



New York State Education Department  
Office of Special Education  
**Educational Partnership**





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# Discipline Procedures for Students with Disabilities

Part 201 of the Regulations of the Commissioner of Education

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Produced by the Technical Assistance Partnership (TAP) for Behavior, University at Albany - SUNY

*Version 3/2023*

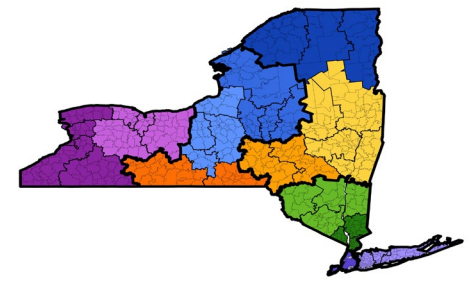


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# Disclaimer

The resources shown are designed to provide helpful information. Resources are provided for instructional use purposes only and do not constitute NYSED endorsement of any vendor, author, or other sources. To the best of our knowledge, the resources provided are true and complete.

# Who Are We?



- The Office of Special Education (OSE) Educational Partnership is a coordinated and cohesive network focused on enhancing services and improving outcomes for students with disabilities and providing effective support for educational organizations (EOs) and families
- Regional Partnership Centers (RPCs) and Family and Community Engagement (FACE) Centers are in each of the 12 regions of NYS and their own teams of specialists provide coordinated, direct supports and services to the EOs within their region

# Today's Facilitators

# Participant Introductions

- Name
- Role
- District
- School
- Population Served

# Training Expectations

<u>EXPECTATION</u>	<u>BEHAVIOR</u>
BE RESPONSIBLE	<ul style="list-style-type: none"><li>✧ Take care of your personal needs</li><li>✧ Return on time and quietly</li><li>✧ Sign attendance sheets / complete eval. form</li><li>✧ Use electronic devices when necessary</li></ul>
BE RESPECTFUL	<ul style="list-style-type: none"><li>✧ Put cell phones to “off” or “vibrate”</li><li>✧ Listen to others attentively</li><li>✧ Honor confidentiality when applicable</li><li>✧ Stay on topic</li></ul>
BE ENGAGED	<ul style="list-style-type: none"><li>✧ Be an active participant</li><li>✧ Participate with an open mind</li><li>✧ Take notes</li><li>✧ Make plans to stay until training dismissal</li></ul>

# Virtual Training Expectations

<u>EXPECTATION</u>	<u>BEHAVIOR</u>
BE RESPONSIBLE	<ul style="list-style-type: none"><li>✧ Take care of your personal needs</li><li>✧ Return on time and quietly</li><li>✧ Sign attendance sheets / complete eval. form</li><li>✧ Use electronic devices when necessary</li></ul>
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BE ENGAGED	<ul style="list-style-type: none"><li>✧ Be an active participant</li><li>✧ Participate with an open mind</li><li>✧ Take notes</li><li>✧ Make plans to stay until training dismissal</li></ul>



# Blueprint for Improved Results for Students with Disabilities



## Self-Advocacy

Students engage in self-advocacy and are involved in determining their own educational goals and plan.



## Family Partnership

Parents, and other family members, are engaged as meaningful partners in the special education process and the education of their child.



## Specially-Designed Instruction

Teacher's design, provide, and assess the effectiveness of specially-designed instruction to provide students with disabilities with access to participate and progress in the general education curriculum.



## Research-Based Instruction

Teachers provide research-based instructional teaching and learning strategies and supports for students with disabilities.



## Multi-tiered Support

Schools provide multi-tiered systems of behavioral and academic support.



## Inclusive Activities

Schools provide high-quality inclusive programs and activities.



## Transition Support

Schools provide appropriate instruction for students with disabilities in career development and opportunities to participate in work-based learning.

# Learning Targets



I will....

- **understand** the process relating to discipline of students with disabilities
- **identify** regulatory requirements and administrative responsibilities relating to discipline
- **gain knowledge** of policies and best practices relating to suspension, removal and behavioral supports

# Agenda

- Welcome and Overview
- Grounding Ourselves in the Individuals with Disabilities Education Act (IDEA)
- Disproportionality in School Discipline
- Suspensions/Removals
- Disciplinary Change in Placement
- Procedural Safeguards Notice
- Manifestation Determination
- Interim Alternative Educational Setting
- Student Presumed to have a Disability/  
Expedited Evaluation
- Action Planning and Wrap-up



# Handouts

1. Action Plan
2. What's the Outcome scenarios
3. Glossary of Terms
4. Suspension Procedures
5. Use of Time Out Rooms policy brief
6. 'Not a Suspension, but...' Activity
7. Teacher Removals
8. Frayer Model
9. Disciplinary Change in Placement Determinations
10. Procedural Safeguards Notice
11. Manifestation Determination checklist
12. Functional Behavioral Assessment policy brief
13. Behavioral Intervention Plan policy brief
14. Provision of Educational Services

# Slide Marker Icons

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# Part 201 Regulations of the Commissioner of Education

## Commissioner's Regulations Part 201: Procedural Safeguards for Students with Disabilities Subject to Discipline

- Section 201.1 Purpose.
- Section 201.2 Definitions.
- Section 201.3 CSE responsibilities for functional behavioral assessments and behavioral intervention plans.
- Section 201.4 Manifestation determinations.
- Section 201.5 Students presumed to have a disability for discipline purposes.
- Section 201.6 CSE responsibilities for expedited evaluations.
- Section 201.7 General procedures for suspensions and removals of students with disabilities.
- Section 201.8 Authority of impartial hearing officer to order a change in placement to an IAES in a dangerous situation.
- Section 201.9 Coordination with superintendent's hearing and other due process procedures applicable to all students.
- Section 201.10 Provision of services during suspensions.
- Section 201.11 Expedited due process hearings.

# Action Plan

## Discipline Procedures for Students with Disabilities – Action Plan

Use this organizer to keep track of / plan for tasks you need to do when you return to your school / district.

Action Step (describe)	Resources or Support Needed?	Target Completion Date
<b>Items to Locate:</b> <ul style="list-style-type: none"><li>Field Memos / Part 201: <a href="http://www.p12.nysed.gov/specialeducation/publications">www.p12.nysed.gov/specialeducation/publications</a></li><li></li></ul>		
<b>Ask About:</b>		
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1-		
2-		
3-		



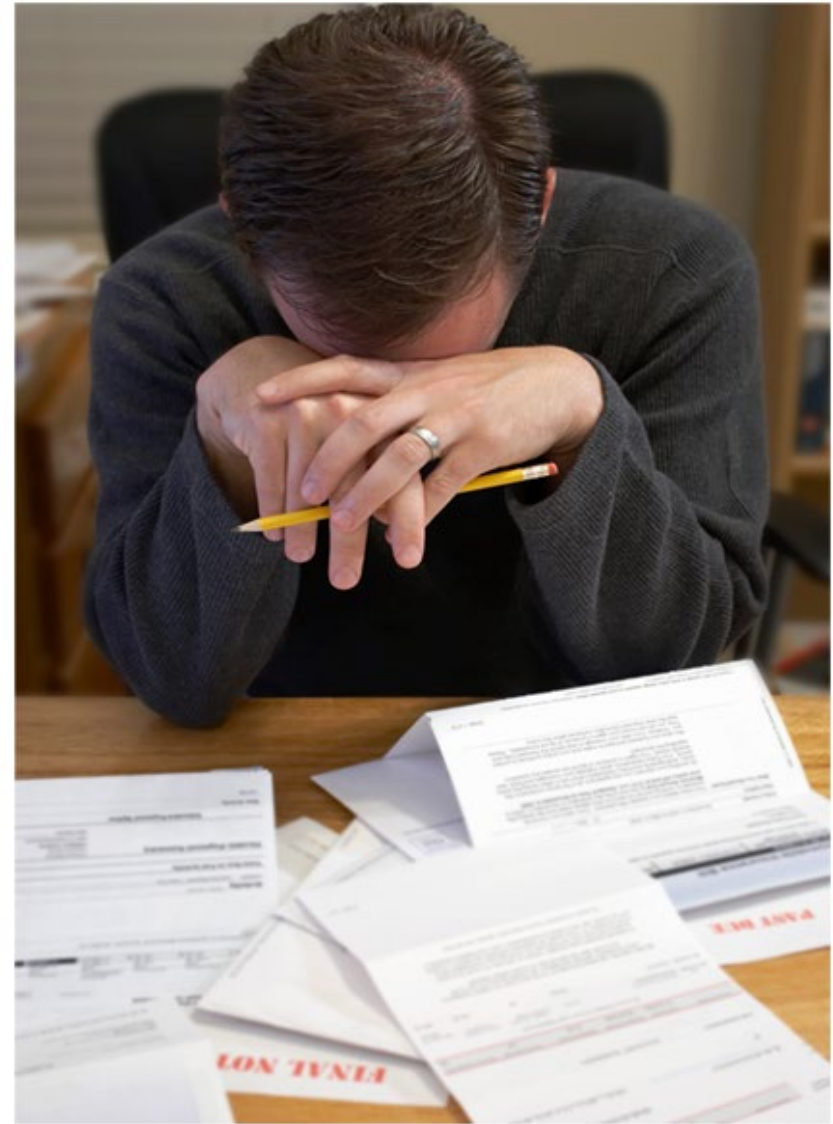


When you hear the word **“discipline”** what word or term do you think of?





