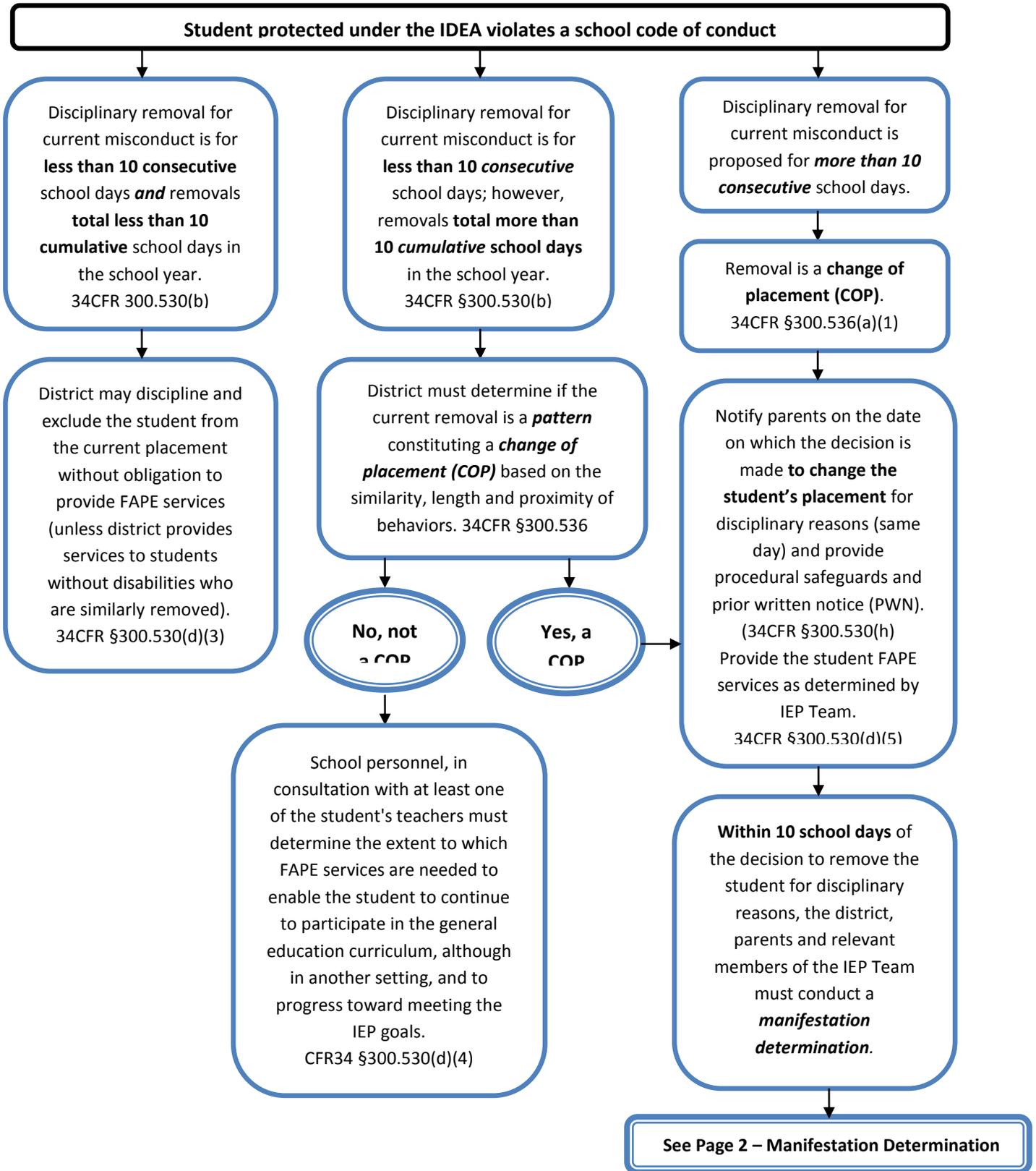


**West Virginia Department of Education**  
**A Step by Step Guide to the Discipline Process**  
**for Students with Disabilities under the IDEA**  
 September 2014



