



DESERT / MOUNTAIN  
CHARTER SELPA

## **Chapter 8: Suspension and Expulsion**

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### **Introduction**

The Desert/Mountain Charter Special Education Local Plan Area (SELPA) assures that data on suspension and expulsion rates will be provided in a manner prescribed by the California Department of Education (CDE). When indicated by data analysis, the Charter SELPA further

assures that policies, procedures, and forms related to the development and implementation of Individualized Education Programs (IEPs) will be revised.

*NOTE: The following administrative regulations reflects the 2004 reauthorization of the federal Individuals with Disabilities Education Act (IDEA) (Title 20 of the United States Code §§ 1400-1482), implementing federal regulations, effective October 13, 2006 (Title 34 of the Code of Federal Regulations §§ 300.1-300.818, added by 71 Fed. Reg. 156), and conforming state legislation (AB 1662, Ch. 653, Statutes of 2005). Because federal regulatory provisions related to discipline were amended and renumbered pursuant to 71 Fed. Reg. 156, it is likely that further state legislation will be needed to conform state law to the new federal regulations. Note that in cases where state law provides greater protections to children, state law supersedes federal law. Neither state nor federal law requires that these procedures apply to children identified under the federal Rehabilitation Act of 1973, Section 504 (Title 29 of the United States Code § 794). However, in some instances, the Charter Local Education Agency (LEA) may find it appropriate to apply portions of these procedures (e.g., the limitation that a child with a disability may not be suspended for more than 10 consecutive school days) to Section 504 students with an accommodation plan. Charter LEAs that wish to apply IDEA procedures to Section 504 students should modify the following regulation accordingly.*

A child identified as a child with a disability pursuant to the IDEA is subject to the same grounds for suspension and expulsion which apply to children without disabilities.

The guidelines in this section are not binding for Charter LEAs or other entities except for the statutes, regulations, and court decisions that are referred herein. The information provided is taken from the California School Boards Association (CSBA) Board and Administrative Policy. School administrators are presented with complex disciplinary issues and some of these situations involve children with disabilities who are entitled to certain protections under the IDEA.

## **Section A – Procedures for Students Not Yet Eligible for Special Education**

A child who has not been officially identified as a child with a disability pursuant to IDEA and who has engaged in behavior that violated the Charter LEA's code of student conduct may assert any of the protections under IDEA only if the Charter LEA had knowledge that the child was disabled before the behavior that precipitated the disciplinary action (*Title 20 of the United States Code § 1415(k)(5); Title 34 of the Code of Federal Regulations § 300.534*).

The Charter LEA shall be deemed to have knowledge that the child has a disability if one of the following conditions exists (*Title 20 of the United States Code § 1415(k)(5); Title 34 of the Code of Federal Regulations § 300.534*):

1. The parent has expressed concern to the Charter LEA supervisory or administrative personnel in writing, or to a teacher of the child, that the child is in need of special education or related services;
2. The parent has requested an evaluation of the child for special education pursuant to Title 34 of the Code of Federal Regulations §§ 300.300-300.311; or

3. The teacher of the child or other Charter LEA personnel has expressed specific concerns directly to the Charter LEA's director of special education or to other supervisory Charter LEA personnel about a pattern of behavior demonstrated by the child.

The Charter LEA would be deemed to not have knowledge that a child is disabled if the parent has not allowed the child to be evaluated for special education services or has refused services. In addition, the Charter LEA would be deemed to not have knowledge if the Charter LEA conducted an evaluation pursuant to Title 34 of the Code of Federal Regulations §§ 300.300-300.311, and determined that the child was not a child with a disability. When the Charter LEA is deemed to not have knowledge of the disability, the child shall be disciplined in accordance with procedures established for children without disabilities who engage in comparable behavior (*Title 20 of the United States Code § 1415(k)(5); Title 34 of the Code of Federal Regulations § 300.534*).

