



**SCHOOL DISTRICT SELF-REVIEW
MONITORING PROTOCOL
Revised April 2010**

**SUSPENSION OF
STUDENTS WITH
DISABILITIES
(Indicators #4 A and B)**

For self reviews to be conducted based
on data from the 2009-10 school year

New York State Education Department
Albany, NY 12234

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SELF-REVIEW MONITORING PROTOCOL SUSPENSION OF STUDENTS WITH DISABILITIES

I. Overview of Self-Review Requirements

The self-review monitoring protocol on the long-term suspension of students with disabilities must be completed by all school districts identified by the State as having:

- a significant discrepancy in the rates of long-term suspensions of students with disabilities; and/or
- disproportionality in their rates of long-term suspensions of students with disabilities by race/ethnicity.

Long-term suspension means an out-of-school suspension of greater than 10 days in a school year. For purposes of this review, data on removal to an interim alternative educational setting (IAES) for reasons of drugs, weapons and serious bodily injury and removals by an impartial hearing officer (IHO) to an IAES upon a determination of dangerousness are not included.

II. Submission of Self-Review Results

The School District Self-Review Monitoring process must be completed and results reported to the State Education Department (SED) electronically. Directions for how to submit the results and due dates are found at <http://pd.nysed.gov>.

III. Directions for Conducting the Self-Review

The Suspension Self-Review Monitoring process is a focused review of a school district's policies, procedures and practices (i.e., implementation of policies and procedures) that most closely impact the incidence, duration and type of disciplinary action. The review focuses on requirements in the following six areas.

- 1. Individual Evaluations of Students with Disabilities.** The school district's evaluation policies, procedures and practices must be reviewed to determine if students with disabilities have received appropriate evaluations upon which to base positive behavioral supports and services that would prevent the behaviors from occurring.
- 2. Individualized Education Programs (IEPs).** The IEPs of students with disabilities suspended for more than 10 days in a school year must be reviewed to ensure they include positive behavioral supports and services needed to prevent the occurrence of behaviors that impede their learning or that of others.
- 3. Behavioral Intervention Plans.** Policies, procedures and practices to develop and implement appropriate behavioral intervention plans for students with disabilities

must be reviewed to ensure the district is taking appropriate steps to prevent the reoccurrence of a student's behaviors.

- 4. Manifestation Determinations.** The district's policies, procedures and practices relating to manifestation determinations (a review of the relationship of the student's conduct to the disability) must be made to ensure that students with disabilities are not suspended or removed for more than 10 days in a school year for behaviors related to their disabilities.
- 5. General Procedures for Disciplinary Removals.** The policies, procedures and practices of the school district must be reviewed to determine if the general procedures for disciplinary actions by school principals and superintendent's hearings ensure that the rights of students with disabilities under IDEA are protected.
- 6. Interim Alternative Educational Settings (IAES) and Instructional Services.** The temporary educational settings where students with disabilities are removed and education services provided to such students must be reviewed to ensure that students with disabilities receive the instructional services to which they are entitled.

Forms to Guide the Self-Review

- **Checklist to Complete the Self-Review (Attachment 1)**

A step-by-step process has been outlined to guide the self-review process, including selection of the review team, identification of sources of data and selection of student records, documentation requirements and the process to determine compliance and report to SED.

- **School District Self-Review Monitoring Protocol (Attachment 2)**

This form establishes the protocol to conduct the self-review. The protocol:

- specifies the regulatory requirements relating to the six areas above;
- identifies documentation (e.g., written policies, classroom visitations, suspension records, teacher interviews, IEPs) that must be reviewed; and
- identifies information to "look for" in reviewing that documentation (e.g., look for evidence that functional behavioral assessments include all the required components; consistent application by race/ethnicity).

The school district must use this form to guide the self-review and to document its compliance findings and identify, for self-correction purposes, any corrective action and improvement activities needed to address compliance issues. This form is not submitted to SED, but should be used to guide district steps to self-correct compliance issues.

