

Act 565: Considerations for Students with Disabilities

Requirements for Students with Disabilities

If the student receives special education services under IDEA or is protected under Section 504, a Manifestation Determination Review (MDR) takes the place of the conference required by state law. This review considers whether the student's behavior is a direct result of his or her disability. The school must ensure good faith effort to allow parents the opportunity to participate in the MDR process and relevant members of the IEP or 504 team must be present. The required IEP/504 members may be different than the required members of Act 565.

The MDR considers whether the student's behavior is a direct result of their disability. The school must allow parents the opportunity to participate in the MDR process.

The MDR team - including relevant IEP team members - must consider the whole child (not just the eligibility category) and answer two key questions:

- Was the behavior a manifestation of the student's disability?
- Was the behavior a result of the school not implementing the IEP?

If Yes to either question:

- The IEP team will determine appropriate next steps.
- The student must return to the previous placement on the special education continuum of services under IDEA (though this may be a different class to accommodate safety needs).
- A Functional Behavioral Assessment (FBA) must be conducted.
- A Behavior Intervention Plan (BIP) must be developed or revised to address the behavior.

If No to both questions:

- The student may be subject to disciplinary action consistent with district policy.
- Educational services must still be provided in accordance with IDEA and state law, including Act 565.

Appropriate Learning Environment and Change of Placement

During the disciplinary process, the student is placed in another appropriate learning environment based on student needs and continues to provide educational access. This appropriate learning environment can be a classroom, in-school suspension or other setting. For this learning environment not to be an additional removal and potentially cause a change of placement for the student, as outlined in IDEA, it must allow the student to access:

- The general education curriculum,
- The services listed in the student's IEP,
- Non-disabled peers to the same extent as listed in the IEP.



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All Students

Students with Disabilities

Teacher observes a pattern of unruly/disruptive behavior or violent/abusive behavior.

Teacher chooses to remove student from class and refers to the principal or designee.

Student is placed in another appropriate learning environment, ISS, returns to class or another appropriate action is taken.

Principal initiates parent/teacher conference. Continue per District policy and Act 565.

Proceed with disciplinary actions per district policy.

If the student is protected under IDEA or Section 504, conduct an MDR. The parent must be invited and relevant members of the IEP/504 team present.

Was the behavior a manifestation of the student's disability?

No

Yes

Return the student to the previous placement (could be a different class), or placement IEP team determines is appropriate. (See additional considerations below). Conduct or review the Functional Behavior Assessment (FBA), and develop, review, or revise a Behavior Intervention Plan (BIP).

Additional Considerations

Was the behavior violent/abusive toward a specific individual?

No

Yes

Student may return to the same class.

Student must not return to the same class/setting with targeted individual.

If the behavior was violent or abusive, consider a behavioral threat assessment.

Has the student been removed 3 or more times for violent/abusive behavior this school year?

No

Yes

Student may return to the same class or remain in the interim placement.

Student is placed in an interim setting for the remainder of the year or disciplined accordingly. Placement changes occur only with IEP team agreement. IEP services continue.

In situations involving violent or abusive behavior, the school must consider initiating a Behavioral Threat Assessment to evaluate the level of risk the student poses and determine appropriate supports or interventions.

For Violent or Abusive Behavior

Reentry Considerations

If the behavior was not directed toward a specific teacher or student, the student may return to their original classroom once the process is complete.

However, if the behavior targeted a specific individual, the student may not be returned to the same class or setting as the affected teacher or peer. In such cases, the school must arrange an alternative but appropriate educational placement within the federal requirements under IDEA.



Chronic Violent or Abusive Behavior



If the student has been removed from the classroom three or more times during the school year due to violent or abusive behavior:

- The student shall be placed in an interim educational setting for the remainder of the school year. The setting must allow the student access to:
 - the general education curriculum
 - services outlined in the IEP and
 - interaction with non-disabled peers to the same extent outlined in the IEP
- The educational placement regarding the continuum of services under IDEA can only be changed with the agreement of members of the IEP team.

Key Considerations



Schools should clearly define what behaviors do and do not constitute a removal under Act 565. This will allow the school to avoid confusion about when to apply the requirements of Act 565.



Schools should develop a communication protocol to inform special education personnel so they can initiate the processes required under this act while ensuring compliance with IDEA requirements.



If a child not currently identified as a student with a disability exhibits a pattern of behavior as outlined in Act 565, the LEA may consider its Child Find obligation.



If a child is identified under IDEA and has removals, the IEP team may need to meet and consider the use of behavioral interventions and supports including an FBA.

Sources

- [34 CFR 300.322](#)
- [34 CFR 300.530\(e\)](#)
- [34 CFR 300.536](#)
- [Act 565](#)
- [34 CFR 300.324\(a\)\(2\)\(i\)](#)



Resources



[AR THRIVE](#)

[Arkansas Behavior Support Specialists](#)

[Arkansas A.W.A.R.E](#)

[Behavior Threat Assessment Training and Resources](#)