If a request is made for an evaluation of a child during the time period in which the child is subject to disciplinary measures pursuant to Title 34 of the Code of Federal Regulations § 300.530, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the child shall remain in the educational placement determined by school authorities (*Title 20 of the United States Code § 1415(k)(5); Title 34 of the Code of Federal Regulations § 300.534*).

## **Section B – Suspension**

The Charter SELPA Administrator or designee may suspend a child with a disability for up to 10 consecutive or cumulative school days, for up to 20 school days in a school year, as long as the suspension(s) does not constitute a change in placement pursuant to Title 34 of the Code of Federal Regulations §§ 300.530 and 300.536; Education Code § 48903.

*NOTE: Pursuant to Title 20 of the United State Code § 1415(k)(1), Title 34 of the Code of Federal Regulations § 300.530, and a 1988 U.S. Supreme Court decision (Honig v. Doe), Charter LEAs receiving funds under the IDEA may suspend a child for no more than 10 consecutive or cumulative school days, as long as the removal does not constitute a change in placement pursuant to Title 34 of the Code of Federal Regulations § 300.536. Education Code § 48903 specifies that a child may not be suspended for more than 20 cumulative school days in a school year.*

*The Analysis of Comments to the federal regulations, 71 Fed. Reg. 156, pg. 46715, explains that whether a bus suspension or “in school suspension” would count as a day of suspension affecting the cumulative total depends on the unique circumstances of each case, such as whether bus transportation is part of the child’s IEP. An “in-school suspension” or “supervised suspension classroom” as authorized by Education Code 48911.1 would not count towards the 20-day cumulative limit described above as long as the child is afforded the opportunity to continue to appropriately participate in the general curriculum, receive the services specified in his/her IEP, and participate with nondisabled children to the extent he/she would have in the current placement. However, the Charter LEA should be careful that such actions do not constitute a change of placement and should carefully monitor such suspensions.*

The principal or designee shall monitor the number of days, including portions of days, in which a child with a valid IEP has been suspended during the school year. NOTE: As added by 71 Fed.

*Reg. 156, Title 34 of the Code of Federal Regulations § 300.536, lists new factors under which a series of removals would constitute a change of placement, as specified below. If the removal is determined to be a change of placement, Title 34 of the Code of Federal Regulations § 300.530 requires the IEP team to determine the appropriate services.*

The Charter LEA shall determine, on a case-by-case basis, whether a pattern of removals of a child from his/her current educational placement for disciplinary reasons constitutes a change of placement. A change of placement shall be deemed to have occurred under any of the following circumstances (*Title 34 of the Code of Federal Regulations § 300.536*):

1. The removal is for more than 10 consecutive or cumulative school days;
2. The child has been subjected to a series of removals that constitute a pattern because of all the following:
  - (a) The series of removals total more than 10 school days in a school year;
  - (b) The child's behavior is substantially similar to his/her behavior in previous incidents that resulted in the series of removals;
  - (c) Additional factors, such as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another, indicate a change of placement;

or

3. If the removal has been determined to be a change of placement as specified in items #1-2 above, the child's IEP team shall determine the appropriate educational services (*Title 34 of the Code of Federal Regulations § 300.530*).

SELPA form D/M 122 – Special Education Suspension Review may be used by the Charter LEA in determining whether or not a series of removals constitutes a change of placement.

## **Section C – Services During Suspension**

Any child with a disability suspended for more than 10 school days in the same school year shall continue to receive services during the term of the suspension. School personnel, in consultation with at least one of the child's teachers, shall determine the extent to which services are needed as provided in Title 34 of the Code of Federal Regulations § 300.101(a), so as to enable the child to continue to participate in the general education curriculum in another setting and to progress toward meeting the goals as set out in his/her IEP (*Title 20 of the United States Code § 1412(a)(1)(A); Title 34 of the Code of Federal Regulations § 300.530*).

