

Exceptional Programs Discipline Guide

For

Building Administrators

Revised: December 2025

Dear Administrators,

This guide was developed to assist administrators in dealing with the discipline of students with an Individualized Education Plan or 504 plan (or suspected disability). While not all cases are handled the same, this will allow for a clearer understanding of the steps we must follow to adhere to the IDEA regulations.

The Office of Exceptional Programs will do all we can to assist you with discipline. It is our goal to continue providing professional development opportunities to our building administrators as well as our staff who are in charge of facilitating MDR meetings to develop functional behavior assessments (FBA) and behavior intervention plans (BIP) for students with disabilities (not gifted only).

If you have any questions about the discipline of a student with a disability, please contact your EPO Facilitator, Assistant Director or Director.

Thank you for all you do,

Schools should have updated and relevant behavior and/or discipline matrices that are followed with integrity schoolwide. At a minimum these should include identified levels of behaviors/discipline, who is responsible for responding/activating support or consequences, and consequence thresholds for interventions. [FMS Discipline Support Guide 25-26](#) If you have any questions regarding the guide and/or discipline of students with an IEP, contact the Director of Support Services.

Administrators and teams should follow, with integrity, the district wide student discipline support guide. To include guidance on suspension (ISS and/or OSS) when staff safety is at large, to include actions such as hitting, kicking, being spat on, berated or threatened.

#### MLSS Behavior Structure

- MLSS behavior intervention guidance, ideas and resource links
- Tracking of interventions needs to be documented in your school's behavior management tracking sheet. These are found in your school HRS folders for Level 1
- Use flow chart of support for behavior specialists and/or coordinator

#### **Important points about discipline of students with IEPs or 504s (or suspected disabilities)**

1. Follow "due process" including oral/written notice of the incident and a chance for the student to present his/her side of the story.
2. Before you impose discipline, **verify that the student is or is not a student with an IEP, 504 or SAT**. Determine if the student is receiving support from a social worker or counselor. If the student has an IEP, a 504 Plan, or has been referred for a Special Education evaluation (includes student in SAT process), follow ALL IDEA regulations. For all of the "BIG THREE" violations (Weapon, Drugs, Serious Bodily Injury, contact EPO immediately. Federal definition of Weapon, Drug, Serious Bodily Injury can be found here. [CFR 300.530 \(g\)](#)
3. A student with an IEP, a 504 Plan, or a student who has been referred for an evaluation (includes student in SAT process), can only be suspended for a **TOTAL of 10 cumulative school days** in a school year. Each school district is allowed to implement 10 suspension days per year. Prior to the exhaustion of the 10 days of suspension or if a pattern of behavior develops (*between the 5th-7th OSS suspension*), an IEP meeting needs to be scheduled to review the current IEP and make necessary changes to support the student. The team must also discuss if a social work assessment, FBA (Functional Behavior Assessment), or BIP (Behavior Intervention Plan), is warranted or needs to be updated. In-School suspension (ISS) will generally be considered a suspension, so **be careful how you use ISS. ISS is only to be assigned by the building administration.**
  - a. *If a student who received a short period of ISS and has access to peers, core instruction, and receives all IEP services, ISS doesn't count against the 10 days.*

If a student is suspended for more than 10 cumulative days, but not long term, FAPE must continue as determined by the IEP team (after MDR).

FAPE may continue in the following ways (this list is an example, and not meant to be the only way FAPE will continue):

- The general education and special education teachers can provide packets for instruction;
- The general education and special education teachers can provide Zoom links for students to attend to classroom instruction that is being provided;
  - There must be an offer to the student to provide the instruction - even if the student chooses not to attend. Teachers must maintain/keep records of the offer(s) of instruction to students.

