

CLIENT NEWS BRIEF

Federal Department of Education Offers Guidance on Short-Term Removals and Behavioral Supports for Students with Disabilities

On August 1, 2016, the United States Department of Education (DOE) issued new guidance in the form of a Dear Colleague Letter to address the impact of short-term disciplinary removals for students with disabilities. Although not binding law, the guidance provides useful information and reminders for school districts when addressing behavior and discipline.

While local educational agencies (LEA) may remove (e.g., suspend) students with disabilities who violate a code of conduct, LEAs also have an obligation to assess and address the behavioral needs of students with disabilities. The DOE is concerned LEAs are suspending without restriction and without reviewing students' Individualized Education Programs (IEP). The DOE is also concerned that students with disabilities are missing valuable instruction and losing out on behavioral interventions and supports offered in their IEPs.

In its new guidance, the DOE notes that disciplinary removals often include office referrals, sending the student out of school with a condition for return and having the student leave early from school – actions that the guidance says do not deter misbehavior and are linked to lower academic performance. The DOE opines that these disciplinary removals are a result of minor misbehavior incidents that are not related to the student's or school's safety, and should instead be addressed through behavioral supports.

The guidance reminds LEAs that IEP teams must address a student's behavior that impedes his or her learning or the learning of others, and LEAs must teach behavior just as it teaches reading to students with disabilities. To this end, the DOE advises LEAs to do the following:

- Train staff on disciplinary measures (consistent with a student's IEP) that do not equate to a removal such as study carrels, time-outs and restriction of privileges.
- Consider implementing interventions and supports such as reinforcement of school expectations, violence prevention programs, anger management groups and life skills training.
- Identify and train staff on other research-based positive behavioral interventions and supports (PBIS).
- Consider a multi-tiered behavioral framework approach to addressing behavior.

The guidance makes clear that LEAs still retain flexibility in suspending students, as school safety is paramount. But it emphasizes the research showing suspensions are producing unintended and undesirable results. The guidance also reminds LEAs that incidents of misbehavior, classroom disruptions and code of conduct violations suggest that the student's IEP does not include appropriate behavioral interventions and supports or that the existing supports need to be altered. Failure to do so could result in a denial of a free and appropriate public education (FAPE).

As the school year proceeds, LEAs should keep in mind the importance of

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ensuring the behavioral needs of students with disabilities are supported and disciplinary measures are appropriately implemented. The full text of the DOE guidance is [here](#), and the press release is [here](#).

For questions regarding the DOE's guidance regarding behavioral supports, please contact the authors of this Client News Brief or an attorney at one of our [10 offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#) or download our [Client News Brief App](#).

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