NOTE: Pursuant to Title 20 of the United States Code § 1412(a)(1)(A) and Title 34 of the Code of Federal Regulations § 300.530, a "free appropriate public education" (FAPE) must be available to all children, including any child with disabilities who has been suspended for more than 10 school days in a year. *The Analysis of Comments to the federal regulations, 71 Fed. Reg. 156, pg.*

46716, clarifies that the Charter LEA is not required to provide a child who has been suspended for more than 10 school days in a school year for disciplinary reasons exactly the same services in exactly the same setting as the child was receiving prior to the imposition of discipline. However, the special education and related services the child does receive must enable him/her to continue to participate in the general curriculum and to progress toward meeting the goals set out in his/her IEP. The Analysis of Comments, 71 Fed. Reg. 156, pg. 46717, clarifies that services need not be provided when a child is removed for 10 school days or less, as long as the Charter LEA does not provide services to nondisabled children removed for the same amount of time.

If a child with a disability is excluded from school bus transportation, the child shall be provided with an alternative form of transportation at no cost to the child or his/her parent, provided that transportation is specified in his/her IEP (*Education Code 48915.5*).

## **Section D – Interim Alternative Educational Setting (IAES) Due to Dangerous Behavior**

The Charter LEA may unilaterally place a child with a disability in an appropriate Interim Alternative Educational Setting (IAES) for up to 45 school days, without regard to whether the behavior is a manifestation of the child’s disability, when the child commits one of the following acts while at school, going to or from school, or at a school-related function (*Title 20 of the United States Code § 1415(k)(1)(G); Title 34 of the Code of Federal Regulations § 300.530*):

1. Carries or possesses a weapon, as defined in Title 18 of the United States Code § 930;
2. Knowingly possesses or uses illegal drugs;
3. Sells or solicits the sale of a controlled substance as identified in Title 21 of the United States Code § 812(c), Schedules I-V; or
4. Inflicts serious bodily injury upon another person as identified in Title 18 of the United States Code § 1365.

NOTE: *Title 20 of the United States Code § 1415(k) and Title 34 of the Code of Federal Regulations § 300.530 permit an alternative placement for 45 school days when a child with a disability, while on school grounds, while going to or coming from school, or at a school function, either (1) carries or possesses a weapon, (2) knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance, or (3) inflicts serious bodily injury upon another person. “Serious bodily injury” is defined in Title 18 of the United States Code § 1365 as bodily injury which involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty. This alternative placement decision may be made unilaterally by the Charter LEA.*

*The term “weapon,” as used above, refers to a “dangerous weapon” as defined in Title 18 of the United States Code § 930 and includes any device which is capable of causing death or serious bodily injury. The term does not include a pocket knife with a blade less than 2 ½ inches in length.*

The child's interim alternative educational setting shall be determined by his/her IEP team (*Title 20 of the United States Code § 1415(k)(1)(G); Title 34 of the Code of Federal Regulations § 300.531*).

On the date of the decision to take disciplinary action is made, the parents of the child shall be notified of the decision and provided the procedural safeguards notice pursuant to Title 34 of the Code of Federal Regulations § 300.504 (*Title 20 of the United States Code § 1415(k)(1)(H); Title 34 of the Code of Federal Regulations § 300.530*).

A child who has been removed from his/her current placement because of dangerous behavior shall receive services to the extent necessary to allow him/her to participate in the general education curriculum and to progress toward meeting the goals set out in his/her IEP. As appropriate, the child shall also receive a Functional Behavioral Assessment (FBA) and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur (*Title 20 of the United States Code § 1415(k)(1)(D); Title 34 of the Code of Federal Regulations § 300.530*).