4. Removal from the bus is also considered a **suspension** if transportation is part of an IEP. If a transportation suspension occurs, the transportation department will contact the building administration.
5. A manifestation determination review (MDR) should not occur until **all** other discipline options provided in the [Discipline Process](#) have been exhausted (link takes you to the process below).
  - a. *Update: An MDR does not occur until the student reaches the 11th day of ISS/OSS. If a student is at 8 days of OSS, and receives a 3 day suspension, then an MDR must occur since the 11th day of OSS will exceed the 10 days allowed.*
6. Follow the [MDR Process](#) to continue with the manifestation determination if all other discipline options have been exhausted.
7. IEP Team considerations after a manifestation:
  - a. Has the review of the Behavior Plan indicated success or new possibilities
  - b. Have any behavior academies been engaged and completed
  - c. Are additional support and services needed
  - d. Is a different classroom appropriate or a different case manager
  - e. Have we exhausted the social worker and counselor support
  - f. Has all staff who interact with the student participate in de-escalation strategies, or need to attend CPI training
8. When administration has determined suspension is required due to a **level three threat occurring (following the administration of the threat assessment procedure and completion of mental health screener)**, schedule an IEP, 504 or SAT meeting. If a social work assessment, FBA and/or BIP has not been completed, consult with your campus social worker or counselor to determine next steps (consent for evaluation, etc.). If the student is receiving social work services, or if a FBA and BIP are in place, review and revise the IEP, including the BIP, as often as necessary to provide more behavior support and accommodations for the student.
9. A **discipline hearing** (which contemplates exceeding the 10 allowable cumulative days) cannot be conducted without having completed a **manifestation determination review (MDR) meeting**. A discipline hearing must be conducted within 10 days of notification of a hearing. Make sure to state **“possible hearing”** rather than **“pending a hearing”** on the **disposition**. It is important to supply the school psychologist with the completed [teacher input form\(s\)](#) ASAP, so a MDR can be completed in a timely manner. The case manager or clerk will

schedule the MDR within 5 days of notification so that a possible hearing can be scheduled. A hearing should be scheduled to be held at least two days AFTER a MDR but within 10 days of notification of the intent to take the student to a hearing. **DO NOT** use “chronic offender” or “contract violation” as the reason for a hearing.

**10. Only schedule a MDR and possible hearing after consulting with the school psychologist.**  
The MDR **MUST** take place **BEFORE** a hearing is scheduled.

**Discipline Process for Student with Disability (SWD) based on updated rules and guidance per  
IDEA (34 C.F.R. § 300.530(b)(1))**

(Updated December 2023)--to be followed **PRIOR** to MDR Process

When a SAT student, SWD, or student with a 504 Accommodation Plan first exhibits behavioral issues that may be suspendable, building administration will ensure that behavioral interventions are being provided and the following steps are followed and documented with fidelity.

- The case manager, in conjunction with building administration, will follow these steps upon identification of a pattern (2+) of negative behavior (see paragraph below for further details). Building administration will acknowledge SAT/IEP/504 file review inside of Incident log (incident details description–administrator notes).
  - Ensure the special factors page identifies there is a behavior that impedes learning or learning of others and the concern is addressed on the student profile page
  - Review and/or create goals and/or objectives and/or accommodations for behavior in the student’s IEP or 504 Accommodation Plan
    - The behavior tracking sheet for the student can be used as evidence
  - If goals and objectives for behavior are not successful, consider a SW assessment.  
**Note: If the infraction involves vaping, alcohol, etc.–the school administrator will enroll the student in the available online program prior to considering SW assessment**
- Convene an IEP meeting (usually a revision) with the team to review the student’s present levels, goals, service schedule, and accommodations and adjust as necessary, and answer the question: “Does the student’s behavior impede the learning of self or others?” on the Special Factors page of the IEP; if the student is returning from a suspension, the IEP meeting should be scheduled ASAP upon the student’s return to school. Also, consider updating BIP to reflect current student needs.

If behaviors continue and/or a pattern of behavior emerges (this process should occur before 10 days of suspension, start reviewing on day 5, especially if it’s a repeat behavior/offense):

- The IEP team will consult with the school Behavior Intervention Team (BIT), review and collaborate as a team, based on intervention tracking data, to determine next steps regarding mental health and/or behavioral support needs (e.g. evaluation, FBA/BIP, additional support (review Layer Intervention suggestions on tracking), etc)
- If the current behavior interventions are not showing progress over time and behaviors show a need for a Functional Behavior Assessment (FBA) and potential Behavior Intervention Plan (BIP), the school’s social worker will garner parent consent to begin the FBA process.