- **Individual Student Record Review (Attachment 3)**

This form is used to guide the collection of information from individual student records. The School District Self-Review Monitoring Protocol should be referenced

in determining what documentation in a student's record must be reviewed and information to look for in the review of that documentation. Using this form, for each regulatory citation for each individual student in the sample, a determination must be made whether the requirement was met or was not met or was not applicable to the individual student. One form should be used for each student record reviewed. Information from these forms are compiled to determine compliance and documented on Attachment 2. These forms are not submitted to SED, but are collectively used to determine compliance.

- **Suspension Self-Review Monitoring Report (Attachment 4)**

This form is a sample of the electronic reporting form the school district will complete to document the results of the district's self-review to SED. For each regulatory requirement, the district must document its findings of compliance or noncompliance. **This information must be submitted electronically to SED following the directions and due dates posted at <http://pd.nysed.gov> .**

IV. Identification of Noncompliance

- Any absent or inappropriate policy, procedure or practice must be reported as a compliance issue.
- For each regulatory citation, instances of compliance must be indicated on the self-review chart as noncompliance.

V. Report to the State Education Department (SED)

The only documentation to be submitted to SED is the electronic submission of the Suspension Self-Review Monitoring Report (Attachment 4). This report must be submitted electronically. To complete this form, go to <http://pd.nysed.gov> and follow the directions for completion and submission. The district should **NOT** submit the other forms completed or the documentation reviewed during the self-review unless requested by SED.

Pursuant to the New York State Archives and Records Administration Records Retention and Disposition Schedule ED-1, the school district must maintain documentation of its review for a period of **seven years**. This documentation is subject to review by SED and therefore should be maintained in an easily retrievable and organized manner.

VI. SED Review of Self-Review Monitoring Report

SED will review the Self-Review Monitoring Report and respond as follows:

1. If the school district reports to SED that, based on its self-review, the district has not identified any compliance issues relating to its policies, procedures and practices, SED may arrange for a review of that determination.
2. If the school district reports to SED that, based on its self-review, the district has one or more compliance issues relating to its policies, procedures and practices, SED will notify the district that it must correct all instances of noncompliance as soon as possible, but not later than one year from the identification of the issues. SED will provide periodic notifications to the school district to ensure correction of noncompliance within a year.

VII. Correction of Noncompliance

Year 1 – Self Identification and Correction

If the school district identifies school district policies, procedures and practices that are not consistent with State and federal requirements, the school district must:

- document issues of noncompliance to SED;
- document on the self-review protocol the steps the school district will take (i.e., improvement activities) to correct findings of noncompliance;
- correct all instances of noncompliance immediately, but not later than one year from identification of the issues (i.e., date reported to SED);
- for issues of disproportionality (Indicator 4B), publicly report (e.g., public meeting, posting on school district website) on the revision of policies, practices and procedures; and
- provide an assurance and documentation to SED that the school district has corrected all issues of noncompliance. (Further information on this documentation will be provided to individual districts based on compliance findings.)

VIII. Technical Assistance Resources

The following sources may assist you in addressing issues relating to the suspension of students with disabilities.

- Regional Special Education Technical Assistance Centers (RSE-TASC)
<http://www.vesid.nysed.gov/specialed/techassist/rsetasc/>
- Quality Indicator Review and Resource Guide on Behavioral Supports and Interventions <http://www.vesid.nysed.gov/specialed/techassist/behaviorQI.htm>
- Regional Student Support Services Network
<http://www.emsc.nysed.gov/rss/RSSCDIRAug2007.htm>
- National Technical Assistance Center on Positive Behavioral Interventions and Supports <http://www.pbis.org/>

