

EASTERN SERVICE UNIT and
NORTH SERVICE UNIT
DISCIPLINE GUIDELINE
RECOMMENDATIONS

*Eastern Service Unit
and North Service
Unit
Discipline Procedures for
Students with Disabilities*

Approved by MDE 2-7-17

The following documents and appendices have been adapted from originals created by:

Kent Intermediate School District
Michigan Department of Education Office of Special Education
Muskegon Area Intermediate School District
Muskegon Public Schools
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The Individuals with Disabilities Education Act (IDEA) §300.530 requires local education agencies (LEA's) and public school academies (PSA's) to follow specific procedures when removing a student with a disability from their educational placement for disciplinary reasons in such cases when the removal constitutes a "change of placement".

Additionally, in accordance with IDEA §300.324(a)(2)(i), an IEP team must, in the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior as part of the IEP process.

Per IDEA §300.536, with regard to disciplinary removals, a "change of placement" occurs in one of two situations:

1. The removal is for more than 10 consecutive days; or
2. The student has been subjected to a series of "removals that constitute a pattern".

The term "removal" refers to the removal of a student with a disability from instruction for disciplinary reasons, without the opportunity to continue to progress in the general education curriculum, continue to receive services specified on the student's IEP, or continue to participate with nondisabled students to the extent they would have in their current placement [Fed. Reg. p. 46715 (2006)].

Per IDEA §300.536 (a) (2), a student has been subjected to a "pattern of removals" when all three of the following criteria have been met:

1. A series of removals that total more than 10 school days in a year.
2. A recurrence of substantially similar behavior in a series of removals subject to discipline.
3. Such additional factors as:
 - a. Length of each removal
 - b. Total time removed
 - c. Proximity of removals to each other

The following procedures are based upon the requirements of the IDEA. For compliance purposes, LEA's/PSA's should have written district-wide discipline procedures. Additionally, LEA's/PSA's must maintain documentation of the procedures followed and the services provided. The forms included in this document are recommended to meet these compliance requirements.

Tracking the Number of Days of Suspension/Removal

1. The issuing of school suspensions will include taking immediate steps to ascertain whether the pupil is a student with a disability.
2. The school building administrator will notify the appropriate special education staff of suspensions issued to a student with a disability.
3. The **Discipline Review Worksheet (DRW)** will be maintained by special education staff to track the number of days of suspension¹ issued to the student in order to implement the procedures of this section. The **DRW** will include a specific description of the problematic behavior.
4. If the length of a suspension is not immediately known, the date that the suspension length is determined will be documented in column 3 of the **DRW**.
5. The **DRW** will be monitored to immediately determine when a suspension has been issued that will result in the student having accumulated more than 10 days of suspension in the current school year.

Notification of a Change of Placement as a Result of a Disciplinary Removal

1. Written notification must be sent to the student's parents on the date that the decision is made to make a removal that constitutes a "**change of placement**" because of a violation of a code of conduct. An example letter is included for reference.
2. The notice will be sent on the date that is recorded in column 3 of the student's **DRW**.
3. The notification will inform the parent(s) that a change of placement has occurred and that an MDR meeting will be scheduled.
4. The notification will include a copy of the special education procedural safeguards.
5. Documentation of the parent notification will be maintained.

Manifestation Determination Review (MDR)

