

## **Transportation: Suspension/Expulsion from Transportation**

### **Question:**

*If a child with a disability has been suspended from the bus, must the district continue to provide transportation services?*

### **Response to Question:**

Whether transportation must be provided to a student who has been suspended from the bus is a topic discussed by the Office of Special Education Programs (OSEP) in the Analysis of Comments and Changes to 2006 IDEA Part B Regulations. OSEP stated:

“Whether a bus suspension would count as a day of suspension would depend on whether the bus transportation is part of the child’s IEP. If the bus transportation is part of the child’s IEP, a bus suspension would be treated as a suspension under Sec. 300.530 unless the public agency provides the bus service in some other way, because that transportation is necessary for the child to obtain access to the location where services will be delivered. If the bus transportation is not a part of the child’s IEP, a bus suspension is not a suspension under Sec. 300.530. In those cases, the child and the child’s parent have the same obligations to get the child to and from school as a nondisabled child who has been suspended from the bus. However, the public agency should consider whether the behavior on the bus is similar to behavior in the classroom that is addressed in the IEP and whether the child’s behavior on the bus should be addressed in the IEP or a behavioral intervention plan for the child.” (71 Fed. Reg 46715 August 14, 2006)

If transportation is included in the child’s IEP, a bus suspension must be treated as a suspension under 92 NAC 51- 016.02 and all of the discipline procedures applicable to children with disabilities would apply. A school district is not required to provide alternative transportation to a child with a disability who has been suspended from transportation for 10 school days or less unless the school district provides alternative transportation to children without disabilities who have been similarly suspended from bus service.

If a child with a disability is suspended from transportation for more than 10 school days in the same school year, and transportation is included in the child’s IEP, during any subsequent suspensions the school district must provide services to the child to the extent required in 92 NAC 51- 016.02D. Generally, this means that the child must (1) continue to receive educational services so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child’s IEP, and (2) receive as appropriate a functional behavioral assessment, and behavioral intervention services

and modifications that are designed to address the behavior violation(s) so that they do not recur.

Additionally, the suspension of a student with a disability from transportation may constitute a change of placement if a district has been transporting the student, suspends the student from the transportation as a disciplinary measure, and provides no other form of transportation. If a student is suspended from transportation for more than 10 consecutive school days, or is repeatedly suspended, and such suspensions constitute a pattern under 92 NAC 51- 016.01A, a change of placement has occurred. In such situations, the school district, parent, and relevant members of the IEP Team must determine whether the conduct was a manifestation of the child's disability, using the process described in 92 NAC 51-016.02E. If the conduct is a manifestation of the child's disability, the IEP Team must take the steps outlined in 92 NAC 51-016.02F, and also must return the child to the placement from which the child was removed, unless the parent and the school district agree to a change of placement as part of the modification of the behavioral intervention plan. 92 NAC 51- 016.02F.

Regardless of the procedures discussed above, school personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child has taken any of the actions specified in 92 NAC 51- 016.02G regarding weapons, illegal drugs, or the infliction of serious bodily injury.