## **Section E – Manifestation Determination**

The following procedural safeguards shall apply when a child is suspended for more than 10 consecutive school days, when a series of removals of a child constitutes a pattern, or when a change of placement of a child is contemplated due to a violation of the Charter LEA's code of conduct:

1. Notice: On the date the decision to take disciplinary action is made, the parents of the child with a disability shall be notified of the decision and provided the procedural safeguards notice pursuant to Title 34 of the Code of Federal Regulations §§ 300.504 and 300.530; Title 20 of the United States Code § 1415(k)(1)(H);
2. Manifestation Determination Review: Immediately if possible, but in no case later than 10 school days after the date the decision to take disciplinary action is made, a manifestation determination review shall be made to determine the relationship between the child's disability and the behavior subject to the disciplinary action (*Title 20 of the United States Code § 1415(k)(1)(E); Title 34 of the Code of Federal Regulations § 300.530*).

At the manifestation determination review, the Charter LEA, the child's parent, and relevant members of the IEP team (as determined by the Charter LEA and parent) shall review all relevant information in the child's file, including the child's IEP, any teacher observations, and any relevant information provided by the parent, to determine whether the conduct in question was either of the following (*Title 20 of the United States Code § 1415(k)(1)(E); Title 34 of the Code of Federal Regulations § 300.530*):

- (a) Caused by or had a direct and substantial relationship to the child's disability; or
- (b) A direct result of the Charter LEA's failure to implement the child's IEP, in which case the Charter LEA shall take immediate steps to remedy those deficiencies.

If the manifestation review team determines that a condition in either #a or #b above was met, the conduct shall then be determined to be a manifestation of the child's disability (*Title 20 of the United States Code § 1415(k)(1)(E); Title 34 of the Code of Federal Regulations § 300.530*);

3. Determination that the Behavior is a Manifestation of the Student's Disability: When the conduct has been determined to be a manifestation of the child's disability, the IEP team shall conduct a FBA, unless a FBA had been conducted before the occurrence of the behavior that resulted in the change of placement, and shall implement a Behavioral Intervention Plan (BIP) for the child. If a BIP has already been developed, the IEP team shall review the BIP and modify it as necessary to address the behavior (*Title 20 of the United States Code § 1415(k)(1)(F); Title 34 of the Code of Federal Regulations § 300.530*).

The child shall be returned to the placement from which he/she was removed, unless the parent and Charter LEA agree to a change of placement as part of the modification of the BIP (*Title 20 of the United States Code § 1415(k)(1)(F); Title 34 of the Code of Federal Regulations § 300.530*).

NOTE: *Education Code 48915.5 provides that, if a child is excluded from school bus transportation, alternative transportation must be provided at no cost, provided that transportation is specified in the child's IEP. Refer to section entitled "Services during Suspension" (Section C); and*

4. Determination that Behavior is Not a Manifestation of the Student's Disability: If the manifestation determination review team determines that the child's behavior was not a manifestation of his/her disability, the child may be disciplined in accordance with the procedures for children without disabilities (*Title 20 of the United States Code § 1415(k)(1)(D); Title 34 of the Code of Federal Regulations § 300.530*).

The child shall receive services to the extent necessary to participate in the general education curriculum in another setting and to allow him/her to progress toward meeting the goals set out in his/her IEP. As appropriate, the child shall also receive a FBA and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur (*Title 20 of the United States Code § 1415(k)(1)(D); Title 34 of the Code of Federal Regulations § 300.530*).

## **Section F – Due Process Appeals**

If the parent disagrees with any Charter LEA decision regarding placement under Title 34 of the Code of Federal Regulations § 300.530 (suspension and removal for dangerous circumstances) or Title 34 of the Code of Federal Regulations § 300.531 (interim alternative educational setting), or the manifestation determination under Title 34 of the Code of Federal Regulations § 300.530(e), he/she may appeal the decision by requesting a due process hearing. The Charter LEA may request a hearing if the Charter LEA believes that maintaining the child's current placement is substantially likely to result in injury to the child or others. In order to request a hearing, the

requesting party shall file a complaint pursuant to Title 34 of the Code of Federal Regulations §§ 300.507, 300.508(a) and (b), 300.532 and Title 20 of the United States Code § 1415(k)(3).