1. Following notification pursuant to the above section, the special education staff will take the necessary steps to schedule a MDR meeting that will involve the student's IEP Team.
2. The Tienet Meeting Invitation is used to schedule the MDR meeting. Additionally, since the outcome of the MDR may result in the need for an interim alternative educational setting (IAES) for the student, it may be expeditious to include the IAES meeting on the meeting invitation as well (Consult your special education supervisor or director for guidance).
3. The MDR meeting will be convened to review the problem behavior no later than 10 school days from the date recorded in column 3 of the DRW.
4. *If subsequent suspensions occur after the initial MDR meeting*, the suspensions will be reviewed with respect to their relationship to the other suspensions on the student's tracking record. If the special education administrative staff determine that the suspensions constitute a **pattern of removal** as defined by IDEA regulations (See the Change of Placement flowchart), or if the student is being issued a single suspension that will exceed 10 consecutive school days, the student's parents will be notified as described above and a new MDR meeting will be convened within 10 school days.
5. Documentation of pattern of removal determinations will be maintained in the DRW.
6. If an MDR results in the determination of the behavior to be a manifestation of the student's disability², then the student will be immediately returned to his/her present school placement. If any adjustments to the placement are deemed necessary, an IEPT meeting must be convened.
7. Exceptions to the student's reinstatement described in #6 are as follows:
 - Special Circumstances-
 - i. The behavior involved possession of a dangerous weapon³;
 - ii. The behavior involved possession, use, sale, or soliciting of illegal drugs⁴;
 - iii. The behavior involved serious bodily injury⁵ upon another person; or
 - The student's parents agree to a change in placement.
8. The district also reserves the right to deny the reinstatement of the student when it believes that such reinstatement will result in a substantial likelihood of injury to the student or other individuals. In such a circumstance, a special education due process hearing request will be submitted to the Michigan Department of Education.
9. Due process complaint – Please refer to the Procedural Safeguards document for guidance in this area.

Provision of FAPE/Interim Alternative Educational Placements

1. Once a student with a disability has reached 10 days of removal in a school year, services will be provided during any additional days of suspension/removal (i.e., beginning with the 11th day) so as to enable the student to continue to participate in the general education curriculum and to progress toward meeting the goals set out in the student's IEP.
2. In situations where there is not a change in placement, the student's caseload manager will confer with the student's other teachers/service provider(s) and the school administrator to determine the extent of services to be provided during the additional day(s) of removal. These services are documented on the **FAPE Services Document**.
3. In situations where the removal constitutes a change in placement and the student continues to be removed from school following the conclusion of a MDR (*because the student's behavior was not a manifestation of his disability, because the behavior involved a weapon, illegal drugs, or serious bodily injury, or because a special education due process hearing request has been made regarding concern about a substantial likelihood of injury if the student was to be reinstated*), the determination regarding services during the on-going removal will be made by the IEP Team at the conclusion of the MDR meeting and will be documented on the Interim Alternative Educational Setting (IAES) form. (Note: in some circumstances it may be advisable to document the IAES on an IEP form instead of the IAES form). See number 2 under the MDR section above for meeting notice requirement.
4. The "Notice for Provision of Programs and Services" must be completed and provided to the parent(s) of the student with a disability following an IAES determination.
5. See the Interim Alternative Educational Setting (IAES) Instructions and Information for more details on the IAES process.
6. For compliance purposes, districts must maintain documentation of how and when they provide a Free and Appropriate Public Education (FAPE) to the student. In each of the circumstances above (#2 and #3), the **FAPE Services Document** may be used for this purpose.

Functional Behavior Assessment (FBA) / Positive Behavior Support Plan (PBSP)

1. A FBA/PBSP will be developed in all cases where a MDR determines that the student's behavior is a manifestation of his/her disability. If the student already has a FBA/PBSP, then the student's IEP Team will review the BIP and make any necessary revisions.
2. The student's PBSP may need to be reviewed/revised in the event subsequent suspensions/removals are issued to the student. Staff involved in implementing the PBSP will decide whether it is appropriate and necessary to do so.
3. In situations where a MDR determines that the behavior is not a manifestation of the disability, a FBA/PBSP will be developed if it is determined appropriate to do so by the IEP Team.
4. The respective IEP Teams for students with disabilities will also review each student's need for behavioral strategies, including positive behavioral supports, as part of the on-going IEP planning process.

¹ **Days of Suspension/Removal:** *In the context of recording disciplinary removals issued to students with disabilities;*

- *A partial day counts as a full day of removal/suspension and will be recorded as such on the student's on-going tracking record.*
- *If the district imposes restrictions or conditions upon the student's return to school, each day, until the conditions are met, is considered a day of removal/suspension (e.g., parent meeting, psychiatric evaluation).*

The term does not include;