***“Those kids get  
away with  
everything”***



# Grounding Ourselves in the Spirit of IDEA (Individuals with Disabilities Act)



When you hear the words  
***“Civil Rights,”***  
What comes to mind?



# Grounding Ourselves in the Spirit of IDEA



# Disproportionality in School Discipline

Understanding Part 201 of the Regulations of the NYS Commissioner of Education

# Disproportionality in School Discipline

## National Trends



- Of 6 million Students with Disabilities in 2015-16, 400,000 received at least 1 out of school suspension
- Students with Disabilities are suspended twice as often as their non-disabled peers and for longer periods of time

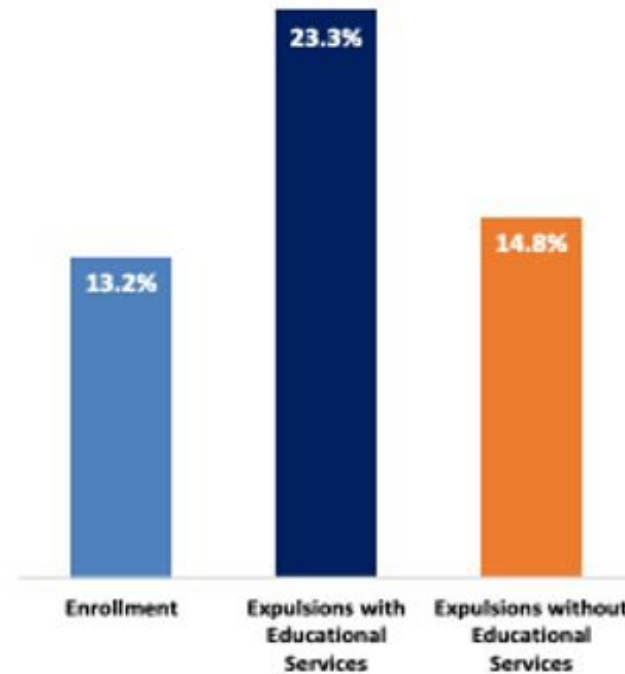
# School Suspensions among Students with Disabilities served under IDEA in 2017-2018

## School Suspension Data

- Students with disabilities served under IDEA represented 13.2% of total student enrollment but received 20.5% of one or more in-school suspensions and 24.5% of one or more out-of-school suspensions
- Disparities worsen when the data are disaggregated by race. Black students served under IDEA accounted for 2.3% of total student enrollment, but received 6.2% of one or more in-school suspensions and 8.8% of one or more out-of-school suspensions

# School **Expulsions** among Students with Disabilities served under IDEA in 2017-2018

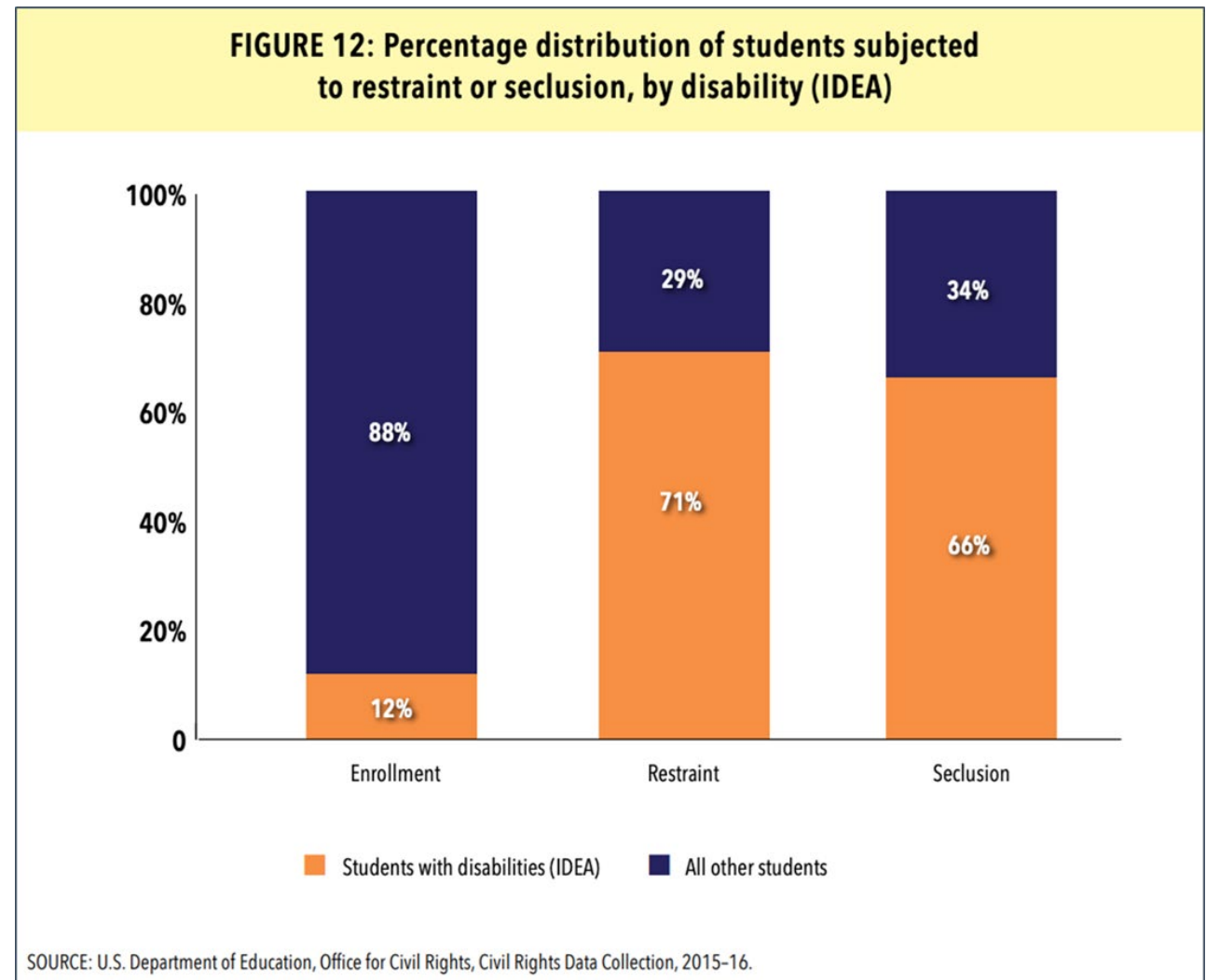
## School Expulsion Data



In 2017-18, students with disabilities served under IDEA represented 13.2% of the total student enrollment and received 23.3% of all expulsions with educational services and 14.8% of expulsions without education services.

