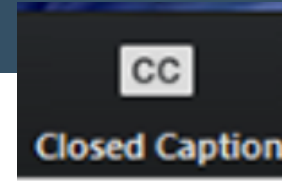


GUIDANCE TO HELP SCHOOLS SUPPORT CHILDREN WITH DISABILITIES AND AVOID DISPARITIES IN THE USE OF DISCIPLINE: PART 2

DECEMBER 7, 2022

- ▶ To start using CC, click the caption button



Uso de la interpretación de idiomas

- Hagan clic en el icono de interpretación
- Seleccionen "Spanish"
- Después de seleccionar "español", hagan clic "Mute Original Audio"



Today's Presenters

- ▶ Keesha Blythe, OSEP State Lead

Keesha.Blythe@ed.gov

- ▶ Kim Hymes, OSEP State Lead

Kimberly.Hymes@ed.gov

- ▶ Lisa Pagano, OSEP Policy Specialist (until 12/30/2022)

Lisa.Pagano@ed.gov

Agenda

▶ General Information & Updates

▶ Questions & Discussion

- Pro-active and reactive approaches to address behavior
- Change of placement
- Informal removals
- Parental rights and procedural safeguards in the context of disciplinary actions

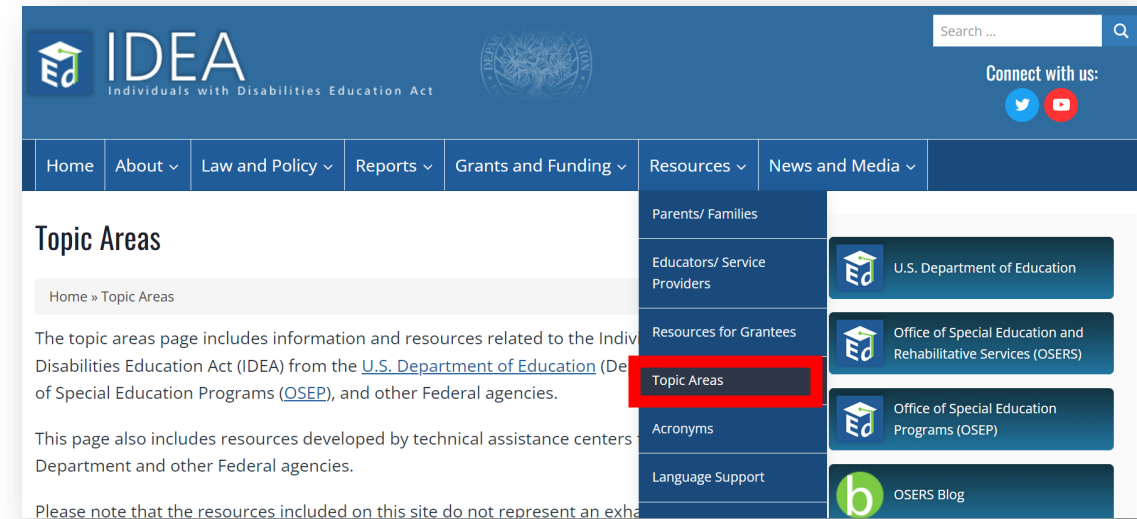
General Information & Updates

► Spanish version available

- Carta de estimado colega sobre la implementación de las disposiciones de disciplina de IDEA.
- Preguntas y respuestas: Abordar las necesidades de los niños con discapacidades y las disposiciones disciplinarias de IDEA.
- Enfoques positivos y proactivos para apoyar a los niños con discapacidades: Una guía para las partes interesadas

► Shared Resources

- Discipline and Disability Rights: What to do if Your Child is Being Sent Home - PAVE (wapave.org)
- What Parents Need to Know when Disability Impacts Behavior and Discipline at School - PAVE (wapave.org)
- Behavioral Health and School: Key Information for Families - PAVE (wapave.org)



Presentation Format

- ▶ Each slide includes questions submitted by PTI staff
- ▶ Submitted questions have been organized into topic areas

Proactive & Reactive Approaches to Address Behavior

- ▶ “Schools are shortening a child’s school day due to concerns about the child’s behavior, but are not developing plans for the child to return to school or providing education after being sent home.”
- ▶ “We are still encountering difficulty with LEAs misunderstanding the INTENT of the guidance; they are refusing to consider how a child’s disability is related to behavioral expectations and whether additional supports are needed UNTIL they reach the point of conducting the manifestation determination review. How can we help them see the damage this causes to the student and the lost opportunity to help them early in the process?”
- ▶ “How do we get administration support to help principals understand there are options other than exclusion for addressing a child’s behavior?”
- ▶ “Is a behavioral intervention plan (BIP) considered part of the student’s IEP?”
- ▶ “How should/must a BIP be included as part of the manifestation determination review process?”

Change of Placement

- ▶ “Why is it so important for school personnel to understand and properly determine whether a disciplinary action constitutes a “change of placement” under IDEA?”
- ▶ “What constitutes a “pattern” under [34 C.F.R. § 300.536](#)? Why is keeping track of removals – formal and informal removals - important?”
 - The series of removals total more than 10 school days in the same school year;
 - The behavior is substantially similar to behavior in previous incidents; and
 - Additional factors such as length of each removal, proximity to one another, total amount of time the child has been removed.
- ▶ “When does the removal of a student from their regularly-assigned classroom to a different classroom (because of behavior) count toward the threshold for requiring a manifestation determination review?”

Is this a Change of Placement under 34 C.F.R. § 300.536?

- _____ School personnel propose removing a child with a disability for the first time this school year, for ten consecutive school days.
- _____ School personnel and the parent agree to a change in placement to better address the child’s educational (including behavioral) needs.
- _____ The child has been removed during the 2022-2023 school year as follows:

	Number of School Days	Reason
November 9	3	Physical fight with a classmate
November 19	4	Disrespecting the teacher
December 3	4	Throwing a book at a classmate across the room



Informal Removals

- ▶ “I am seeing many school districts, immediately place students on altered/part time schedules as they figure out what to do next. What is your best advice in assisting parents to advocate for their children to be in school full time while evals are being completed? Especially, if the school states that they do not have resources (teachers) to support the students’ needs.”
- ▶ “What recommendations do you have for families who are told by schools that a shortened day is in the best interest of the child and is not a disciplinary action?”
- ▶ “Does OSEP consider in-school suspension to meet the criteria of students participating with their current placement?”
- ▶ “Do informal removals include removals from field trips?”

Parental Rights in the Context of Discipline

- ▶ “May an LEA proceed directly to an expedited due process hearing without first following IDEA’s discipline procedures?”
- ▶ “What specific rights does the IDEA afford parents when their child has been subjected to a removal for disciplinary reasons?”
 - The notice of procedural safeguards required under 34 C.F.R. § 300.504 must include an explanation of the procedures when disciplining children with disabilities.
 - The Department’s model notice that reflects required content is available at: [IDEA 2004 Model Forms: Guidance on Required Content of Forms Under Part B of The Idea \(MS Word\)](#).



OSEP

OFFICE OF SPECIAL EDUCATION PROGRAMS
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES
U.S. DEPARTMENT OF EDUCATION

Home: www.ed.gov/osers/osep
Blog: <https://sites.ed.gov/osers>
Twitter: https://twitter.com/ED_Sped_Rehab
YouTube: www.youtube.com/c/OSERS