- *Bus suspensions, unless this service is on the student's IEP and the student is unable to make it to school as a result of the suspension*
- *In-school suspensions that are continually supervised by a certified teacher or a paraprofessional who is supervised by a certified teacher, and that afford the student the opportunity to progress in the general curriculum, to participate with students without disabilities to the extent that they normally do, and to receive the services specified in the student's IEP*
- *Class removals for no longer than 1 class period. However, consideration should be given when looking at repeat behaviors/removals as part of a "pattern." For example, a secondary student with removals from the same class period.*
- *Necessary delays in admitting the student due to a lack of required documentation, e.g., immunization records*

² **Manifestation of the student's disability:** *A manifestation is found: a) if the behavior in question is directly and substantially related to/caused by the student's disability, or b) if it is the direct result of the school's failure to implement the student's IEP. If either factor is affirmed, then the behavior is a manifestation of the student's disability.*

³ **Dangerous Weapon:** *This means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2 ½ inches in length.*

⁴ **Illegal Drugs and Controlled Substances:** *Controlled substances are defined as drugs or other substances identified under schedules I, II, III, IV, or V of Section 812 (c) of Title 21 of the United States Code (see Appendix A). Illegal drugs are defined as controlled substances except where the controlled substance is legally possessed or used under the supervision of a licensed physician, or is legally possessed under other provisions of Federal law.*

⁵ **Serious Bodily Injury:** *This means bodily injury which involves—a) a substantial risk of death; b) extreme physical pain; c) protracted and obvious disfigurement; or d) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.*

SPECIAL EDUCATION DISCIPLINE REQUIREMENTS

School Discipline Removal	MDR meeting (Manifestation Determination Review)	Educational services during removal	FBA/PBSP development (or review of an existing PBSP)	Reinstatement when a manifestation of the disability is affirmed
Results in a total of: ▼				
< 10 days	No	<i>Only if it is provided to other students.</i>	<i>No, but school must follow any existing PBSP.</i>	NA
> 10 days, but not a change in placement	No	<i>Yes, for all days over 10 in a school year. Services determined by teacher & administrator.</i>	<i>Only if it is deemed appropriate for student.</i>	NA
> 10 days and a change in placement	Yes	<i>Yes, for any on-going removal that follows a non-manifestation finding. Services are to be determined by IEP Team, and length of removal not limited.</i>	<i>Yes, if manifestation of disability is affirmed. If it is not affirmed, then FBA/PBSP would only be developed if appropriate for the student.</i>	<i>Yes, and must correct any deficiencies in IEP implementation that were discovered.</i>
> 10 days and a change in placement; manifestation affirmed, but it involves a "special circumstance"	Yes	<i>Yes, for a period of up to 45 school days. Services determined by IEP Team.</i>	Yes	No
> 10 days and a change in placement; manifestation affirmed, but likelihood of injury taken to Hearing Officer	Yes	<i>Yes, for a period of up to 45 school days if it is supported by <u>Hearing Officer</u>. Services determined by IEP Team/HO.</i>	Yes	No

Change in placement: Any single removal over 10 school days, or a series of removals exceeding 10 days and constituting a pattern.

Special circumstance: Involves weapons or drugs, or serious bodily injury has occurred.

Manifestation of disability: Behavior in question is directly related to disability, or is related to a failure to implement IEP.

FBA: Functional Behavioral Assessment. **PBSP:** Positive Behavior Support Plan.

Suspension/Removal Documentation (Case Manager)

Used to document completed required tasks for student's with IEPs

Student Name: _____

Date of Birth: _____

School Year: _____

Checklist (Case Manager):

Date:

Date:

➤ 7th Day of Removal _____

- * Discipline Review Worksheet reviewed with building administrator
- * Facilitate staffing to consider the need for FBA/PBSP
- * Special education administrator notified

➤ 11th Day of Removal _____

- * Discipline Review Worksheet is updated and reviewed
- * Sent letter offering services to student while on suspension (See "11th Day FAPE Service Offer" letter)
- * Completed "Determination for Pattern of Removals" with Building & Special Ed Administrators
- * If pattern in behavior is confirmed, need to schedule MDR
- * Documented days of service provided to student (See "11th Day FAPE Service Documentation" form)

➤ All Subsequent Days of Removal

- * Discipline Review Worksheet is updated and reviewed
- * Sent letter offering services to student while on suspension (See "11th Day FAPE Service Offer" letter)
- * Reviewed/revise PBSP and documented review date on PBSP document
- * Updated "Determination for Pattern of Removals" with Building and Special Ed Administrator
- * If pattern in behavior is confirmed, notify Sped Supervisor on need to complete MDR
- * Documented days of service provided to student (See "11th Day FAPE Service Documentation" form)