# School Restraints and Seclusion among Students with Disabilities served under IDEA in 2015-2016

## School Restraint or Seclusion Data





# Disproportionality in School Discipline

## National Trends continued

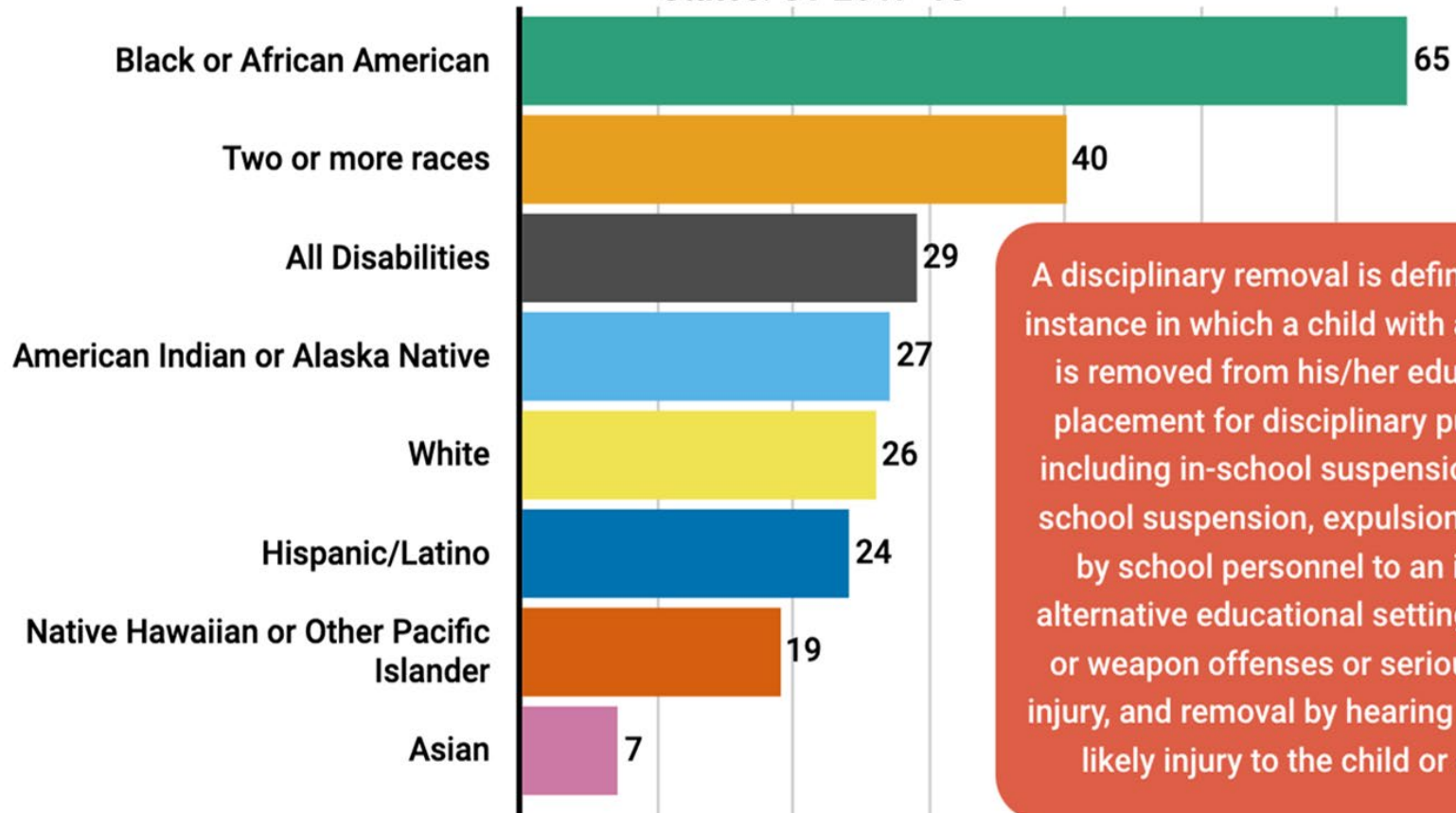
- Black or African American Students with Disabilities made up 18.7% of total Students with Disabilities yet represented 37% of those Students with Disabilities suspended in 2015-16
- Multiracial Students with Disabilities were over 7 times more likely than white Students with Disabilities to receive one or more Out of School Suspensions (OSS) in the 2015–16 academic year



# Disproportionality in School Discipline

## Graph

Total Disciplinary Removals Per 100 Children or Students with Disabilities, Ages 3 to 21, By Race/Ethnicity, Served Under IDEA, Part B, in the US, Outlying Areas, and Freely Associated States: SY 2017-18



A disciplinary removal is defined as any instance in which a child with a disability is removed from his/her educational placement for disciplinary purposes, including in-school suspension, out-of-school suspension, expulsion, removal by school personnel to an interim alternative educational setting for drug or weapon offenses or serious bodily injury, and removal by hearing officer for likely injury to the child or others.

# YOUR TURN

## Disproportionality in Your Educational Organization



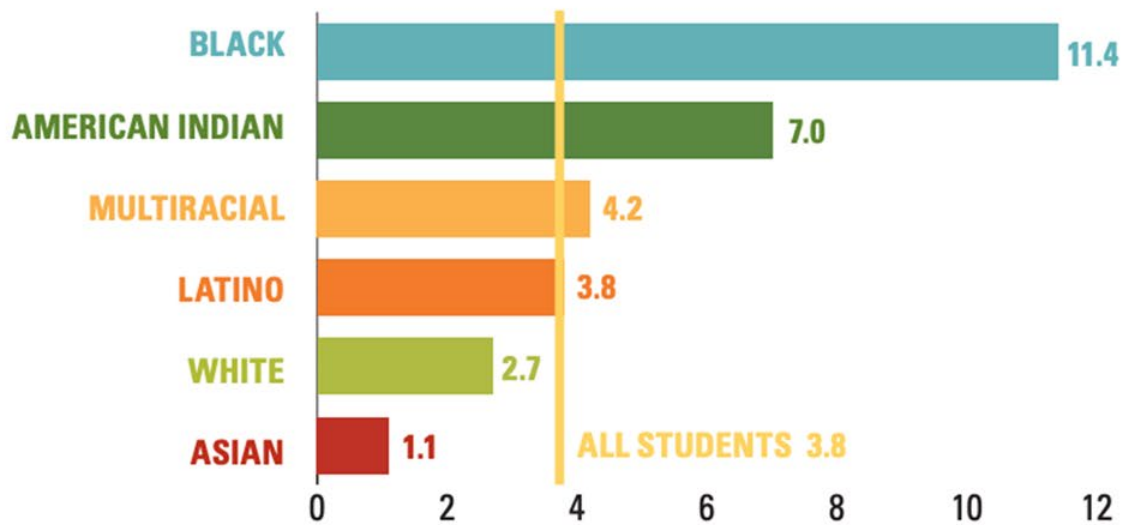
- Which students and families most frequently go through the disciplinary processes we will discuss today?
- What might account for these trends?



# Suspension Data

## Outside New York City

Figure 1: Percent of students outside of New York City with at least one out-of-school suspension



Schools outside of New York City are 4.2x more likely to suspend Black students than White students.

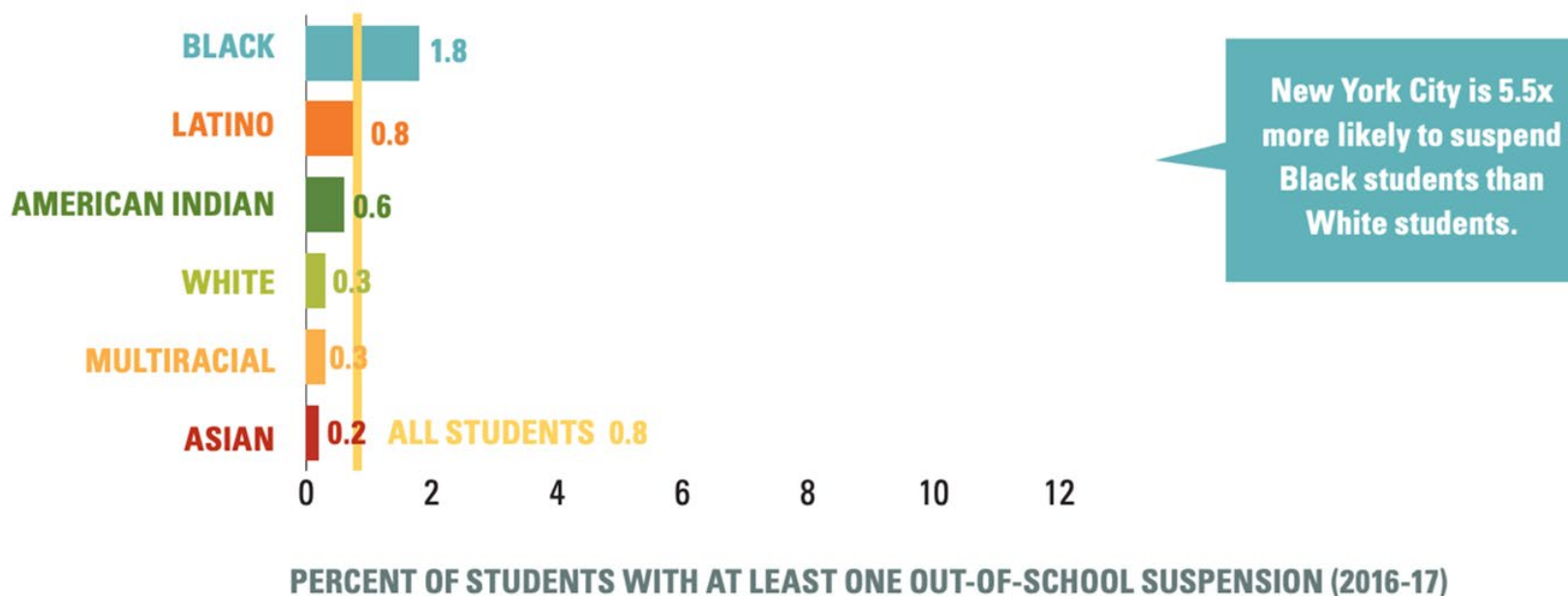
PERCENT OF STUDENTS WITH AT LEAST ONE OUT-OF-SCHOOL SUSPENSION (2016-17)

Source: New York State Education Department. Unpublished 2016-17 data. Analysis conducted by The Education Trust—New York.

