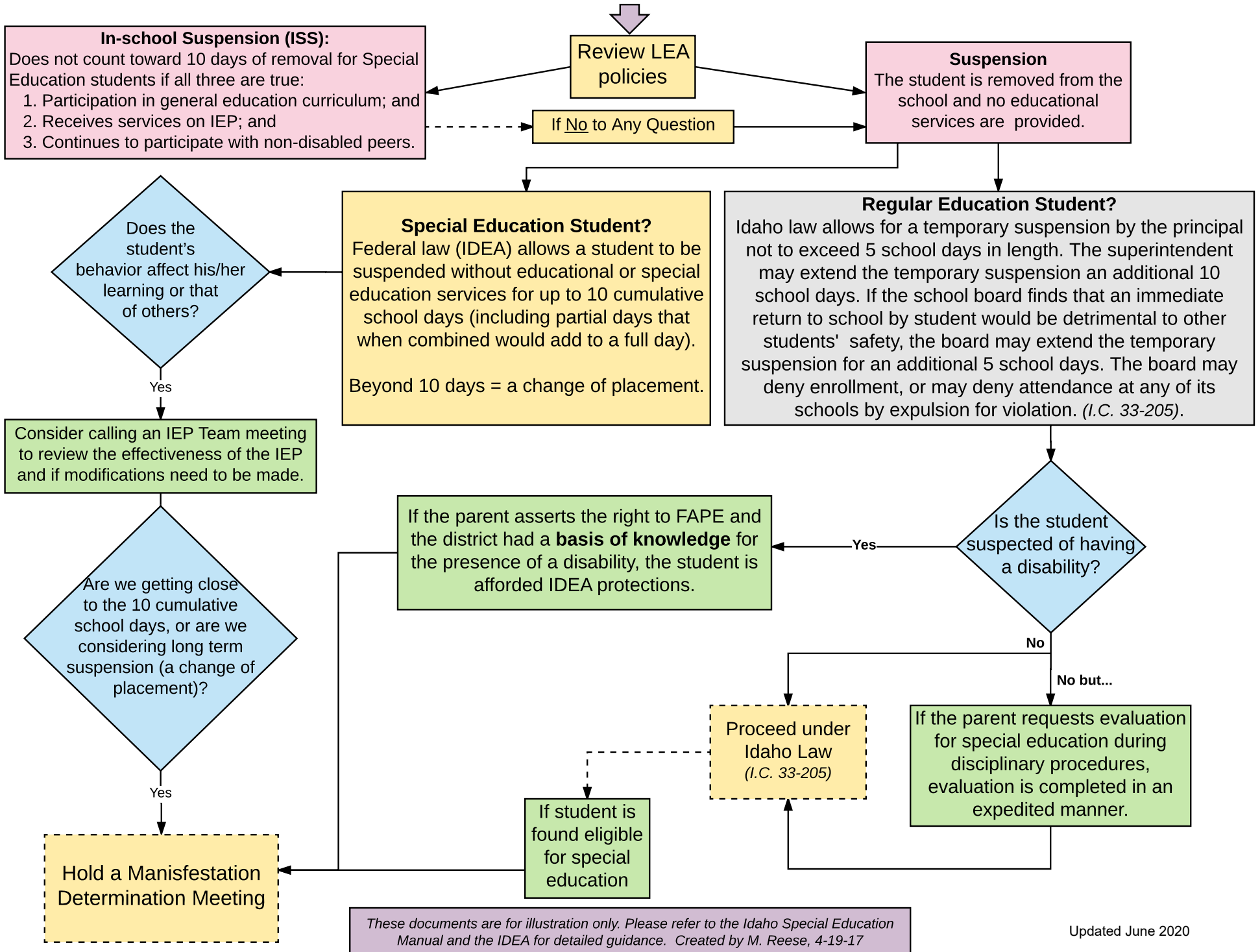


# STUDENT VIOLATES STUDENT CODE OF CONDUCT



# CONDUCTING THE MANIFESTATION DETERMINATION

The Manifestation Determination meeting must occur within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct.

The LEA continues to provide educational services during this time.