**NORTH and EASTERN
SERVICE UNIT
DISCIPLINE REVIEW WORKSHEET**

Student's Name	Last:	First:	Eligibility:
Student ID #:	Date of Birth:	Grade:	School:

DESCRIPTION OF BEHAVIOR/INCIDENT SUBJECT TO DISCIPLINE <i>List all incidents subject to disciplinary removal for current school year OR ATTACH LIST.</i>	Date of Removal	Number of days of removal	Cumulative days of removal	Proximity of removals	Is there a Pattern Of Removals	Date Procedural Safeguards given to parents	MDR Date(s)
<i>Incident #1</i>			x	x	x		
<i>Incident #2</i>					<input type="checkbox"/>		
<i>Incident #3</i>					<input type="checkbox"/>		
<i>Incident #4</i>					<input type="checkbox"/>		
<i>Incident #5</i>					<input type="checkbox"/>		
<i>Incident #6</i>					<input type="checkbox"/>		
<i>Incident #7</i>					<input type="checkbox"/>		
<i>Incident #8</i>					<input type="checkbox"/>		
<i>Incident #9</i>					<input type="checkbox"/>		
<i>Incident #10</i>					<input type="checkbox"/>		

DETERMINATION FOR PATTERN OF REMOVALS

RATIONALE FOR DETERMINATION

Incident #1	
Incident #2	
Incident #3	
Incident #4	
Incident #5	
Incident #6	
Incident #7	
Incident #8	
Incident #9	
Incident #10	

Participants:

Name/Role: _____ Name/Role: _____

Name/Role: _____ Name/Role: _____

Date: _____

Is there a pattern of removals based upon the above analysis? Yes No
If YES, the IEP team must conduct an MDR within 10 days of the decision to remove the student.

Was a Functional Behavioral Assessment (FBA) conducted? Yes No **Date:** _____

Does the student have a Positive Behavior Support Plan (PBSP) in place? Yes No **Date:** _____

Are there any behavioral needs described in the PLAAFP? Yes No
 Is behavior addressed in the goals? Yes No
 Is behavior addressed in the programs or services? Yes No
 Is behavior addressed in the accommodations? Yes No

Beginning with the 11th day of removal and thereafter the District must provide FAPE services and complete FAPE Log

NOTICE OF A CHANGE OF PLACEMENT AS A RESULT OF A DISCIPLINARY REMOVAL

Date: _____

(Parent Name)

(Address)

_____, MI, _____
(City) (Zip)

Student: _____

Date of Birth: _____ Grade: _____

Student ID number: _____

School: _____

Dear _____
(Parent/Guardian):

You are receiving this notice to inform you that _____'s suspension/disciplinary removal issued on _____ constitutes a change in placement and requires the IEP Team to convene a Manifestation Determination Review (MDR) meeting. The purpose of the MDR meeting will be to make a determination as to whether _____'s conduct was a manifestation of his/her disability.

The MDR meeting:

- Is scheduled for _____. Enclosed you will find a formal meeting invitation requesting your participation.
- Will be convened within the next 5 to 10 school days. You will be sent a formal meeting invitation regarding the specific date.

We have enclosed a copy of the Procedural Safeguards Notice and a list of the available resources to assist you in understanding your rights. The Procedural Safeguard Notice includes information regarding the MDR process.

Sincerely,

11th Day (FAPE) Service Offer

{Parent's Address}

{Date}

Dear Parent,

Under the provisions of the Individuals with Disabilities Education Act (IDEA), school authorities may suspend special education students for disciplinary purposes, up to 10 school days, to the same extent removal would be applied to nondisabled students and without providing services. When a special education student's suspension days go beyond 10 cumulative days in a school year, schools are responsible for providing educational services while the student serves their days of suspension.

This letter is to offer those services to your child with the understanding that it will allow him/her the opportunity to continue participation in the general curriculum and to progress toward meeting the goals set out in his/her IEP. After looking at your child's class schedule, his/her IEP goals, and the services listed in his/her IEP; your child's teachers and district administration will determine the work and instruction to be provided to your child during his/her suspension time.

