

Discipline of Students in Special Education Series

Part 9 of 9

Putting It All Together: A Case Study

Charlie's Situation

Charlie is a 5th grader who receives special education services for a learning disability. Charlie is on grade level in math and two years below grade level in reading. He receives services in a resource setting for one hour each day. Charlie has no history of behavior problems.

Charlie was caught stealing software from the computer lab at his school. His teacher referred him to the assistant principal who issued a three-day suspension and required him to return the stolen materials.

Charlie returned to the classroom to gather his belongings and confronted his teacher. He called her names, threatened to come back to school with a knife to "cut her," and pretended to swing his fists toward her. Charlie's teacher called the principal, who, in accordance with the student code of conduct at the school, issued an additional 10-day suspension for Charlie, bringing his total days of suspension to 13.

What Happens Immediately to Charlie?

Because the 13-day suspension is more than 10 days, it is considered a change in placement. Therefore, Charlie must be removed to an interim alternative educational setting (IAES) until a manifestation determination is made. The determination of where the IAES will be is made by Charlie's IEP team.

What Services Are Provided to Charlie During his Removal to an IAES?

Charlie's IEP team must determine appropriate services. He must continue to receive educational services as provided in FAPE requirements so as to enable him to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in his IEP.

WHO NEEDS TO BE CONTACTED?

Charlie's parents must be notified that he has been removed from the classroom and that this action constitutes a change in placement. The LEA is responsible for notifying Charlie's parents and providing them with the procedural safeguards notice on the date that the LEA decides to make this removal that constitutes a change of placement.

NOW ADD THIS TO THE PICTURE

As required by IDEA, a manifestation determination review is held for Charlie, and it's determined that his behavior was not a manifestation of his disability. The next set of decisions can now be made.

WHAT DISCIPLINARY ACTIONS ARE PERMISSIBLE?

Since the behavior is not a manifestation of his disability, Charlie can be disciplined in the same manner and for the same amount of time as a child who does not have a disability. That decision is left up to the LEA.

WHAT SERVICES WILL BE PROVIDED TO CHARLIE DURING THE DURATION OF THE DISCIPLINARY ACTION?

Charlie must continue to receive educational services as provided under FAPE requirements, so as to enable him to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in his IEP.

WHAT HAPPENS IF CHARLIE'S PARENTS APPEAL THE MANIFESTATION DETERMINATION?

If a hearing is requested, the SEA or LEA is responsible for arranging an expedited due process hearing, which must occur within 20 school days of the date the due process complaint was filed.

The hearing officer must make a determination within 10 school days after the hearing.

If this happens, Charlie will remain in the IAES pending the decision of the hearing officer.