# Suspension Data

## In New York City

Figure 2: Percent of students in New York City with at least one out-of-school suspension



Source: New York State Education Department. Unpublished 2016-17 data. Analysis conducted by The Education Trust—New York.

# State Performance Plan (SPP) Indicators

- **4a)** Percent of districts that have a significant discrepancy in the rate of suspensions and expulsions of greater than 10 days in a school year for children with Individualized Education Programs (IEPs); and
- **4b)** Percent of districts that have: (a) a significant discrepancy, by race or ethnicity, in the rate of suspensions and expulsions of greater than 10 days in a school year for children with IEPs; and (b) policies, procedures or practices that contribute to the significant discrepancy and do not comply with requirements relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards.



# Impact of Suspension

“Given that the opportunity to learn is among the strongest predictors of academic achievement (Brophy, 1988; Greenwood, Horton, & Utley, 2002), it is not surprising that removing students from school for disciplinary reasons is associated with negative academic outcomes.”



# Impact of Suspension: Consequences

- Use of suspension is associated with:
  - Lower ratings of school climate & safety
  - Increased rates of course failure, truancy, and High School non-completion
  - Involvement with the criminal justice system





# Impact of Suspension: Research

“... the research evidence makes clear that out-of-school suspension and expulsion are in and of themselves risk factors for a host of negative school and life outcomes, regardless of levels of poverty, achievement, or previous behavioral history  
(Skiba, Arredondo, & Williams, 2014)”.



# NYS Equity Coalition



NEW YORK STATE SCHOOL  
DISTRICTS **SUSPENDED A  
STUDENT AT LEAST ONCE  
EVERY MINUTE** IN THE  
2016-2017 SCHOOL YEAR.

# Culturally Responsive Behavioral Systems

1. Identity
2. Voice
3. Supportive Environment
4. Situational Appropriateness
5. Data for Equity



# Pause and Think!



- What questions might you still have?
- What is one new concept or idea you have learned from this section?
- Is there still something you need more information on?

# YOUR TURN

## Processing Activity: Small Group Discussion



Small Group Discussion



Review and Recap information shared



Respond to these questions:

- What are the intentions behind legislation and regulations for students with disabilities?
- In the data that was shared, what was one major take-away or surprising data point?

# Action Plan: Disproportionality



## Discipline Procedures for Students with Disabilities – Action Plan

Use this organizer to keep track of / plan for tasks you need to do when you return to your school / district.

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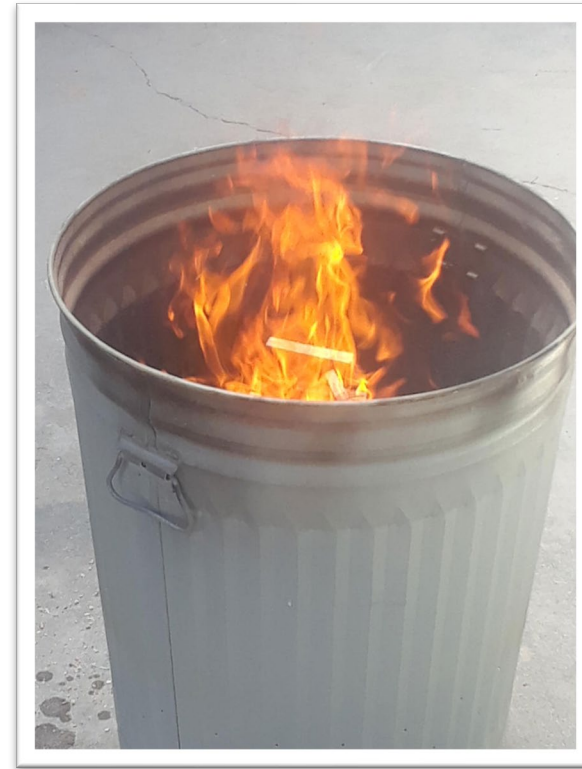
# Let's take a close look at a couple scenarios...



## Scenario #1



## Scenario #2



# YOUR TURN

## Processing Activity: Scenario Review



### Scenario Review



Determine consistency and compliance in handling disruptive behavior in students with disabilities



### Table Discussion

- Assign Scenarios to tables: #1 – odd tables; #2 – even tables
- Round Robin: start the starter
  - Person 1 – Shares how their school would handle the scenario
  - Everyone else listens
  - Person 2 – Begins when Person 1 is finished and so on around the table until the last person has shared



# Suspension/Removals

Understanding Part 201 of the Regulations of the NYS Commissioner of Education

# Defining Suspension



Short Term  
Long Term

In-School (ISS)  
Out-of-School (OSS)

# Types of Suspension



## Short Term Suspension

suspension of five consecutive school days or less

## Long Term Suspension

suspension of more than five consecutive school days

# Disciplinary Procedures: Apply to **ALL** students, including **students with disabilities**



**Alternative instruction must be provided to suspended students of compulsory age.**

**Elementary students:** *minimum of 1 hours/day*

**Secondary students:** *minimum of 2 hours/day*



**Compulsory School Age 6-16**

# In-and Out-of-School Suspension



# Suspension Procedures



*Follow Ed. Law  
**Section 3214**  
procedures as you  
would for any  
student...*



# Suspension Procedures Explained



## Short Term

- Send parent written notice
- Make telephone call to parents, if possible
- Conduct informal conference, if requested
- If compulsory school age, arrange for immediate alternative instruction

## Long Term

- Send hearing notice to the student's parent/guardian
- Conduct a Superintendent's Hearing
- Send a notice of the results of the hearing to the parent/guardian
- If compulsory school age, arrange for immediate alternative instruction

# When must a superintendent's hearing be conducted?



When determining whether a student should be suspended from required attendance for **more than five consecutive school days**.

*Section 3214 of Education Law*



Removals for behavior involving **serious bodily injury, weapons, illegal drugs, or controlled substances** would also result in a superintendent's hearing.



# YOUR TURN

## Suspensions



Small Group Discussion



Review current procedures for Short-Term and Long-Term Suspension

Table Discussion



- Using the following handouts:
  - Regulations: Part 201.7 and Part 201.9
  - Handout on Suspension Procedures
  - Discuss current practices & be prepared to share out

# What qualifies as a removal?



# Removal means...



1. a removal of a student with a disability for disciplinary reasons from that student's current educational placement, other than a suspension;

*and...*

2. the change in placement of a student with a disability to an **Interim Alternative Educational Setting (IAES)** by an impartial hearing officer (IHO) or by a superintendent for dangerous behavior involving serious bodily injury, illegal drugs, controlled substances or weapons.

# Is this a removal or not?



- If students are sent to the “calming” room, “reflection” room, or “sensory” room to safely deescalate, regain control and prepare to meet the expectations to return to their educational program, this would be considered use of a time out room.
- Usage of time out room is to ensure a student in crisis has a safe space to deescalate and prepare to meet expectations to return to his/her educational program. It is not considered a suspension or removal since it is not a behavioral consequence.
- Remember, usage of a time out room must be indicated on a student’s behavioral intervention plan and noted in the IEP-- including maximum time allowed. [Section 200.22(c)]
- It’s important for you to consider...What is the purpose of your space?, What is it being used for?, Is it being used as a disciplinary practice or consequence, or as a behavioral intervention and support?

# Bus suspension constitutes a removal if transportation is part of the student's IEP

*... unless the school district provides transportation by some other means.*



# YOUR TURN

“This is not a suspension, but...”

- We are sending the student home early because she is having a bad day
- Travis may come back to school once he has his medication
- Please keep Luis home on Friday. We don't think he can handle the all-day assembly
- Sara's too upset to stay in school. She needs a break. We will call it a “vacation”
- We don't have enough staff to take Andrew on the field trip safely
- The aide is taking a sick day tomorrow, so it's okay if Jay wants to stay home



# Definition: Teacher Removal



*Removal of  
a disruptive student by a  
teacher in accordance*

*With Section  
3214 (3-a)  
of Education Law*

# A disruptive student...

*...substantially disrupts the educational process or substantially interferes with the teacher's authority over the classroom.*





# Teacher Removal



A removal of a student from the teacher's classroom is counted for any portion of the school day.