Please contact me at your earliest convenience to schedule the services that are being offered. Your child will have the opportunity to earn credit for the work completed during this time.

I have included a copy of Parent Rights & Procedural Safeguards.

Sincerely,

{CaseManager's Name}

Encl:
Parent Rights & Procedural Safeguards document

North and Eastern
Service Unit
FAPE Service Documentation

Student Name: _____ Building: _____ School Year: _____

Case Manager: _____ Service Provider(s): _____

Once a student with a disability has reached 10 days of suspension in a school year, services must be provided during any additional days of suspension/removal (i.e., beginning with the 11th day) so as to enable the student to continue to participate in the general education curriculum and to progress toward meeting the goals set out in the student's IEP.

The student's case manager in consultation with the student's other teachers/service providers and the school administrator will determine the extent of services to be provided and document below.

In cases of *Special Circumstances* or removals that result in a *Change of Placement*, the determination of services to be provided is made by the IEPT and is documented on the Interim Alternative Educational Setting (IAES) form.

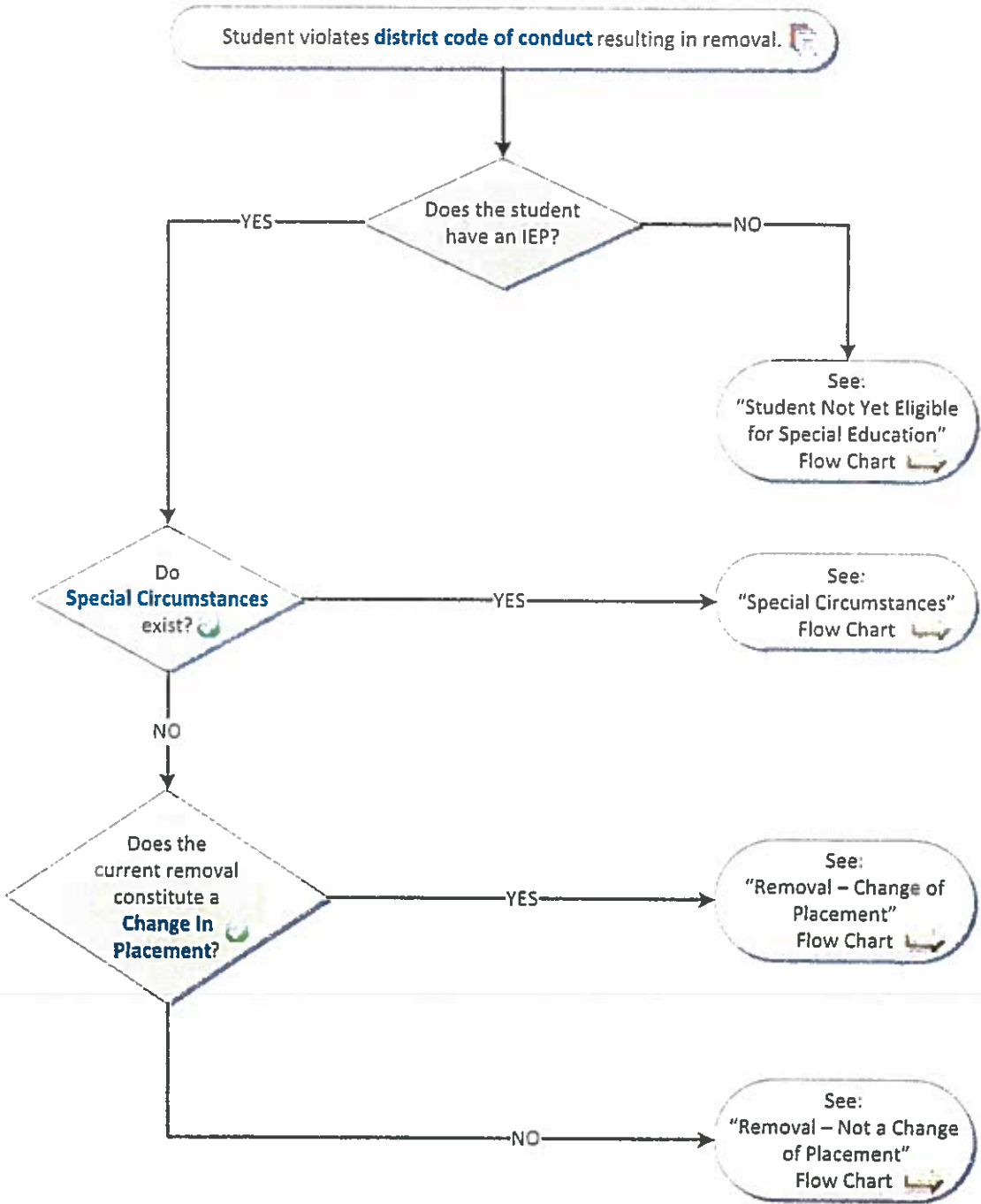
<u>Date of Service Provided</u>	<u>Student Attended</u>	<u>Time of Service</u>	<u>Subjects Covered/Type of Service/Comments</u>
_____	Yes <input type="checkbox"/> No <input type="checkbox"/>	_____	_____
_____	Yes <input type="checkbox"/> No <input type="checkbox"/>	_____	_____
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_____	Yes <input type="checkbox"/> No <input type="checkbox"/>	_____	_____

