives more than 10 **cumulative** days of exclusionary discipline (such as suspension or expulsion), it is considered a change in placement and violates the student's IEP if the disciplinary action affects their access to services or learning environment.
- **Manifestation determination review (MDR).** Within 10 days of the 10th day of exclusionary discipline, the school district representative, parent, and relevant IEP team members must meet to conduct an MDR.
- **Assessment and planning.** If the behavior is related to the student's disability, the school must conduct a functional behavioral assessment (FBA) and create a behavior intervention plan (BIP).
- **Serious infractions.** If a discipline incident involves weapons, drugs, or serious injury, the student may be placed in an alternate setting for up to 45 days—but special education services must continue.

## Q&A. Discipline in Special Education

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### **Q. How can a school discipline a student in special education?**

**A.** Students who receive special education services can be disciplined like any other student. However, if the school decides to remove the student from their regular classroom or learning environment (for example, through suspension or other forms of exclusion), they must follow special rules and protections under the Individuals with Disabilities Education Act (IDEA).

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**Q. What is exclusionary discipline?**

**A.** Exclusionary discipline happens when a student is removed from their regular classroom or learning environment. This means the student was suspended or expelled. An in-school suspension, where the student is assigned to a location away from their regular learning environment, is considered exclusionary discipline.

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**Q. Why is exclusionary discipline different for students with disabilities?**

**A.** An IEP is a legal document that describes where a student's instruction will take place and what it will look like. Exclusionary discipline involves changing where a student spends the school day and possibly how instruction occurs. For students in special education, changing where and how their school day happens (known as a "change in placement") may mean the school is not properly implementing the student's IEP and may violate special education law if it is done without following required procedures.

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**Q. Can exclusionary discipline ever be used for a student in special education?**

**A. Yes.** A student with an IEP can be suspended or otherwise removed for up to 10 cumulative school days in a school year without triggering a change of placement. These days do not have to be consecutive.

However, once removals exceed 10 cumulative school days and form a pattern, the district must determine whether there has been a change of placement.

When a disciplinary removal results in a change of placement, the school must complete a manifestation determination review (MDR) within 10 school days of that decision. An MDR must be completed for each subsequent removal that constitutes a change of placement.

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**Q. What are the steps a school must take if a student in special education receives more than 10 days of exclusionary discipline?**

**A.** If a student with an IEP is removed from school for more than 10 days in a school year, that's a big deal. It's called a "change in placement," and it **must** be reviewed by the IEP team which includes the parents/caregivers.

Within 10 days of the 10th day of exclusionary discipline, the school **must** conduct a Manifestation Determination Review (MDR). An MDR is an essential tool for IEP teams that enables the team to closely review a student's circumstances in order to examine the relationship between a student's disability and specific behavior exhibited by the student.

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**Q. What is a manifestation determination review (MDR)?**

**A.** The MDR process is a special meeting where available information about your child is reviewed. This is an important part of protecting your child's rights. During the meeting, the following two questions are asked:

- 1.** Was the conduct in question caused by or had a direct and substantial relationship to the child's disability?
- 2.** Was the conduct in question the direct result of the district's failure to implement the IEP?

If the answer to both questions is determined to be "no", the behavior is not a manifestation of your child's disability. The district may address the disciplinary matter in the same manner as discipline is addressed with peers without disabilities.

If the answer to either of these questions is determined to be "yes", the behavior is a manifestation of your child's disability. Your child must be returned to the placement from which they were removed and the IEP team must conduct a functional behavioral assessment (FBA) and implement a behavioral intervention plan (BIP). If a BIP has already been developed, it will be reviewed and modified as necessary to address the behavior. Your voice matters in this process and the team must listen to your insights about your child.

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**Q. What is a Functional Behavior Assessment (FBA) and a Behavior Intervention Plan (BIP)? Why are they important?**

**A.** If the MDR shows that the behavior was linked to the student's disability or the school's failure to follow the IEP, the school must return the student to their original placement unless the discipline incident involved weapons, drugs, or serious injury. The school also must complete a functional behavior assessment (FBA). An FBA is a process to find out why the student behaved the way they did. It usually involves looking at what is happening in the student's life, both in and out of school, and requires school staff members to observe your child at school.

After the FBA is completed, the IEP team will use the information to create a behavior intervention plan (BIP) to help your child. The goal of the BIP is to be proactive and for school staff members to teach the student ways to reduce and stop the inappropriate behavior. The IEP will also be updated to include the BIP.

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**Q. So what about Eli? What went wrong, and when might a situation like this need a more formal review?**

**A.** In Eli’s situation, the school treated each incident as a separate behavior problem instead of stepping back to look at the pattern. Eli was disciplined multiple times during reading—an area already affected by his disability—without checking whether his IEP supports were being followed or bringing the IEP team together early. Talia was also not given full information about when and why discipline was happening, which made it harder to see what was really going on.

Families do not need to wait for the school to raise a concern about their child. If you notice repeated discipline, suspensions, or removals from class—especially during the same activity—you can ask the school to pause and review the situation with the full IEP team. Helpful questions include:

Are these incidents connected to my child’s disability?

Was my child’s IEP followed each time?

Do these removals add up to something we need to formally review?

Trust your instincts. Patterns matter. Asking for a meeting and for the school to look at the bigger picture can help ensure your child is supported—not punished—for their needs.

In some situations, the school is required by law to take that closer look. When a student with an IEP is removed from school for more than 10 consecutive school days, or when a student has been removed multiple times and those removals add up to more than 10 school days in a school year, involve similar behaviors, or show a pattern over time, the school must hold a special meeting called a Manifestation Determination Review.

The purpose is not to place blame, but to make sure discipline decisions are fair and that your child is getting the support they need.

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**How are discipline incidents involving weapons, drugs, or serious injury treated differently?**

**A.** Exclusionary discipline for these situations typically lasts for more than 10 school days. In these situations, the school is still required to conduct the MDR. While this review happens, the student can be placed in a different learning environment, called an interim alternative educational setting (IAES), for up to 45 days.

During this time, the student must still get the special instruction and services they need according to their IEP. If the MDR finds that the student’s behavior was not related to their disability, the usual school discipline rules apply. If the MDR finds that the behavior was related to the disability, the school must conduct an FBA and create a BIP. The student can stay in the IAES while this happens. If the student already has a BIP, the IEP team must review and update it within 10 days of the student being placed in the IAES.