# Removal Procedures



## Teacher Procedures

- Inform student and principal
- Explain reasons for the removal
- Provide student opportunity to be heard

## Principal Procedures

- Inform parent
- Provide opportunity for informal meeting
- Make final determination regarding student return to classroom

## District Policies and Procedures – Code of Conduct

# YOUR TURN



## Pair Share

Teacher to Principal  
Removal Procedures

# What would NOT constitute a removal?



- When the student:
  - Continues to appropriately progress in general education
  - Continues to receive the services specified on his/her IEP
  - Participates with non-disabled children to the extent they would have in their current placement



# YOUR TURN

## Teacher Removal



Pack & Stack



Determine what removal is, what it is not, and provide examples & non-examples.

Table Discussion



- Pack Frayer Model - graphic organizer - Removal & writing utensil
- Re-group participants into small groups as directed by the trainer
- Return to tables as assigned with your belongings and complete Frayer model in new grouping

# Pause and Think! 2



- What questions might you still have?
- What is one new concept or idea you have learned from this section?
- Is there still something you need more information on?

# Action Plan: Suspensions/Removals



## Discipline Procedures for Students with Disabilities – Action Plan

Use this organizer to keep track of / plan for tasks you need to do when you return to your school / district.

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<b>Ask About:</b>		
<b>To Do:</b>		
1-		
2-		
3-		

# Disciplinary Change in Placement

Understanding Part 201 of the Regulations of the NYS Commissioner of Education



# Disciplinary Change in Placement - Handout



means a suspension or removal from a student's current educational placement that is either:

For more than 10  
consecutive school days;

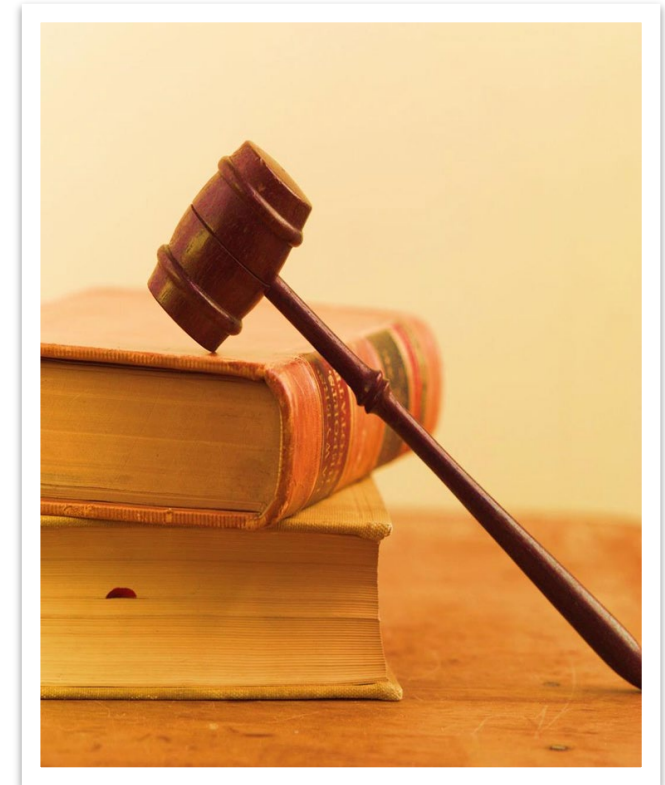
*OR...*



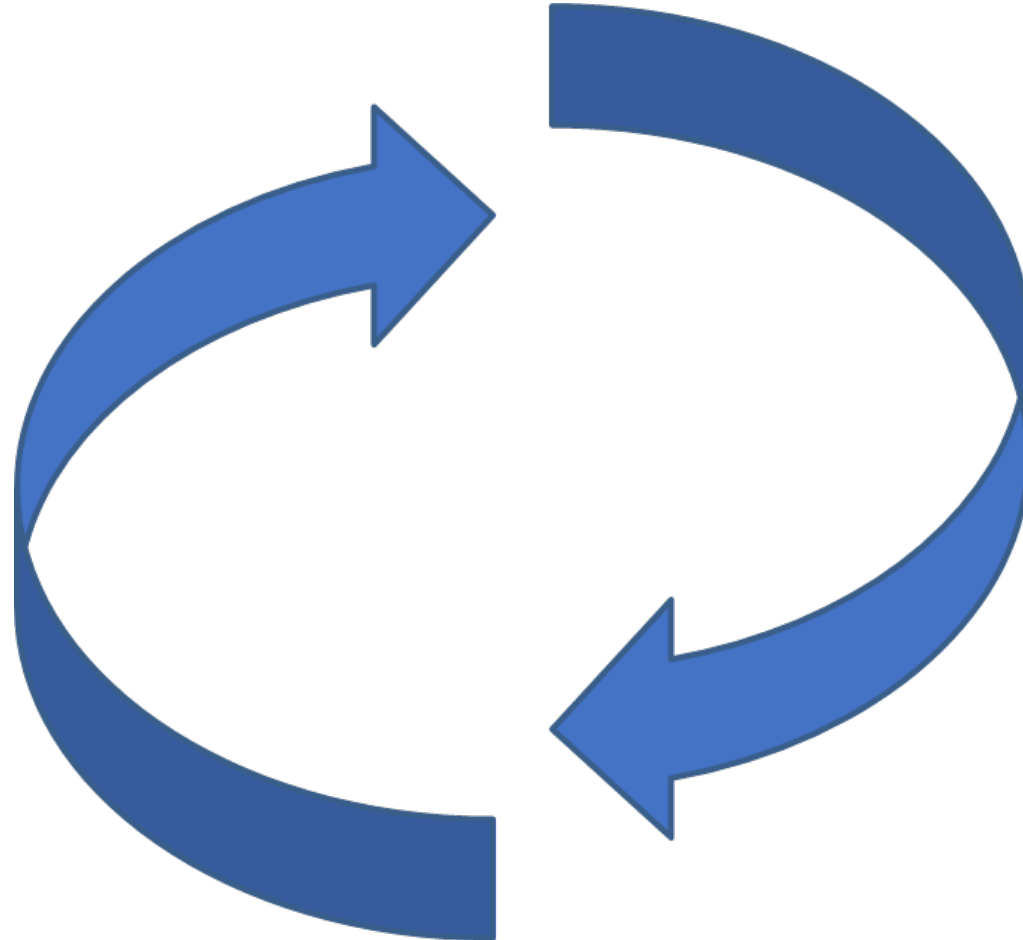
# Disciplinary Change in Placement Cont.



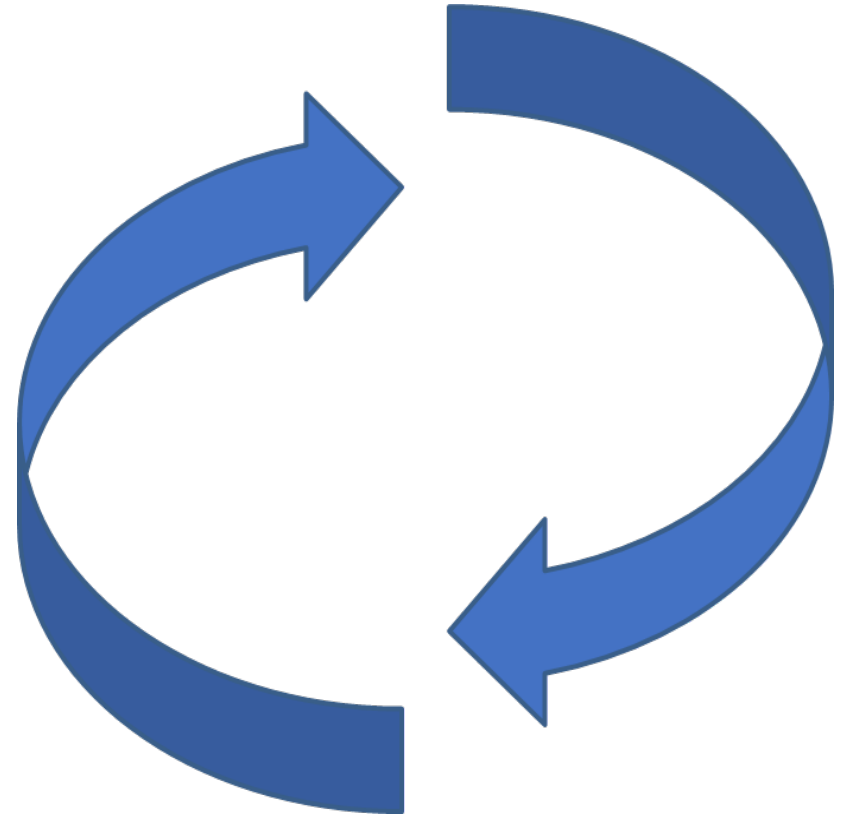
- For a period of 10 consecutive days, or less if the student is subjected to a series of suspensions or removals that constitute a pattern:
- Because they cumulate to more than 10 school days in a school year;
- Because the behavior is substantially similar to student's behavior in previous incidents that resulted in the series of removals; and
- Because of such additional factors as:
  - length of each suspension or removal;
  - total amount of time the student has been removed; and
  - proximity of the suspensions or removals to one another