Discipline – General Considerations Flow Chart

Purpose: To distinguish relevant policy that must be applied to disciplinary decision making and clarify key decision points in the process.

Key	
	= Click to play
	= Go to the next chart
	= Checklist of key activities
	= Document

Data
Decision
Document
Process
Sub-Process
Start/End Point

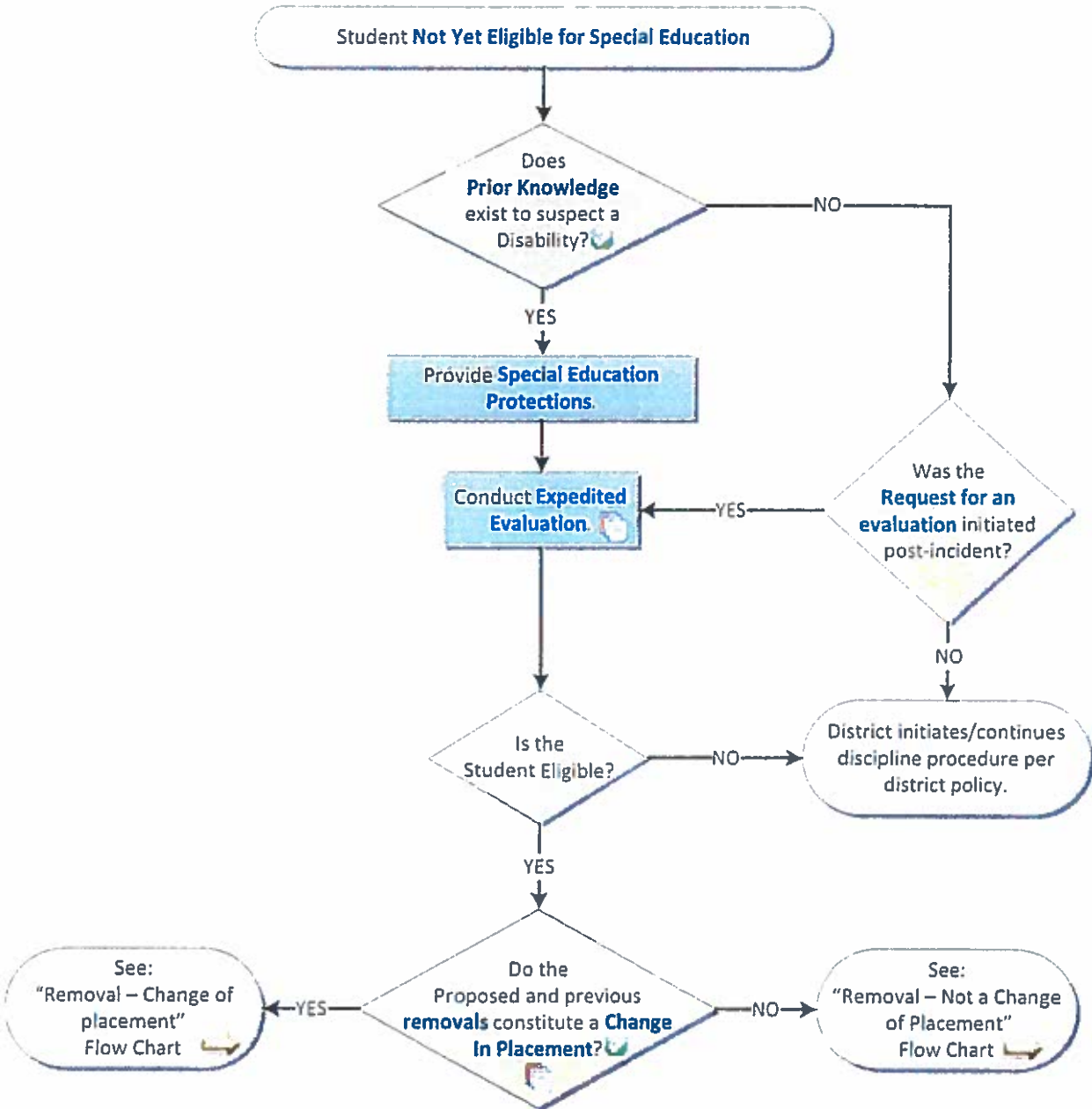