*NOTE: The Analysis of Comments to the federal regulations, 71 Fed. Reg. 156, pg. 46723, clarifies that the burden of proof in due process hearings is on the party that is responsible for the issue going forward to the due process hearing officer, consistent with the U.S. Supreme Court's decision in Schaeffer v. Weast. Thus, if the Charter LEA has requested that a hearing officer remove a child to an interim alternative educational setting, the burden of persuasion at the hearing is on the Charter LEA.*

Whenever a hearing is requested as specified above, the parent or the Charter LEA shall have an opportunity for an expedited due process hearing consistent with requirements specified in Title 34 of the Code of Federal Regulations §§ 300.507, 300.508(a)-(c) and 300.510-300.514.

If the child's parents or the Charter LEA has initiated a due process hearing under Title 34 of the Code of Federal Regulations § 300.532 as detailed above, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the 45-day time period, whichever occurs first, unless the parent and Charter LEA agree otherwise (*Title 20 of the United States Code § 1415(k)(4); Title 34 of the Code of Federal Regulations § 300.533*).

## **Section G – Readmission**

Readmission procedures for children with disabilities shall be the same as those used for all students. Upon readmission, an IEP team meeting shall be convened.

## **Section H – Suspension of Expulsion**

The Charter LEA Governing Board's criteria for suspending the enforcement of an expulsion order shall be applied to children with disabilities in the same manner as they are applied to all other students (*Education Code § 48917*).

## **Section I – Notification to Law Enforcement Authorities**

Prior to the suspension or expulsion of any child with a disability, the principal or designee shall notify the appropriate city or county law enforcement authorities of any act of assault with a deadly weapon which may have violated Penal Code § 245 (*Education Code § 48902*).

The principal or designee shall also notify the appropriate city or county law enforcement authorities of acts by any child with a disability which may involve the possession or sale of narcotics or of a controlled substance or possession of weapons or firearms in violation of Penal Code §§ 626.9 and 626.10 (*Education Code § 48902*).



Within one school day after a suspension or expulsion of a child with a disability, the principal or designee shall notify the appropriate city or county law enforcement authorities by telephone or other appropriate means, of any act by the child which may violate Education Code § 48900(c) or (d), relating to the possession, use, offering or sale of controlled substances, alcohol, or intoxicants of any kind (*Education Code § 48902*).


## **Section J – Report to County Superintendent of Schools**

The Charter SELPA Administrator or designee shall report to the County Superintendent of Schools when any child with a disability has been expelled or suspended for more than 10 school days. The report shall include the child's name, last known address, and the reason for the action (*Education Code § 48203*).

*NOTE: As amended by SB 1327 (Ch. 59, Statutes of 2006), Education Code 48203 requires the Charter CEO to report to the County Superintendent of Schools when any child with a disability has been expelled or suspended for more than 10 school days. Education Code 48203 specifies that it is the duty of the County Superintendent to examine the reports and, if any case exists in which the interest of the child or welfare of the state may need further examination, draw the reports to the attention of the Charter LEA Governing Board and the County Board of Education.*

# APPENDIX A: SELPA Form D/M 122 – Special Education Suspension Review

DESERT/MOUNTAIN SPECIAL EDUCATION LOCAL PLAN AREA  
 DESERT/MOUNTAIN CHARTER SPECIAL EDUCATION LOCAL PLAN AREA  
 17800 HIGHWAY 18 • APPLE VALLEY, CA 92307  
 (760) 552-6700 • (760) 242-5363 FAX



**Special Education Suspension Review**  
 (School Year \_\_\_\_\_)

**STUDENT INFORMATION**

Student Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_ Gender:  Male  Female  
 School Site: \_\_\_\_\_ Grade: \_\_\_\_\_  
 District of Attendance: \_\_\_\_\_ District of Residence: \_\_\_\_\_  
 Current special education placement/services: \_\_\_\_\_

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**SUMMARY OF REMOVALS FROM EDUCATIONAL PLACEMENT DURING CURRENT SCHOOL YEAR**

**Directions:** Upon completion of the information below, forward the complete packet to the director of special education.