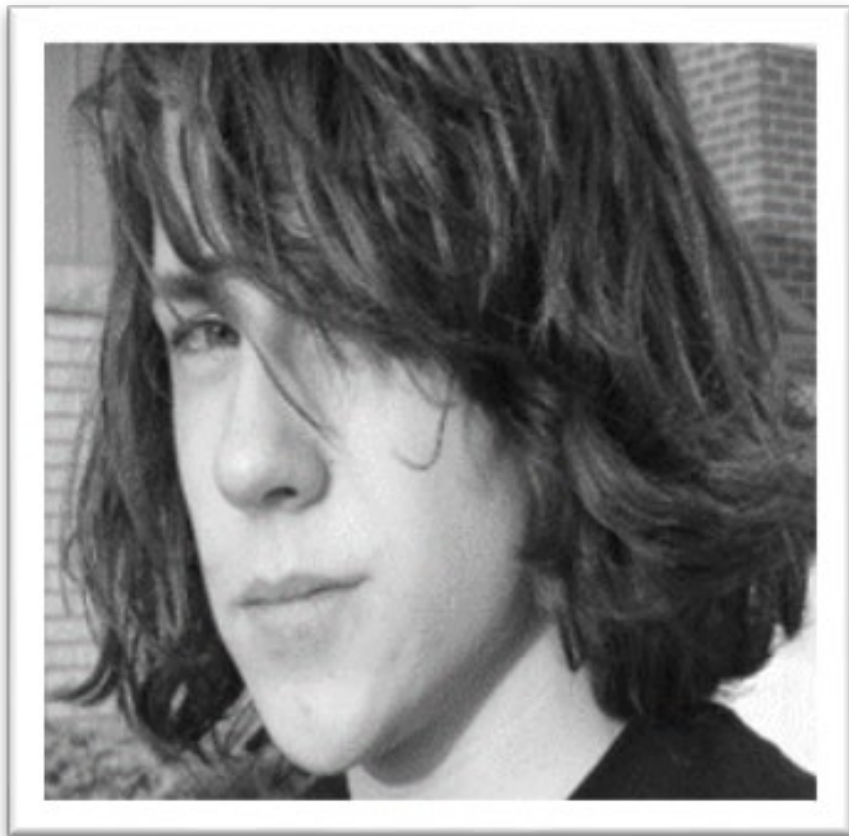


# Who decides what constitutes a pattern?



The **school district** determines on a case-by-case basis whether a **pattern of removals** constitutes a **disciplinary change of placement.**

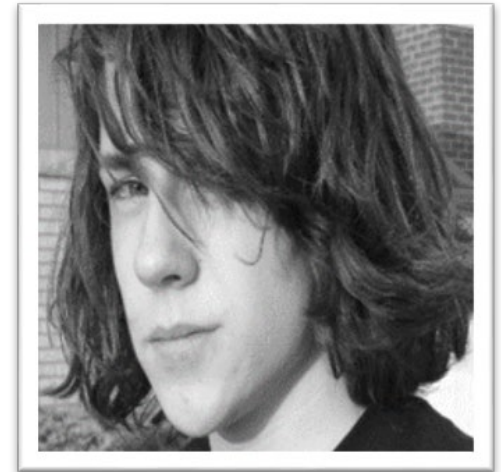




***“Get off my back,  
you stupid \*\*\*\*!”***

# ***What should Principal Johnson do?***

- Mr. Johnson is considering suspending Josh which will result in a **cumulative 11 days of suspension**
- Following the district's procedures, Mr. Johnson contacts Mrs. Gage, the Director of Special Education
- Together, they consider if the 11th day of suspension will result in a **disciplinary change of placement** for Josh



# Disciplinary Change in Placement Determinations



## NO

- The District determines the dates of suspension are too far apart to demonstrate a pattern; therefore, the suspension would not result in a disciplinary change of placement for Josh
- The District provides FAPE, determined by school personnel in consultation with at least one of the Josh's teachers

## YES

- The District determines the suspension will constitute a pattern and thus will result in a disciplinary change of placement for Josh
- The District conducts a manifestation determination meeting

# Pause and Think! 3



- What questions might you still have?
- What is one new concept or idea you have learned from this section?
- Is there still something you need more information on?



# Action Plan: Change in Placement



## Discipline Procedures for Students with Disabilities – Action Plan

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3-		

# Procedural Safeguards Notice

Understanding Part 201 of the Regulations of the NYS Commissioner of Education

# Procedural Safeguards Notice - Handout



On the date on which the decision is made to impose  
a **suspension or removal**  
that constitutes  
a **disciplinary change in placement**,  
the procedural safeguards notice  
**must be given to the parent.**

# Procedural Safeguards Notice cont.

- A school district must use the procedural safeguards notice prescribed by the Commissioner
- A document that explains due process rights to parents
- Must be provided to parents in their native language or other mode of communication, unless it is not feasible to do so
- A parent may elect to receive the procedural safeguards notice by an electronic mail communication (e-mail) if the school district makes such an option available
- The notice is available in English, Simplified Chinese, Haitian Creole, Korean, Russian and Spanish from NYSED on the NYSED website:
  - <http://www.p12.nysed.gov/specialed/formsnotices/procedural-safeguards-notice.htm>

# Additional Safeguards for Students with Disabilities

- Provision of Procedural Safeguards Notice
  - with disciplinary change in placement
- Manifestation Determination
  - with disciplinary change in placement
- Functional Behavioral Assessment (FBA )
  - When there is a manifestation between the behavior and the student's disability
- Provision of FAPE
  - Whenever the student is removed for more than 10 days in a school year
- Removals to an IAES
  - Drugs and/or controlled substances
  - Weapons
  - Serious Bodily Injury
  - Dangerousness (IHO removal)
- Expedited impartial hearings
  - Pendency
- Students presumed to have a disability
  - Same protections apply
  - Expedited evaluations

# What is FAPE?



## Free Appropriate Public Education

During suspensions or removals for periods of **10 or more days** in a school year, students with disabilities must be provided with services necessary to enable the student to:

- continue to participate in the general education curriculum;
- progress toward meeting the goals set out in the students IEP



# Pause and Think! 4



- What questions might you still have?
- What is one new concept or idea you have learned from this section?
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# Action Plan: Procedural Safeguards



## Discipline Procedures for Students with Disabilities – Action Plan

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1-		
2-		
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# Manifestation Determination

Understanding Part 201 of the Regulations of the NYS Commissioner of Education

# YOUR TURN

## Manifestation Determination



I-Time, Table Talk



To understand what the NYS regulations say about what is an MDR, when it is required and how is it implemented.



I-Time and Table Discussion

- Read regulations - section 201.4 (a-e) page 214 and the MDR checklist
- Highlight key information
- When given the signal from the presenter, begin having a discussion with others at your tables regarding your identified key points

# Manifestation Determination Explained



A review of the relationship between the student's disability and the behavior subject to disciplinary action.



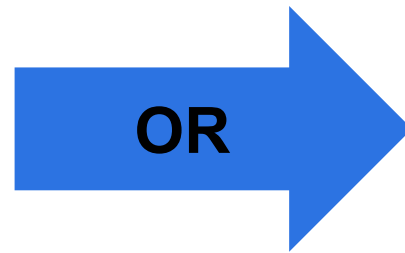
## **WHAT – Determining whether the **student's conduct** is a manifestation of the student's disability**

- The student's conduct should be deemed a manifestation of their disability if the conduct in question was:
  - caused by or had a direct and substantial relationship to the student's disability; or
  - direct result of the school district's failure to implement the IEP

**WHEN** – Team must determine if the conduct is a manifestation of student’s disability immediately, but no later than **10 school days** after:



Decision is made by Board of Education, Superintendent, or Principal impose a suspension that constitutes a disciplinary change in placement;