Disciplinary removal for current misconduct is for **less than 10 consecutive** school days **and** removals **total less than 10 cumulative** school days in the school year. 34CFR 300.530(b)

District may discipline and exclude the student from the current placement without obligation to provide FAPE services (unless district provides services to students without disabilities who are similarly removed). 34CFR §300.530(d)(3)

Disciplinary removal for current misconduct is for **less than 10 consecutive** school days; however, removals **total more than 10 cumulative** school days in the school year. 34CFR §300.530(b)

District must determine if the current removal is a **pattern** constituting a **change of placement (COP)** based on the similarity, length and proximity of behaviors. 34CFR §300.536

**No, not a COP**

**Yes, a COP**

School personnel, in consultation with at least one of the student's teachers must determine the extent to which FAPE services are needed to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the IEP goals. CFR34 §300.530(d)(4)

Disciplinary removal for current misconduct is proposed for **more than 10 consecutive** school days.

Removal is a **change of placement (COP)**. 34CFR §300.536(a)(1)

Notify parents on the date on which the decision is made to **change the student's placement** for disciplinary reasons (same day) and provide procedural safeguards and prior written notice (PWN). (34CFR §300.530(h) Provide the student FAPE services as determined by IEP Team. 34CFR §300.530(d)(5)

**Within 10 school days** of the decision to remove the student for disciplinary reasons, the district, parents and relevant members of the IEP Team must conduct a **manifestation determination**.

**See Page 2 – Manifestation Determination**

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**Manifestation Determination Review**

1. Is the conduct a direct result of the district's failure to implement the IEP?
2. Is the conduct caused by, or does the conduct have a direct and substantial relationship to the student's disability? 34CFR §300.530(e)

**Yes to**

Student's conduct **is** a manifestation of his/her disability. 34CFR §300.530(e)

If the conduct was a direct result of failure to implement the IEP, the district must take immediate steps to remedy those deficiencies  
34CFR §300.530(e)(3)

The IEP Team must conduct a FBA and develop a BIP, or review and modify an existing BIP, to address the behavior. 34CFR §300.530(f)(1)(i-ii)

**AND** return the student to the placement from which he/she was removed, **unless** 1) the parent and district agree to a change of placement; 2) a hearing officer orders a new placement; or 3) the removal is for special circumstances (i.e., weapons, drugs or serious bodily injury). 34CFR §300.530(f)(2)

**No to Both**

Student's conduct **is not** a manifestation of his/her disability. 34CFR §300.530(c)

School personnel may apply the relevant disciplinary procedures in the same manner and for the same duration as for students without disabilities  
34CFR §300.530(c)

The IEP Team determines extent to which FAPE services are needed to enable the student to continue to participate in the general education curriculum, although in another setting, and progress toward meeting the IEP goals

Provide, as appropriate, a FBA and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. 34CFR 300.530(d)(ii)

**Special Circumstances (Weapons, Drugs, Serious Bodily Injury)**

School personnel may remove a student to an Interim Alternative Educational Setting (IAES) for not more than 45 school days without regard to whether the behavior is a manifestation of the student's disability, if the student:

1. Carries a weapon to or possesses a weapon at school, on school premises or to or at a school function;
2. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance while at school, on school premises or at a school function; or
3. Has inflicted serious bodily injury upon another person while at school, on school premises or at a school function. 34CFR §300.530(g)

1. Notify parents on the same day of decision to change the student's placement & provide procedural safeguards, including PWN 34CFR §300.530(h), and
2. Within 10 school days of the decision, conduct a manifestation determination. 34CFR §300.530(e)
3. The student's IEP Team determines the appropriate IAES for the student. 34CFR §300.530(d)(2)