Discipline – Student Not Yet Eligible Flow Chart

Purpose: To distinguish relevant policy that must be applied to disciplinary decision making and clarify key decision points in the process.

Key	
	= Click to play
	= Go to the next chart
	= Checklist of key activities
	= Document

Data
Decision
Document
Process
Sub-Process
Start/End Point



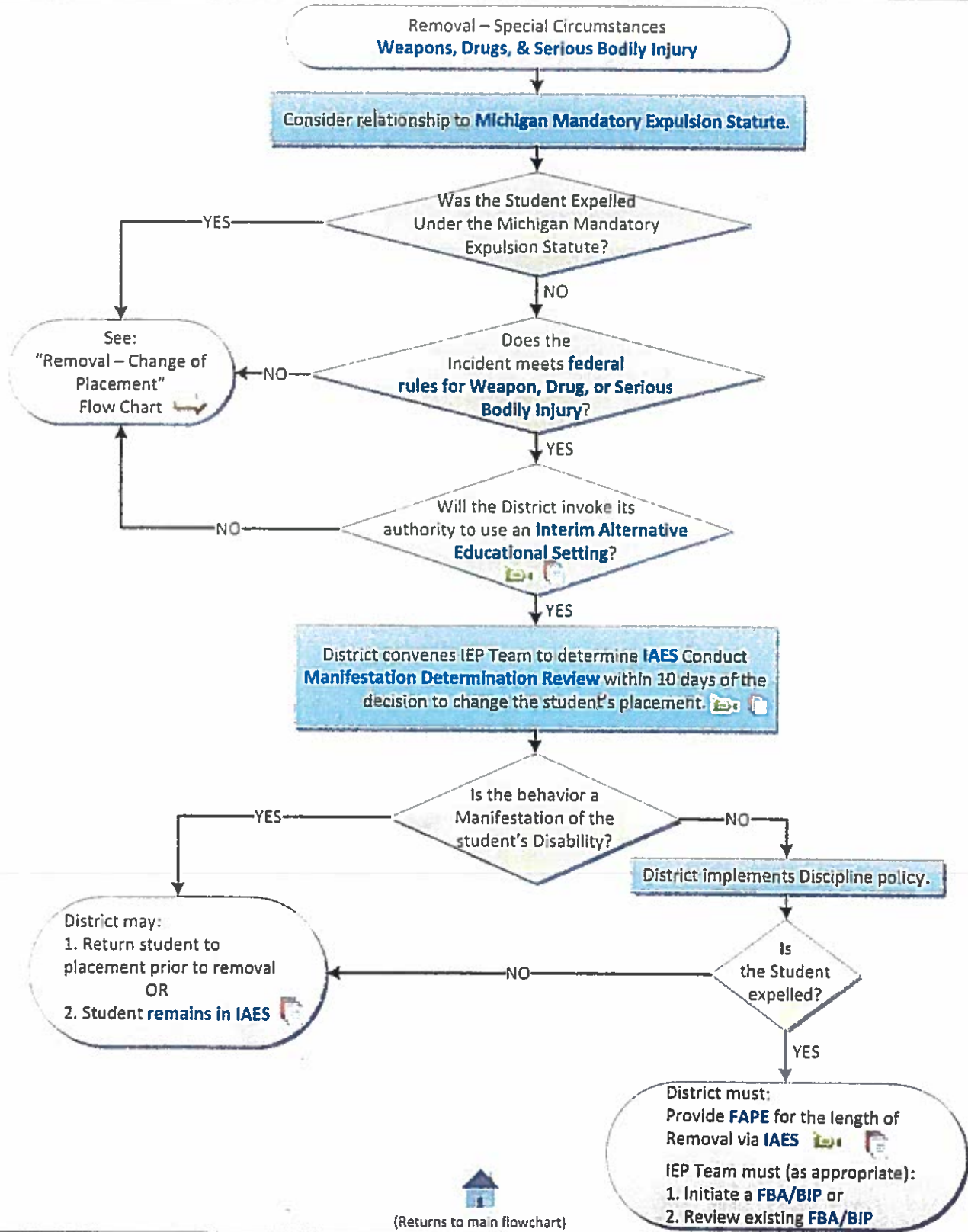
(Returns to main flowchart)