## LEA MUST:

- Provide Written Notice
- Provide Procedural Safeguards

### CONVENE TEAM

The LEA convenes a team to include the parent and relevant members of the child's IEP team (as determined by the parent and the LEA)

### REVIEW FILE

The team reviews all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents.

### DECIDE

- The team makes two decisions:
1. If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; **or**
  2. If the conduct in question was the direct result of the LEA's failure to implement the IEP.

### IF "YES" TO ONE or BOTH QUESTIONS

*the behavior **was** a manifestation of the disability.*

The LEA must conduct a **Functional Behavioral Assessment** (unless already conducted) and implement a **Behavior Improvement Plan** (BIP) for the student, or modify the BIP if one already existed.

The student returns to original placement unless the LEA and Parent agree to a change in placement as part of the modified BIP.

### IF "NO" TO BOTH QUESTIONS

*the behavior **was not** a manifestation of the disability.*

The LEA may discipline student in the same manner as a would occur with a student without a disability.

**HOWEVER . . .**

The student will continue to receive educational services to enable the student to continue in the general education curriculum, although in another setting, and to progress in meeting IEP goals.

**THE IEP TEAM DETERMINES PLACEMENT!**

## IF THE STUDENT IS NOT ELIGIBLE FOR SPECIAL EDUCATION AT THE TIME OF VIOLATION

The parent may assert an LEA had a **basis of knowledge** the student had a disability.

### Basis of Knowledge:

An LEA will be deemed to have a basis of knowledge if before the behavior occurred:

- the parent expressed concern to the LEA in writing that the child was in need of special education; OR
- the parent requested a special education evaluation; OR
- any LEA personnel expressed specific concerns about the child's behavior directly to a supervisor.

### Exception to Basis of Knowledge:

An LEA would not be deemed to have a basis for knowledge if the parent:

- had not allowed an evaluation or refused IDEA services; OR
- the child had been evaluated and found ineligible for special education.

### If no basis of knowledge:

- The student is subject to the disciplinary measures applied to non-disabled students.
- **If a request is made for an evaluation after the time of the violation, evaluation must be conducted in an expedited manner.**  
The student will remain in the placement determined by the LEA and can include suspension or expulsion without educational services.
- **If the student is found eligible for special education,** the LEA must provide special education services in accordance with these disciplinary provisions (including determining if the behavior was a manifestation of the disability).

## VIOLATIONS INVOLVING WEAPONS, CONTROLLED SUBSTANCES OR SERIOUS BODILY INJURY

An LEA may remove a student to an **Interim Alternative Educational Setting (IAES)** without regard of whether the behavior is a manifestation of a disability, for *up to 45 school days* for:

- bringing a weapon to school or school function; OR
- possessing, selling, soliciting, or using illegal drugs or a controlled substance; OR
- inflicting serious bodily injury upon another person at school or at a school function.

### Educational Services while in IAES:

- Student must continue to receive education services so as to enable the child to progress in the general education curriculum, although in a different setting, and progress towards IEP goals.

**THE IEP TEAM DECIDES THE IAES!**

## PARTIAL vs FULL-DAY SUSPENSIONS

Removals from school include partial day suspensions, transportation suspensions, and other partial day removals from school (such as asking the parent to take the student home from school early).

Whether a partial day suspension is "rounded up" to a full day is not defined in IDEA or clear in the case law. At the very least, partial day suspensions would be added together in reaching the 10 days (i.e., half-day + half day = full day).

## EXPEDITED HEARINGS FOR DISCIPLINARY ISSUES

An Expedited Due Process Hearing may be requested by:

- the LEA when parents will not agree to a change of placement when the LEA believes that the current placement is substantially likely to result in injury to the child or others; OR
- parents who do not agree with the location of, or the services being provided in the 45 day IAES placement; OR
- parents who disagree with the results of a manifestation determination; OR
- parent who believes the removal constitutes a change of placement; OR
- the LEA seeking to continue the 45 day IAES due to the dangerousness of the student.

Expedited Due Process Hearings must occur within 20 days of filing. The Hearing Officer will render a decision within 10 school days of the hearing.

Students remain in the IAES pending the decision or until the expiration of the IAES unless LEA and parent agree otherwise.