



“Through collaboration with member districts, the SLV BOCES brings a culture of excellence to education. The SLV BOCES empowers schools, families, and communities by providing services, support, and leadership to promote student achievement and success in life for all.”

## DISCIPLINE PROCEDURES

### IDEA's Disciplinary Provision:

10-day rule- this rule must be followed when IDEA- eligible students are removed from school for a violation of a code of student conduct. When a student with disabilities is removed from his/her current placement for more than 10 school days in the same school year, on the eleventh (11<sup>th</sup>) and any subsequent days of removal, educational services must be provided.

Manifestation Determination Reviews must be held within the 10 days of any decision to change the placement of a student with disabilities. The conduct is a manifestation of a disability when it is “caused by” or has a “direct and substantial relationship” to the student’s disability, or is a “direct result” of a failure to implement the student’s IEP.

What is a manifestation Determination?

The purpose of this review is to determine whether or not the child’s behavior that led to the disciplinary infraction is linked to his or her disability.

What is the current version of the manifestation standard?

1. 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 district, the parent, and relevant members of the child’s IEP team must review all relevant information in the student’s file, including the child’s IEP, any teacher observations, and any relevant information provided by the parents to determine-
  - a. If the conduct in question was caused by, or had a direct and substantial relationship to, the child’s disability; or
  - b. If the conduct in question was the direct result of the school district’s failure to implement the IEP.
2. The conduct must be determined to be a manifestation of the child’s disability if the team, the parent, and relevant members of the child’s IEP determine that a condition in (a) or (b) above was met.
3. If the district, the parent, and relevant members of the IEP Team determine the condition described (b) was met, the district must take immediate steps to mediate those deficiencies.



## Upcoming Events:

December 10- SAC  
 December 13- Work Day  
 December 13- ES Teacher meeting 12:30-3:30  
 December 17- Steering Committee  
 December 19- Staff Meeting/Potluck  
 December 23-31- Office Closed

What if the conduct was a manifestation?

The IEP team must-

- Conduct a functional behavior assessment, unless the district had conducted a functional behavior assessment before the behavior that resulted in the change of placement occurred, and implemented a behavior intervention plan for the child; or
- If the behavior intervention plan already has been developed, review the behavior plan, and modify it, as necessary, to address the behavior; and
- Except (in situations involving dangerous weapons, drugs, and serious bodily injury), return the child to the placement from which the child was removed, unless the parent and district agree to change the placement as part of the modification of the behavior intervention plan.

What if the conduct was not a manifestation?

If it is determined that the behavior that gave rise to the violation of the school code was not a manifestation of the disability, school personnel may apply the relevant disciplinary procedures to the children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities, except that the student must continue to receive educational services so as to enable the child to continue to progress in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the IEP and receive, as appropriate, a functional behavior assessment and behavior intervention plan designed to address the behavior violation so that it does not occur again.

Who makes the manifestation determination?

The district (school), the parent, and relevant members of the child's IEP team (as determined by the parent and district) make the manifestation determination. In determining who are the "relevant members of the child's IEP Team", the parents do not have the right to veto a district's choice of team members or the Team's determination that the child's misconduct is unrelated to his disability.

### Bonus Information on Discipline and Section 504

- ✓ Section 504 requires that placement decisions be made by a group of persons, including those knowledgeable about the student, the meaning of evaluation data, and placement options.
- ✓ Section 504 contains its own LRE requirement, providing that school district shall place a student with disabilities in the regular educational environment unless it is demonstrated by the school district that the education of the student in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily.
- ✓ Students eligible for protection under Section 504 may not be subjected to disciplinary removals for behavior that is a manifestation of a disability.
- ✓ To ensure that discrimination does not occur, OCR guidance reflects LEAs must conduct manifestation reviews for Section 504 eligible students prior to disciplinary removals that exceed 10 school days in a year.
- ✓ If the conduct is a manifestation of a 504 qualifying disability, the student must be returned to school.

Congratulations to the Star Employees. Thank you for your hard work.

**September-** Nita McAuliffe, Executive Director and LJ Garcia, Assistant Special Education Director

**October-** Joy DiCamillo, IT Specialist and Kathy Jaquez, Speech/Language Paraprofessional

**November-** Lisa Quintana-Schiebe, Alamosa 2-5 Paraprofessional and Rebecca

