

Mike DeWine, Governor  
Paolo DeMaria, Superintendent of Public Instruction

**To:** Ohio's local education agencies

**Cc:** State support teams

**From:** Jo Hannah Ward, Interim Director, Office for Exceptional Children

**Date:** Dec. 4, 2019

**Subject:** In-school suspension counts and reporting

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### **Manifestation Determination Review Requirements and In-School Suspensions**

A manifestation determination review is required when the educational placement of a student with a disability is changed due to discipline. A change of placement occurs if a student is removed from his or her regular, individualized education program-defined placement for more than 10 consecutive days or for a series of removals that constitute a pattern that totals more than 10 cumulative days in a school year.<sup>1</sup> Out-of-school suspensions always count as "removals." According to federal regulations,<sup>2</sup> in-school suspensions do not count as "removals" toward a disciplinary change of placement if these three factors are present:

- 1) The student is afforded the opportunity to continue to appropriately participate in the general curriculum;
- 2) The student continues to receive the services that are on his or her individualized education program (IEP); and
- 3) The student continues to participate with nondisabled students to the extent he or she would have in his or her current placement.

If any one of these three factors is not present, the in-school suspension counts as a "removal" toward the 10 cumulative or consecutive days. Whether the three factors are present is decided on a case-by-case basis.

In-school suspensions do, however, count as "removals" for the purposes of state and federal discipline data reporting.

### **Individuals with Disabilities Education Act (IDEA) Part B Discipline Data Collection**

Section 618 of IDEA requires states to provide data regarding discipline of students with disabilities. For the purposes of this data collection, the U.S. Department of Education's Office of Special Education Programs requires all in-school suspensions to be counted and reported, even those that would not count as a "removal" for purposes of determining the requirement of a manifestation determination review. The U.S. Department of Education collects data on all in-school suspensions to determine the extent to which schools remove students from their IEP placements for disciplinary reasons.

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<sup>1</sup> 34 C.F.R. 300.536(e)

<sup>2</sup> 34 C.F.R. 300.530

## IDEA Disproportionality Categories

The U.S. Department of Education has revised the [IDEA regulations](#)<sup>3</sup> to further address significant disproportionality, which occurs when students in a specific racial or ethnic group are identified for special education, placed in more restrictive settings or disciplined at markedly higher rates than their peers. The new regulations expand the discipline categories that states must calculate for significant disproportionality, to include:

- 1) In-school suspensions of 10 days or fewer;
- 2) In-school suspensions of more than 10 days; and
- 3) Total disciplinary removals.

In-school suspensions count as “removals” for each of these disproportionality categories. Other categories measured for disproportionality include out-of-school suspensions and expulsions.

## Reporting In-school Suspensions

All disciplinary removals that meet the definition of in-school suspensions must be reported as such through the Education Management Information System (EMIS), even if they are referred to with a different name or term in a local district or school. The [EMIS Manual](#)<sup>4</sup> defines in-school suspensions as follows:

*In-school suspension is the suspension of the student’s normal instructional activities by the superintendent or a school principal due to discipline reasons. The student attends school but is assigned a special placement that allows him/her to do school work but does not specifically address the behavior(s) that resulted in discipline.*

## Preemptive Strategies

The U.S. Department of Education strongly encourages schools to use preemptive strategies for managing student behavior through Positive Behavioral Interventions and Supports (PBIS) and by providing services for students with behavioral challenges.<sup>5</sup> School-wide, small group and individual behavioral supports that use proactive strategies address the underlying causes of behaviors. Proactive strategies are associated with improved academic engagement and achievement, as well as fewer suspensions and dropouts.

For more information on Positive Behavioral Interventions and Supports, including Ohio’s resources and network, see <http://education.ohio.gov/Topics/Student-Supports/PBIS-Resources>.

For information and resources related to significant disproportionality, see <http://education.ohio.gov/Topics/Special-Education/Special-Education-Data-and-Funding/Equity-in-IDEA-New-Disproportionality-Regulations>.

For questions, please contact the Office for Exceptional Children by email to [exceptionalchildren@education.ohio.gov](mailto:exceptionalchildren@education.ohio.gov).

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<sup>3</sup> 34 C.F.R. 300.647

<sup>4</sup> EMIS Manual Section 2.11 (March 2019)

<sup>5</sup> <https://www2.ed.gov/policy/gen/guid/school-discipline/files/dcl-on-pbis-in-ieps--08-01-2016.pdf>