Discipline – Removal – Special Circumstances Flow Chart

Purpose: To distinguish relevant policy that must be applied to disciplinary decision making and clarify key decision points in the process.

Key	
	= Click to play
	= Go to the next chart
	= Checklist of key activities
	= Document

Data
 Decision
 Document
 Process
 Sub-Process
 Start/End Point



Discipline – Removal – Change In Placement Flow Chart

Purpose: To distinguish relevant policy that must be applied to disciplinary decision making and clarify key decision points in the process.

Key	
	= Click to play
	= Go to the next chart
	= Checklist of key activities
	= Document

Data
Decision
Document
Process
Sub-Process
Start/End Point

Removal – Change In Placement

On the date on which the decision is made to make a removal that constitutes a change in placement, the district must:

1. **Notify the parents of the disciplinary decision**
2. Provide the parents with **Procedural Safeguards**

Within 10 days of the decision to **change the student's placement**, the district must:

1. **Notify parents of the decision to change the student's placement**
2. Provide **Procedural Safeguards**
3. Conduct a **Manifestation Determination Review**

Conduct MDR

Is the Behavior a manifestation of the student's disability?

YES

NO

Do **Special Circumstances** exist?

YES

NO

See: "Special Circumstances" Flow Chart

Return to pre-incident placement:

1. Student immediately returns to previous or other placement determined by IEPT
2. Disciplinary removals are terminated
3. IEP Team must:
 - a. Initiate a **FBA/BIP** or
 - b. Review existing **FBA/BIP**
 - c. Remedy any deficits in implementing the current IEP

District must: Provide **FAPE** for the length of removal via **IAES**

IEP Team must (as appropriate):

1. Initiate a **FBA/BIP** or
2. Review existing **FBA/BIP**



(Returns to main flowchart)

Discipline – Removal – No Change In Placement Flow Chart

Purpose: To distinguish relevant policy that must be applied to disciplinary decision making and clarify key decision points in the process.

Key	
	= Click to play
	= Go to the next chart
	= Checkl st of key activities
	= Document

Data
 Decision
 Document
 Process
 Sub-Process
 Start/End Point

Removal – Not a **Change In Placement**

- Send **notice of proposed disciplinary action** to parents according to local Disciplinary policy.
- Provide student with due process protections.

Do the Proposed and all previous **Removals** equal 10 school days or less?

Implement District disciplinary policy. Provide same services available to all students during pendency of removal.

Determine if removals **constitute a pattern** of exclusion.

Do the **Removals** constitute a **pattern** of exclusion?

See: "Removal – Change of Placement" Flow Chart

Implement District disciplinary policy. Provide **FAPE**: Administration and staff determine, provide and document services to progress in the general curriculum and on goals and objectives.

(Returns to main flowchart)