	Date	EC Violation No.	Description of Infraction	No. of Days/ Accumulated No. of Days
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				

The above information was completed by: \_\_\_\_\_  
 Name/Title \_\_\_\_\_ Date \_\_\_\_\_

**TO BE COMPLETED BY DIRECTOR OF SPECIAL EDUCATION SERVICES**

A review of the student's removals from his/her education placement totaling \_\_\_\_\_ days for the current school year has been conducted. Consideration was given to:

- whether the behavior is "substantially similar" across incidents
- the length of each removal fillable form
- the total number of removals
- the proximity of removals to one another

and the following determination was made:

The series **DOES NOT** constitute a pattern – no change of placement. (NOTE: Must complete and attach form D/M 124)  
 The series **DOES** constitute a pattern – change of placement.

Special Education Director Signature: \_\_\_\_\_ Date: \_\_\_\_\_

# APPENDIX B: SELPA Form D/M 124 – Educational Services During School Suspension

DESERT/MOUNTAIN SPECIAL EDUCATION LOCAL PLAN AREA DESERT/MOUNTAIN CHARTER SPECIAL EDUCATION LOCAL PLAN AREA 17800 HIGHWAY 18 • APPLE VALLEY, CA 92307 (760) 552-6700 • (760) 242-5363 FAX					
<b>Educational Services During School Suspension</b>					
<b>STUDENT INFORMATION</b>					
Student Name:			Date of Birth:		
			Gender:	<input type="checkbox"/> Male	<input type="checkbox"/> Female
School Site:				Grade:	
District of Attendance:			District of Residence:		
Parent/Guardian:					
Home Phone:			Work Phone:		
			Other Phone:		
Street Address:			City:	State:	Zip Code:
Mailing Address:			City:	State:	Zip Code:
<p><b>DIRECTIONS: COMPLETE THIS FORM FOR EACH STUDENT SUSPENSION BEYOND 10 CUMULATIVE DAYS DURING A SCHOOL YEAR THAT DOES NOT CONSTITUTE A CHANGE OF PLACEMENT.</b></p>					
<p><b>PROPOSED DATE(S) OF SUSPENSION:</b> _____</p>					
<p><b>CURRENT SPECIAL EDUCATION PLACEMENT:</b> _____</p>					
<p>A review of educational performance of the above-named student was conducted in consultation with at least one of the student's teachers. This review considered the extent educational services are necessary during the proposed dates of suspension to ensure:</p> <ul style="list-style-type: none"> <li>• The student appropriately progresses in the general curriculum.</li> <li>• The student appropriately advances toward achieving the goals and objectives set out in his/her current IEP.</li> <li>• As appropriate, the student receives a functional behavioral assessment and behavioral intervention services or modifications to an existing plan designed to address the behavior so that it does not recur.</li> </ul>					
<p>In light of these considerations, the following determination was made:</p>					
<input type="checkbox"/>	A continuation of educational services is not necessary during the period of this suspension.				
<input type="checkbox"/>	Allow the student to make-up missed assignments and exams.				
<input type="checkbox"/>	Provide an opportunity for the student to make arrangements with his/her teachers to do work at home during the period of suspension.				
<input type="checkbox"/>	Refer to IEP Team to initiate behavior intervention services.				
<input type="checkbox"/>	Other: _____				
Special Education Teacher Signature: _____				Date: _____	
Site Administrator Signature: _____				Date: _____	

