



BIRDVILLE INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES SERVICES DURING PERIODS OF REMOVAL

Birdville ISD Board Policy along with these *Special Education Operating Procedures* constitute the Policies and Procedures of Birdville ISD, designed to be consistent with the State policies and procedures developed pursuant to the IDEA. Birdville ISD *Special Education Operating Procedures* are not to be for the purpose of creating a requirement that is not otherwise imposed by the Individuals with Disabilities Education Improvement Act (“IDEA”), together with its implementing federal regulations, state statutes and rules, as they shall from time to time be amended, and shall not be construed to create a higher standard than that established by IDEA. These *Special Education Operating Procedures* will be posted on Birdville ISD’s website. These *Special Education Operating Procedures* should be interpreted consistent with the IDEA. Birdville ISD’s *Special Education Operating Procedures* are reviewed and updated, as needed, on at least an annual basis. Birdville ISD will make timely changes to policies and procedures in response to IDEA amendments, regulatory or rule changes, changes to state policy, or new legal interpretation as are necessary to bring Birdville ISD into compliance with the requirements of IDEA. Birdville ISD maintains systems to ensure that all students with disabilities residing in the District, including students with disabilities attending non-public schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and provided a free appropriate public education. Birdville ISD maintains systems to ensure that students with disabilities and their parents are afforded the procedural safeguards required under the IDEA (and its implementing federal regulations, state statutes and rules) including with respect to the confidentiality of records and personally identifiable information.

SERVICES DURING PERIODS OF REMOVAL

What services does the District provide to a student with a disability during periods of removal that are less than 10 school days, consecutively or cumulatively?

The District only provides services during periods of removal to a child with a disability who has been removed from their current placement for 10 school days or less in that school year, if it provides services to children without disabilities who are similarly removed.¹

After the student has been removed for ten school days in a school year, what services must be provided to the student during periods of removal?

Once school personnel have removed a student with a disability on a short-term basis for 10 consecutive school days in the same school year (whether consecutively or cumulatively), the Educational Diagnostician shall ensure that services are provided to the student with disabilities during any periods of removal thereafter consistent with [The Legal Framework for the Child-Centered Process](#) and these Operating Procedures.

Beginning on the eleventh day of removal in a school year, Birdville ISD shall continue to provide educational services to the student during periods of removal to enable the student:

¹ 34 C.F.R. § 300.530(d)(3)

- to continue to participate in the general education curriculum, although in another setting; and
- to progress toward meeting the goals set out in the student’s IEP.²

How does the District determine whether a removal beyond ten days is a disciplinary change of placement?

Not every removal for more than 10 days cumulatively is a **DISCIPLINARY CHANGE OF PLACEMENT**; Campus Principal must comply the District’s **DISCIPLINARY CHANGE OF PLACEMENT** operating procedure when making this determination.

Who decides what the services will look like for removals that are not a change of placement?

If the removal is not a change of placement, the Educational Diagnostician, in consultation with at least one of the student’s teachers, shall determine the extent to which services are needed for a FAPE.³

The Educational Diagnostician shall determine which of the student’s teachers to consult based on the facts and circumstances of each case, the needs of the student and the expertise of the student’s teachers. Birdville ISD recognizes that in many cases, the special education teacher may be the most appropriate teacher with whom the Educational Diagnostician should consult. This, however, is not always the case. The Educational Diagnostician is in the best position to determine the appropriate teacher with whom to consult under the circumstances and shall be afforded broad flexibility in making such decisions.⁴

What should the services look like when a removal is not a change of placement?

The extent to which services need to be provided and the amount of services necessary may be different when a student is being removed from his or her IEP placement for a short period of time, the removal is not a change of placement, and a student is performing at grade level.⁵ When consulting regarding services for short-term removals *that are not a disciplinary change of placement*, the Educational Diagnostician and at least one of the student’s teachers shall take into account these and other relevant factors, unique to the student and the circumstances.

The opportunity to “continue to participate” does not mean that Birdville ISD must replicate every aspect of the services that a student would receive in his or her normal classroom, such as in those classes with a hands-on component or using specialized equipment or facilities.⁶

² 34 C.F.R. § 300.530(d)(1)(i).

³ 34 C.F.R. § 300.530(d)(4); *Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA’s Discipline Provisions*, Q/A H-1 (Revised July 2022).

⁴ U.S. Dept. of Education, 71 Fed. Reg. 46718 (August 14, 2006).

⁵ U.S. Dept. of Education, 71 Fed. Reg. 46716 (August 14, 2006).

⁶ U.S. Dept. of Education, 71 Fed. Reg. 46716 (August 14, 2006).

Who decides what the services will look like for removals that are a disciplinary change of placement?

When the removal will constitute a **DISCIPLINARY CHANGE OF PLACEMENT**, as described by the District's operating procedures, the ARD committee decides the services *after* conducting a **MANIFESTATION DETERMINATION REVIEW**, consistent with District's **MANIFESTATION DETERMINATION** operating procedure.⁷

What steps must be followed, prior to a Manifestation Determination, if the disciplinary removal will result in a disciplinary change of placement?

If the Campus Principal determines that a proposed disciplinary action would constitute a removal resulting in a **DISCIPLINARY CHANGE OF PLACEMENT** as described by the District's operating procedures, the following shall occur:

- The Campus Principal shall notify the parents of the proposed disciplinary action to be taken.⁸
- The Educational Diagnostician shall take the following additional actions:
- schedule and provide the parents notice of the MDR/ARD committee meeting to be held within 10 school days after any decision to change the placement of a student with a disability because of a violation of the student code of conduct;
- seek consent from the student's parent to conduct a functional behavioral assessment of the student, if a functional behavioral assessment has never been conducted on the student or the student's most recent functional behavioral assessment is more than one year old;⁹
- determine the **SERVICES DURING PERIODS OF REMOVAL** to be provided for any days of removal beyond the first ten cumulative school days of removal in a school year pending the MDR/ARD committee meeting and ensure the provision of such services; and
- comply with the District's **MANIFESTATION DETERMINATION** operating procedure.

⁷ *Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, Q/A H-2 (Revised July 2022).

⁸ Tex. Ed. Code §37.0012(d)

⁹Tex. Ed. Code §37.004(b-1);