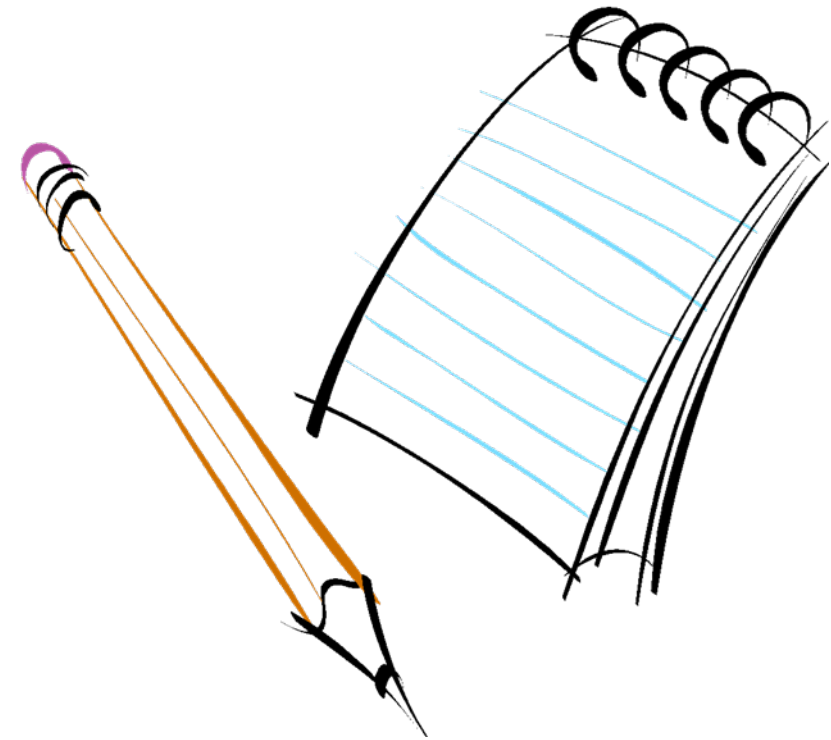


Superintendent or Impartial Hearing Officer changes placement to IAES.

# HOW – Before the manifestation determination review

Parent(s) must receive  
***written notification***

before any manifestation team meeting to ensure they have an opportunity to attend.



# WHO – Manifestation team must include...



- A ***school district representative*** knowledgeable about the student and the interpretation of information about child behavior;
- the ***parent***, and
- ***relevant CSE members*** as determined by parent and school district.

# The manifestation determination review team **MUST** consider all relevant information in the student's file including:

- Student's IEP
- Teacher observations
- Relevant information provided by parents





# Avoid “one size fits all” mentality...

*Focus on how the student is impacted by the disability,  
not on the disability itself.*



# Manifestation Found



If conduct was determined to be a manifestation of the student's disability, **then** the CSE must:

- conduct a Functional Behavioral Assessment (FBA) and implement a Behavioral Intervention Plan (BIP) for such student; and
  - return the student to the placement from which the student was removed, **unless**
  - removal was due to dangerousness or drugs/controlled substances, weapons or serious bodily injury; **or**
  - parent and school district agree to a change of placement as part of the modification of the BIP

# Deficiencies in the IEP

**If** the manifestation team determines that the conduct in question was a direct result of the district's failure to implement the student's IEP,  
**Then** the district must take immediate steps to remedy those deficiencies.

# No Manifestation Found

If the manifestation team determines that the student's behavior was not a result of his or her disability or of the district's failure to implement the IEP, **then** the student may be disciplined in the same manner as a nondisabled student.

# Manifestation Determination Decisions



## NO

- The team determines Josh's behavior was not a manifestation of his disability
- Josh may be disciplined in the same manner as a nondisabled student, but must receive services
- The District provides Josh's mother the **Procedural Safeguards Notice**
- The CSE determines the **IAES**, and services Josh will receive

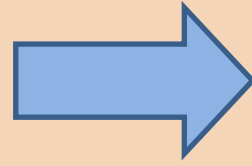
## YES

- The team determines Josh's behavior was a manifestation of his disability
- Josh is returned to his placement
  - The CSE conducts an **FBA** or reviews the existing **BIP** and modifies as necessary to address the behavior



***Remember  
Josh?***

# MDR



# CSE



## MDR

- Notice of meeting
  - Parent
  - *Relevant* members of CSE
- Conduct Review
- Determination
- Deficiencies in IEP

## CSE

- Meeting Notice
  - Parent
  - *Required* members of CSE
- Determination, Review of IEP
  - FBA/BIP
  - Programs/Services
  - Placement
- Prior Written Notice—notice of recommendations

# Pause and Think! 5



- What questions might you still have?
- What is one new concept or idea you have learned from this section?
- Is there still something you need more information on?

# Action Plan: MDR



## Discipline Procedures for Students with Disabilities – Action Plan

Use this organizer to keep track of / plan for tasks you need to do when you return to your school / district.

Action Step (describe)	Resources or Support Needed?	Target Completion Date
<b>Items to Locate:</b> <ul style="list-style-type: none"> <li>• Field Memos / Part 201: <a href="http://www.p12.nysed.gov/specialeducation/publications">www.p12.nysed.gov/specialeducation/publications</a></li> <li>• </li> </ul>		
<b>Ask About:</b>		
<b>To Do:</b>		
1-		
2-		
3-		



# **Interim Alternative Educational Setting**

**Understanding Part 201 of the Regulations of the NYS Commissioner of Education**

# What is an Interim Alternative Educational Setting (IAES)



A temporary educational placement, other than the student's current placement at the time the behavior precipitating the IAES placement occurred



# For suspension or removals of more than 10 days in a school year:

- Continue to receive educational services to enable the student to...
  - continue to participate in the general education curriculum, although in another setting, and
  - to progress toward meeting the goals set out in the student's IEP
- Receive, as appropriate, an FBA and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not reoccur.

**And...**

# Determining Services and Settings

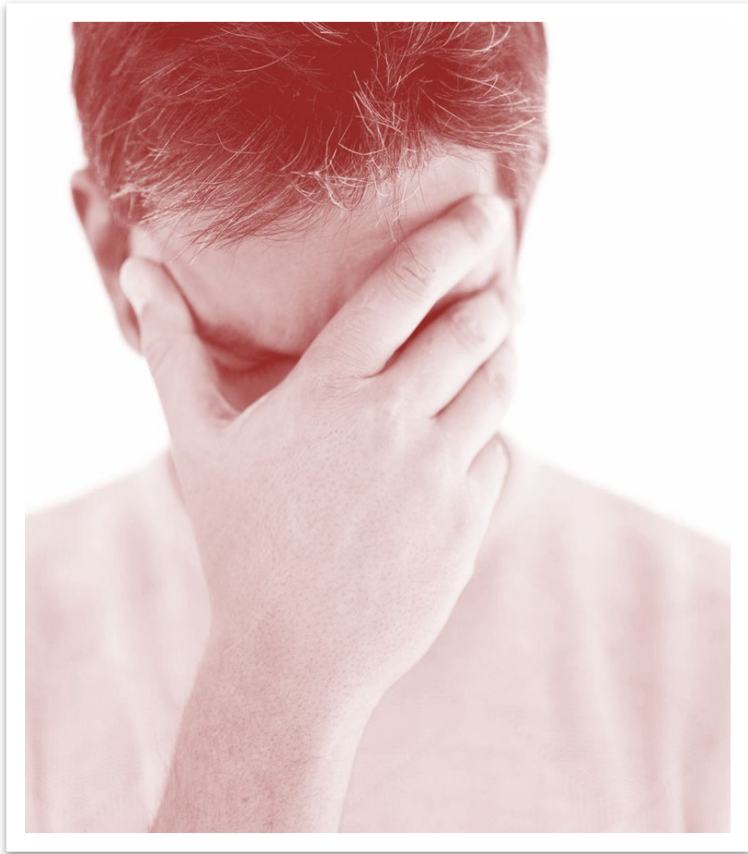
If not a disciplinary change in placement:

- school personnel in consultation with at least one of the student's teachers

If a disciplinary change in placement:

- CSE determines the IAES and services

# CSE-Determined Services



During suspensions of students with disabilities in *excess of 10 school days* which constitute a *disciplinary change in placement*, the **type** and **intensity** of **services** provided in the IAES as well as its **location** are **CSE-determined**.

# YOUR TURN

## IAES



I-Time, Table Talk



To think about your own school setting and learn SED guidance as to who can be assigned to run IAES classes

# HOW

I-Time and Table Discussion

- What alternative settings for instruction are used in your school and/or district?
- Who qualifies as a certified teacher?

# Special Circumstances



Superintendents have increased authority to suspend or remove a student with a disability to an IAES for up to 45 school days per offense relating to serious bodily injury, illegal drugs, controlled substances or weapons.

# When a school is in recess...

during a portion of the  
45 school days  
the student is in an IAES,  
the recess does  
“stop the clock.”



Vacations, holidays and summer break do NOT  
“count” toward a 45-day removal to an IAES.



# Dangerous Removals by an IHO

An impartial hearing officer (IHO), in an expedited due process hearing, may order a change in placement of a student with a disability to an IAES for not more than 45 school days, if the IHO determines that maintaining the current placement of the student is substantially likely to result in injury to the student or others.