- Based on the FBA results, the IEP team may convene to develop a BIP for the student, which must be implemented with fidelity in all classroom/school settings (case manager will notify all teachers of the student to review and acknowledge the BIP in PowerSchool Special Programs)
 

**\*Note: a student on a BIP cannot also be on a behavior contract—the BIP supersedes a contract**

  - The most important consideration when developing the BIP is prevention and intervention in the creation and implementation of a BIP.
  - The BIP is designed to improve/replace student behavior. The BIP is proactive; positive; and aimed at specific behaviors.
  - The BIP is what you do FOR the student, not what you do TO the student.
  - BIPs should always be supported by evaluation data—typically the FBA.
  - The BIP is not a progressive discipline plan.
  - Identify the behavior that impedes learning; set a goal; describe the proactive interventions and strategies to be used by the school to encourage and nurture better behavior.
  - The BIP must be reviewed regularly (3-6 weeks by at least the school team) to determine effectiveness or if another behavior occurs. Always monitor for results.
  - If behaviors continue, reconvene and revise the BIP. Review, revise, and repeat until behavior changes.
  - The BIP is not the place to describe disciplinary steps that building administration already has the authority to take: short-term suspensions; calling the police; physical restraint.
- The IEP team may need to consider if there is an emerging disability—in which case the evaluation process may begin (SAT interventions, etc.)

### **Manifestation Determination Review Process**

**Important note: A MDR is not a change of placement. These are two separate meetings.**

Once an administrator has determined a SAT, SWD, or 504 or student must go to a MDR, the administrator will send the following information to EPO School Psychologist via email:

1. Student name and ID number and case manager
2. How often has that pattern of behavior occurred?
3. Total number of days suspended for the school year (including partial days, ISS, OSS)
4. Threat assessment from building administration and Safety Interview (pg 3 of screener) when applicable.
5. The recommended consequences from the school administration

EPO School Psychologist will review school data and file review data provided by district personnel, and complete the paperwork.

1. Notify case manager (CM) or clerk to schedule a MDR review meeting (MDR)
2. CM or clerk will create and send an invitation to parents and students if 14 or older with a copy of parent rights
3. EPO School Psychologist will share MDR Teacher Input Form Narrative with clerk or CM

4. Clerk or CM will share Teacher Input Form Narrative with **all** teachers who provide services for the student. And return the responses to School Psychologist **PRIOR** to the meeting.

**MDR Meeting participants:**

Student (as appropriate)

Parent

The principal or assistant principal

EPO School Psychologist (facilitates meeting and completes MDR paperwork and Stand Alone PWN)

The principal or assistant principal may act as the LEA and may keep the PWN.

Case manager

Ancillary and SW (as appropriate)

\*\*The MDR meeting must occur within 10 school days but no sooner than 2 school days **in order to conduct a file review, and complete the manifestation paperwork.**

At the MDR:

The EPO School Psychologist facilitates the meeting and using the data provided by Admin and the district file review completes the paperwork in PSSP

- MDR and Stand Alone PWN will be used.
  - The team will review and answer the following questions:
    - If the conduct in question was caused by, or had a **direct and substantial** relationship to, the child's disability (this is a conversation, not a vote of yes or no); or
    - If the conduct in question was the **direct and substantial** result of the LEA's failure to implement the IEP, if the IEP and/or BIP have not been implemented with fidelity.
      - If question 2 = yes then the school must schedule an IEP meeting to correct the deficiencies in the IEP or IEP implementation.
  - If an agreement is not reached during the team's discussion, which includes parent/student input, in either question 1 or 2 the LEA will make the final decision.
- After the team will determine next steps, including scheduling an IEP, SAT, or hearing if applicable
  - Review and revision of the current behavior intervention plan to address behavior and service.