# APPENDIX C: Suspension Flowchart

Type 1	Type 2	Type 3	Type 4						
Short term removals of 10 days or less	A series of short term removals totaling more than 10 cumulative days that does not form a pattern  <b>No Change in Placement</b>	A series of short term removals totaling more than 10 days that does form a pattern  <b>Change of Placement</b>	A <u>long term</u> removal of 10 days or more consecutive days  <b>Change of Placement</b>						
<p><b>EDUCATIONAL SERVICES</b></p> <p>A school district need not provide services during periods of removals for 10 school days or less if services are not provided to non-disabled children who have been similarly removed.</p> <p>Note: Partial days of removal are to be considered in making the change of placement determination (<i>SELPA Form D/M 122</i>). Suspension from transportation resulting in missed school days counts as days of removal if special transportation is included in the student's IEP.</p>	<p><b>EDUCATIONAL SERVICES</b></p> <p>On the 11<sup>th</sup> day and for each subsequent incident of removal, district personnel in consultation with at least one of the child's teachers must</p> <p>1) <u>Provide educational services</u> to the extent necessary to (<i>SELPA Form D/M 124</i>) –</p> <ul style="list-style-type: none"> <li>• Enable the child to participate in the general curriculum</li> <li>• Enable the child to progress toward meeting the goals in the child's IEP</li> <li>• Allow the child to receive, as appropriate, a functional behavioral assessment and behavioral intervention services or modifications designed to address the behavior so that it does not recur</li> </ul> <p>2) Determine if a change of placement has occurred when considering (<i>SELPA Form D/M 122</i>):</p> <ul style="list-style-type: none"> <li>• If the behavior is "substantially similar" across incidents,</li> <li>• The length of each removal,</li> <li>• The total number of removals,</li> <li>• The proximity of the removals to one another.</li> </ul>	<p><b>Note:</b> On the date of the decision to make a removal that constitutes a <b>change of placement</b>, the district must notify the parents and provide them a copy of the Procedural Safeguards (<i>SELPA Form D/M 77</i>).</p> <p><b>MANIFESTATION DETERMINATION</b> (<i>SELPA Forms D/M 68P</i>)</p> <p>Within <b>10 school days</b> of any decision to change the placement of a child with a disability, the district, the parent, and "relevant members" of the IEP Team must review:</p> <ul style="list-style-type: none"> <li>• all relevant information in the student's file</li> <li>• the child's IEP</li> <li>• any teacher observations</li> <li>• any relevant information provided by the parents</li> </ul> <p>This information is used in reviewing the relationship between the child's disability and the behavior subject to disciplinary action. The team described above must determine:</p> <ul style="list-style-type: none"> <li>• if the conduct in question was caused by the child's disability, or</li> <li>• if the conduct in question had a direct and substantial relationship to the child's disability, or</li> <li>• if the conduct in question was the direct result of the district's failure to implement the IEP.</li> </ul> <table border="1" data-bbox="1024 1079 1675 1352"> <thead> <tr> <th colspan="2" data-bbox="1024 1079 1675 1104"><b>Was the student's behavior a manifestation of his/her disability?</b></th> </tr> <tr> <th data-bbox="1024 1104 1371 1144"><b>YES</b></th> <th data-bbox="1371 1104 1675 1144"><b>NO</b></th> </tr> </thead> <tbody> <tr> <td data-bbox="1024 1144 1371 1352">                     Terminate further disciplinary action, and –                     <ul style="list-style-type: none"> <li>• Conduct a functional behavioral assessment and implement a behavior support plan, or</li> <li>• Review and modify, as necessary, an existing behavioral support plan.</li> </ul> </td> <td data-bbox="1371 1144 1675 1352">                     Apply relevant disciplinary procedures in the same manner as applied to non-disabled students.                       The IEP Team determines the provision of educational services as described in column two (Type 2 removals)                 </td> </tr> </tbody> </table>	<b>Was the student's behavior a manifestation of his/her disability?</b>		<b>YES</b>	<b>NO</b>	Terminate further disciplinary action, and – <ul style="list-style-type: none"> <li>• Conduct a functional behavioral assessment and implement a behavior support plan, or</li> <li>• Review and modify, as necessary, an existing behavioral support plan.</li> </ul>	Apply relevant disciplinary procedures in the same manner as applied to non-disabled students.  The IEP Team determines the provision of educational services as described in column two (Type 2 removals)	
<b>Was the student's behavior a manifestation of his/her disability?</b>									
<b>YES</b>	<b>NO</b>								
Terminate further disciplinary action, and – <ul style="list-style-type: none"> <li>• Conduct a functional behavioral assessment and implement a behavior support plan, or</li> <li>• Review and modify, as necessary, an existing behavioral support plan.</li> </ul>	Apply relevant disciplinary procedures in the same manner as applied to non-disabled students.  The IEP Team determines the provision of educational services as described in column two (Type 2 removals)								