# Expedited Impartial Hearings

Parents can also request a hearing...

from a determination that the student's behavior was **not a manifestation** of the student's disability;

or...

relating to any decision regarding **placement** under section 201.7 of this Part, including but not limited to any decision to place the student in an IAES.

# Expedited Impartial Hearings Cont.

School district can request a hearing... to obtain an order from an IHO to place a student with a disability in an IAES for dangerousness.

Requirements 1-3	Requirements 4-6
#1 If there is no sufficiency challenge to due process complaint notice	#4 Impartial hearing must begin within <u>20 school days</u> of date complaint filed
#2 Must schedule resolution sessions within <u>7 days</u>	#5 IHO decision given within <u>10 school days</u> after hearing
#3 Resolution period ends at <u>15 days</u>	#6 No extensions allowed

# Pendency



When a district or parent requests an expedited hearing...

the student *remains in the IAES* pending the *decision of the IHO* or until expiration of the time period determined in accordance with an IAES removal, whichever occurs first...

***Unless parents and school district otherwise agree***

# Scenario #4



**Staff is alerted  
to a fight  
in the  
high school  
bathroom.**

# Regarding Michael:



- Superintendent's hearing determines his guilt of inflicting ***serious bodily injury*** on Charles
- District holds a manifestation determination meeting where it is determined Michael's actions were not related to his disability
- He is ***removed for 45 school days*** to an ***IAES*** as determined by the CSE, and
- Provided FAPE.
- The District provides Michael's grandmother:
  - Prior Written Notice of the change in placement
  - Copy of the Procedural Safeguards Notice.



# And the rest of the story...



- Michael's grandmother believes her grandson's actions **were** a manifestation of his disability of Other Health Impaired—based on Michael's diagnosis of Attention Deficit Hyperactivity Disorder.
  - Michael's grandmother requests an **Expedited Impartial Hearing**.
- *What* is Michael's educational setting pending this decision,  
*and*
- *Who* is responsible to make this decision regarding manifestation?



# Pause and Think! 6



- What questions might you still have?
- What is one new concept or idea you have learned from this section?
- Is there still something you need more information on?



# Action Plan: IAES



## Discipline Procedures for Students with Disabilities – Action Plan

Use this organizer to keep track of / plan for tasks you need to do when you return to your school / district.

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1-		
2-		
3-		

# Students Presumed to Have a Disability and Expedited Evaluations

Understanding Part 201 of the Regulations of the NYS Commissioner  
of Education

# Students Presumed to Have a Disability

The parent of a student who has violated any rule or code of conduct of the school district and was not identified as a student with a disability at the time of such behavior may assert any of the protections in Part 201, if the district is deemed to have had knowledge that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred.

# Basis of Knowledge

School district must be deemed to have knowledge that a student had a disability if prior to the time the behavior occurred:

- The parent expressed concern in writing to supervisory or administrative personnel of the district or to a teacher of the student that the student is in need of special education;
- The parent has requested an evaluation of the student pursuant to section 200.4 or section 200.16; or
- The teacher of the student, or other personnel of the school district, has expressed specific concerns about a pattern of behavior demonstrated by the student, directly to the director of special education of the school district or to other supervisory personnel of the school district.

# Students NOT presumed to have a disability for discipline purposes

- The parent of the student:
  - has not allowed an evaluation of the student, or
  - has refused consent for special education services; or
- It was determined that the student is not a student with a disability (not eligible).



# Who determines whether a student is presumed to have a disability?



# Conditions that apply if there is no basis for knowledge

- The student may be subjected to the same disciplinary measures as any other nondisabled student who engaged in comparable behaviors
- If a request for an individual evaluation is made while such nondisabled student is subjected to a disciplinary removal, an expedited evaluation must be conducted



# CSE Responsibilities for Expedited Evaluations

- CSE must obtain parent consent and complete the individual evaluation no later than 15 school days after receipt of parent consent to evaluate;

AND

- Must determine eligibility in a meeting held no later than five school days after completion of evaluation.

If eligible for services, IEP must be developed and implemented for student within **60 school days from consent to evaluate.**



# Pause and Think! 7



- What questions might you still have?
- What is one new concept or idea you have learned from this section?
- Is there still something you need more information on?

# Action Plan: Expedited Evaluations



## Discipline Procedures for Students with Disabilities – Action Plan



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<b>Ask About:</b>		
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1-		
2-		
3-		

# Action Planning and Wrap Up

Understanding Part 201 of the Regulations of the NYS Commissioner of Education

# Consider YOUR school's current disciplinary practices around students with disabilities...



*Where are the gaps?*

# Key Points to Consider

Understanding the NYS regulations on **procedural safeguards for students with disabilities subject to discipline** will prevent you from getting stuck between a rock and a hard place.

**Implementing systems of behavior support will prevent behaviors which prompt disciplinary action.**

# Equity & Procedural Compliance

“...They are not the real solution or what is needed, but that is what we are pushed to do...

I know (the principal) has the students at the forefront of her mind and she is an amazing leader, but we aren't helping kids.”

“She felt like she had to comply with IDEA, but that compliance did not guarantee that high-quality services or interventions were provided to students with disabilities in the district.”



# Review Learning Targets



I will....

- **understand** the process relating to discipline of students with disabilities
- **identify** regulatory requirements and administrative responsibilities relating to discipline
- **gain knowledge** of policies and best practices relating to suspension, removal and behavioral supports

# Questions regarding Special Education Services?

## Contact Special Education Quality Assurance (SEQA)

SEQA regional offices provide technical assistance to parents, school district personnel and special education programs. You may contact your region's Regional Associate via email or phone.

Central Regional Office (315) 428-4556

Eastern Regional Office (518) 486-6366

Hudson Valley Regional Office (518) 473-1185

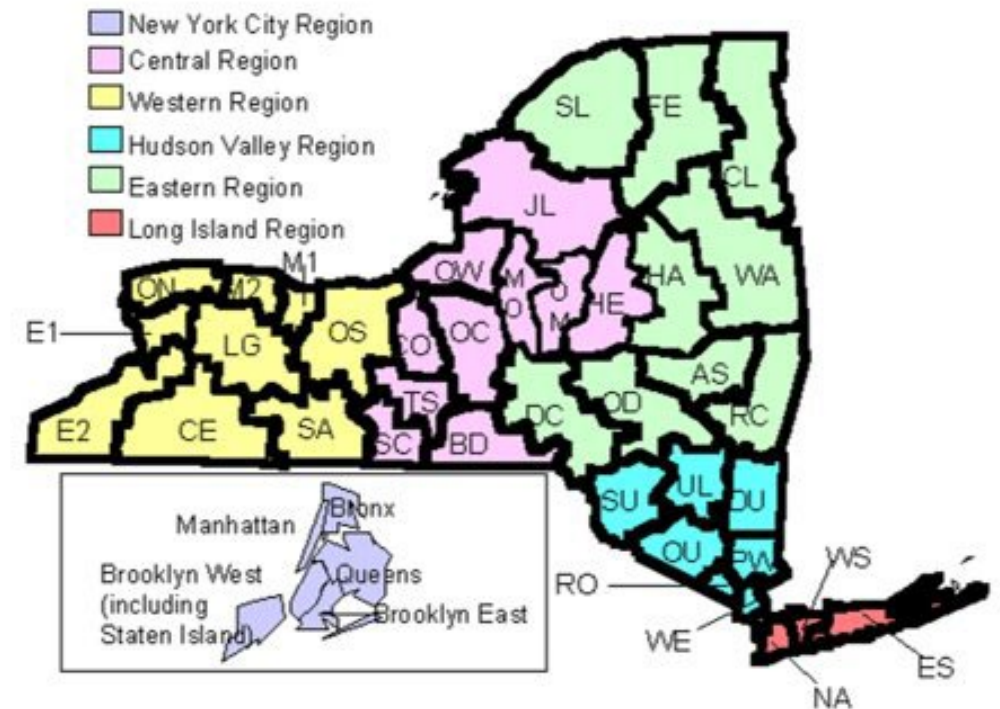
Long Island Regional Office (631) 952-3352

New York City Regional Office (718) 722-4544

Nondistrict Unit (518) 473-1185

Western Regional Office (585) 344-2002

Or via email at: [seqa@nysed.gov](mailto:seqa@nysed.gov)





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# Questions? Follow-Up?



# Contact Us



New York State  
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Knowledge > Skill > Opportunity



New York State Education Department  
Office of Special Education  
**Educational Partnership**  
Technical Assistance Partnership  
for Behavior



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# Training Evaluation Survey

[Link here](#)

# Break



Please return at

