MANIFESTATION DETERMINATION FLOW CHART

In-school Suspension (ISS):
Does not count toward 10 days of removal for Special Education students if all three are true:
1. Participation in general education curriculum; and
2. Receives services on IEP; and
3. Continues to participate with non-disabled peers.

If NO to any question
- Does the student’s behavior affect his/her learning or that of others?
  - YES
    - Consider calling an IEP Team meeting to review the effectiveness of the IEP and if modifications need to be made.
  - NO
    - Are we getting close to the 10 cumulative school days, or are we considering long term suspension (a change of placement)?
      - YES
        - HOLD A MANIFESTATION DETERMINATION MEETING
      - NO
        - YES
          - Proceed under Idaho Law (I.C. 33-205)
          - If student is found eligible for special education
        - NO
          - If the parent asserts the right to FAPE and the district had a basis of knowledge for the presence of a disability, the student is afforded IDEA protections.

Special Education Student?
Federal law (IDEA) allows a student to be suspended without educational or special education services for up to 10 cumulative school days (including partial days that when combined would add to a full day). Beyond 10 days = a change of placement.

Regular Education Student?
Idaho law allows for a temporary suspension by the principal not to exceed 5 school days in length. The superintendent may extend the temporary suspension an additional 10 school days. If the school board finds that an immediate return to school by student would be detrimental to other students’ safety, the board may extend the temporary suspension for an additional 5 school days. The board may deny enrollment, or may deny attendance at any of its schools by expulsion for violation. (I. C. 33-205).

If the parent requests evaluation for special education during disciplinary procedures, evaluation is completed in an expedited manner.

These documents are for illustration only. Please refer to the Idaho Special Education Manual and the IDEA for detailed guidance. Original created by M. Reese. Reviewed January 2023.
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 which includes 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. Was conduct in question caused by, or had a direct and substantial relationship to the child's disability; or
2. Was the conduct in question 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 it would 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 the LEA had a basis of knowledge that 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.