**Placement Procedures into ALE for: “BIG THREE”  
Weapons, Drugs, Serious Bodily Injury [CFR 300.503 \(g\)](#)  
Grades K-12**

- Principal/Assistant Principal will contact their EPO Facilitator and School Psychologist to provide detailed information about the offense and to schedule an MDR. Begin collecting all information requested by the facilitator/ School Psychologist for

completion of the MDR. AT THIS TIME, contact the case manager to send out notice of meeting to the parents, with a copy of parent rights.

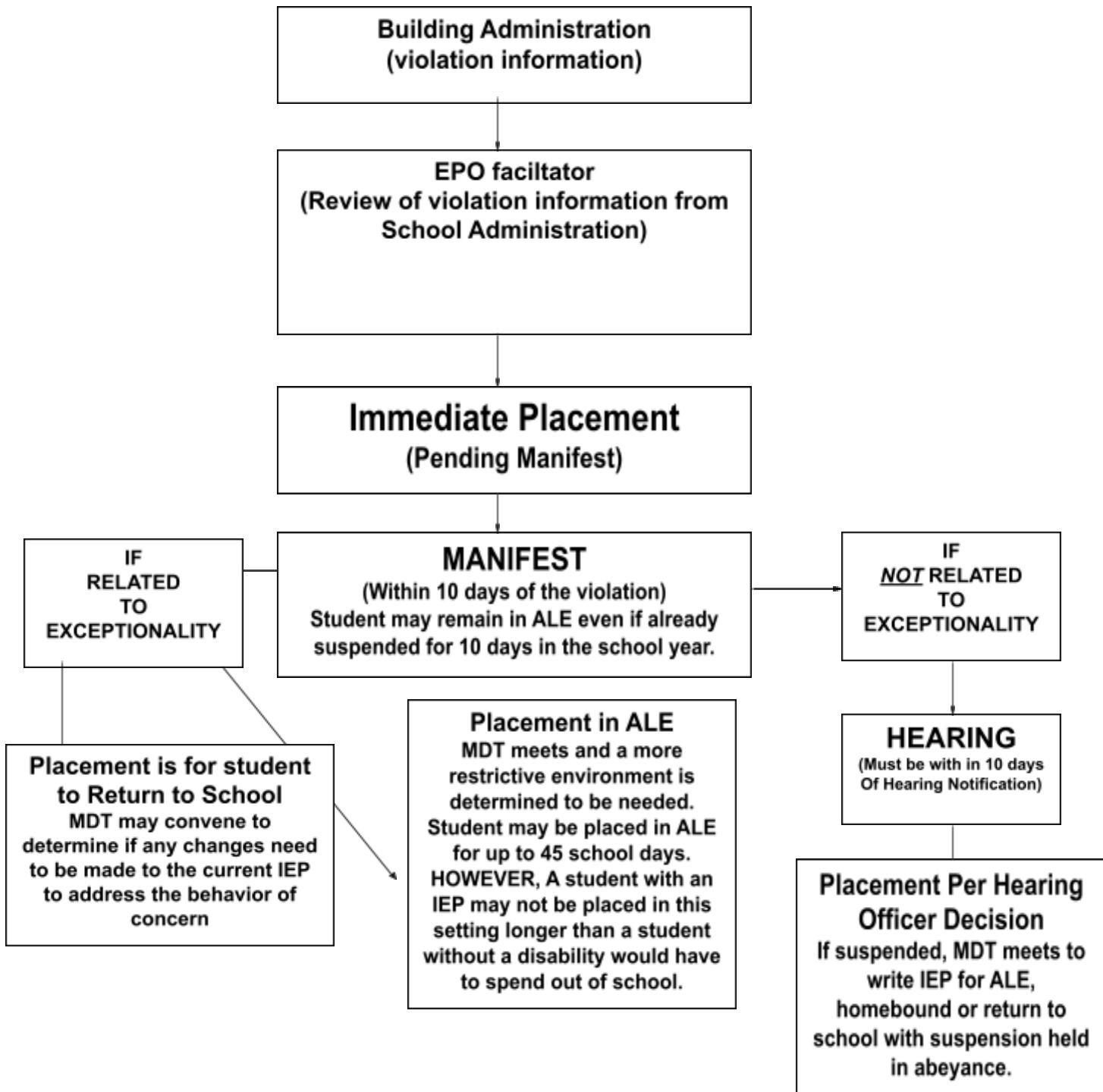
- If the behavior is determined to not be a MDR of the student's disability, the building administration will contact the hearing officer to set up a hearing date ONLY after the completion of the MDR meeting. **THE HEARING MUST BE COMPLETED WITHIN 10 DAYS OF NOTIFICATION TO PARENTS OR STUDENT THAT YOU ARE SEEKING LONG TERM SUSPENSION.**
- The Hearing Officer will make a determination.
  - i. If the hearing officer returns the student to school on abeyance, make sure that an FBA and BIP addressing the current behaviors has been completed.
  - ii. If placed on long term suspension, the EPO facilitator and School Psychologist will work with the school and ALE to develop a new IEP for the ALE setting, and schedule the IEP meeting. Once the IEP is complete, the student will be transferred from the sending school to ALE.
  - iii. ALE staff will notify the parent and student of the ALE placement schedule and discuss service time, including any compensatory services, following the pending MDR and disciplinary hearing.
- Complete [Special Transportation Instructions form](#).