# APPENDIX D: SELPA Form D/M 68P – Manifestation Determination

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Student Name:	DOB:	Date:
<b>MANIFESTATION DETERMINATION</b>		
Student's Age:	Grade:	Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female
School Site:	LEA of Attendance:	
<b>SUMMARY OF STUDENT'S ALLEGED MISCONDUCT:</b>		
<b>REVIEW OF RELATIONSHIP BETWEEN DISABILITY AND BEHAVIOR SUBJECT TO DISCIPLINARY ACTION:</b>		
Summary of evaluation and diagnostic results and relevant information in the student's file: <i>(include information presented by parents)</i>		
Summary of observations:		
Current IEP placement/services:		

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Student Name: \_\_\_\_\_ DOB: \_\_\_\_\_ Date: \_\_\_\_\_

**MANIFESTATION DETERMINATION**

<b>MANIFESTATION DETERMINATION TEAM BASED ON THE PRECEDING REVIEW OF RELATIONSHIP BETWEEN DISABILITY AND BEHAVIOR SUBJECT TO DISCIPLINARY ACTION:</b>			
a.	Was the conduct in question caused by or directly and substantially related to the student's disability? 34 CFR § 300.530(e)(1)(i)	No <input type="checkbox"/>	Yes <input type="checkbox"/>
b.	Was the conduct in question the direct result of the LEA's failure to implement the IEP? 34 CFR § 300.530 (e)(1)(ii)	No <input type="checkbox"/>	Yes <input type="checkbox"/>
Checking YES in a or b will result in a determination that the student's behavior was a manifestation of his/her disability.			
<b>THE MANIFESTATION DETERMINATION TEAM FINDS:</b>			
<input type="checkbox"/> The student's behavior was not a manifestation of his/her disability. <i>Forward for appropriate disciplinary action.</i>			
<input type="checkbox"/> The student's behavior was a manifestation of his/her disability. <i>Terminate further disciplinary action and conduct the following via the IEP process with required IEP team members.</i>			
<input type="checkbox"/> Functional behavioral assessment and implement a behavior intervention plan, OR		<input type="checkbox"/> Continue educational program as per current IEP	
<input type="checkbox"/> Review and modify an existing behavior intervention plan as necessary		<input type="checkbox"/> Schedule follow-up IEP to consider special education program alternatives	
<b>THE FOLLOWING INDIVIDUALS PARTICIPATED IN THIS MANIFESTATION DETERMINATION REVIEW MEETING:</b>			
LEA Representative	Date	Other/Title	Date
Special Education Teacher	Date	Other/Title	Date
Psychologist	Date	Other/Title	Date
General Education Teacher	Date	Other/Title	Date
Initial	I have been advised of and given a copy of Special Education Procedural Safeguards/Parents Rights this school year.		Date
Initial	The Manifestation Determination Review has been interpreted orally by (when appropriate):		Date
Initial	I request a copy of this Manifestation Determination Review to be provided in my primary language.		Date
Parent	Date	Student	Date
Parent	Date		
Comments: _____			

Student Name:	DOB:	Date:
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**MANIFESTATION DETERMINATION**

**Meeting Notes**