\*\*Note: Prior to the completion of time at ALE, the IEP team will convene to create a transition plan back into the school setting (this may include discussions on gradual reintegration)

*When transitioning back: During the IEP meeting the following should be considered....*  
*Has the student had updated assessments completed (SW evaluation, FBA, etc.)?*  
**Transition plan to include communication with teacher....**

## Grades K-12

### Placement Procedures into ALE for: “BIG THREE” Weapons, Drugs, Serious Bodily Injury



## Procedures for ALL OTHER VIOLATIONS

Any student with a disability who is suspended for more than 10 cumulative days is **required to still receive FAPE**. (Free and Appropriate Public Education- to include access to typically developing peers, an opportunity to earn credits if secondary, and the ability to make progress towards goals through access to all special education services: must align with current IEP service schedule). Follow the process on Pages 3 and 4, if all of the procedures there have been exhausted, then the following can be utilized. ALE is only used for Big 3 violations. The home campus will be responsible for reviewing the following:

Interventions

Social Work Assessment

FBA

BIP

After a review of the above and fidelity checks regarding implementation, then steps can be made to determine what additional behavioral supports can be utilized. Students may be given opportunities to attend their normal schedule of classes with more intentional behavior support recommended for that student. Also, the school might consider a more restrictive environment within the building to provide additional behavioral support and instruction that could require students to attend their classes, sometimes escorted and/or monitored, but with a more flexible and adjusted schedule depending on the needs of the student (could be different from day to day). **Consistent check-ins and check-outs must be utilized and progress monitored daily.**

If the student is recommended for long-term suspension and goes to a hearing, the hearing officer will remind all parties that the IEP team will decide the next steps and how the school will ensure FAPE.

These students will continue to receive FAPE through services provided by campus (to include access to non-disabled peers, opportunity to progress on IEP goals, related services)–not at ALE.

## Due Process Requirements

### Procedural Safeguards:

All procedural safeguards, including required notice and consents, will be followed throughout the process of any disciplinary action or through a change of placement for students with disabilities. The Procedural Safeguards links are listed below to provide to parents:

[Procedural Safeguards - English](#)

[Procedural Safeguards - Spanish](#)

### Appeal Process

Parents are notified at the MDR that as described in the Procedural Safeguards, parents have the right to challenge:

- the results of the manifestation determination review AND

- the proposed change of placement AND
- the proposed provision of services in that placement

Parents may challenge any of the above by filing with the New Mexico Public Education Department a state-level complaint and/or a request for an expedited due process hearing.