- The Metropolitan Center for Urban Education's Technical Assistance Center on Disproportionality (TAC-D) <http://steinhardt.nyu.edu/metrocenter/tacd.html>
- *Racial Disproportionality in School Disciplinary Practices*
http://www.nccrest.org/Briefs/School_Discipline_Brief.pdf?v_document_name=school%20discipline%20brief
<http://www.nccrest.org/publications.html>
- *Zero Tolerance and Alternative Strategies: A Fact Sheet for Educators and Policymakers: The National Association of School Psychologists*
http://www.nasponline.org/resources/factsheets/zt_fs.aspx
- *Guidance on Conducting Functional Behavioral Assessments for Students with Disabilities*
<http://www.vesid.nysed.gov/specialed/publications/policy/functionbehav.htm>
- *Discipline Procedures for Students with Disabilities (under revision)*
<http://www.vesid.nysed.gov/specialed/publications/policy/discipcover.htm>
- Regulations of the Commissioner of Education Parts 200 and 201
<http://www.vesid.nysed.gov/specialed/publications/lawsandregs/aug09-complete.pdf>

IX. Questions

Questions regarding the Suspension Self-Review Monitoring Protocol may be directed to the Policy Unit at (518) 473-2878 or the Special Education Quality Assurance Regional Offices at <http://www.vesid.nysed.gov/specialed/quality/qaoffices.htm>.

Checklist to Complete the Self-Review

Activity	Recommendations and Required Components of the Review
1. School superintendent or designee selects the team members to conduct the self-review.	<ul style="list-style-type: none"> • Identify a team leader to oversee the review process. • Select a team of individuals to conduct the review that includes individuals from cross disciplines, such as a school administrator, guidance counselor, social worker, special education teacher, general education teacher, parent of a student with a disability and a school psychologist. • To provide objectivity and to benefit from technical assistance during the self-review process, it is strongly recommended that the district invite someone from outside the district (such as the Transition Specialist of the RSE-TASC, and, when the review is required because of identification of a significant discrepancy in the rates of long-term suspension by race/ethnicity, one or more individuals of diverse racial and ethnic backgrounds) to participate in the self-review.
2. Conduct an initial meeting of the review team to discuss timelines for the review and the process to review and collect the required information.	<ul style="list-style-type: none"> • Assign staff responsible to: <ul style="list-style-type: none"> ○ Identify the sample of students ○ Complete the student record reviews ○ Conduct interviews and observations • Identify the process to complete the review and due dates. • Establish meeting dates to review the results.
3. Identify sources of data and information that must be reviewed.	Review Attachment 2 – School District Self-Review Monitoring Protocol. Each section of the self-review protocol identifies specific documentation that must be reviewed. The sources of data and information should also include observations and interviews, as appropriate.
4. Select a sample of student records to be reviewed.	<p>Compile a list of all students with disabilities suspended for more than 10 days in the school year in which the data indicated a significant discrepancy.</p> <ul style="list-style-type: none"> • For school districts with 20 or fewer students on this list, review all student records. • For school districts with less than 200 students on this list, randomly select 20 student records. • For school districts with more than 200 students on this list, randomly select 30 records. • Add to the number of records to be reviewed if, based on the record reviews, you are finding inconclusive patterns of policy implementation, • For Indicator 4A - Ensure the sample of student

Activity	Recommendations and Required Components of the Review
	<p>records is representative of the student population and school buildings (e.g., building, age/grade, disability category, race/ethnicity, special education program/placement).</p> <ul style="list-style-type: none"> • For Indicator 4B – For each race/ethnicity group where the data indicated overrepresentation among students with disabilities suspended for more than 10 days during the school year under review, ensure that the sample of student records includes all or a significant number of students from the identified group.
5. Complete the Individual Student Record Review Form for each student.	Document findings for each student on the Individual Student Record Review form. To complete this review, you will need to review evaluations, minutes from CSE and manifestation team meetings, IEPs, disciplinary reports and notices to parents.
6. Compile findings from the Individual Student Record Review forms; transfer findings to the Summary of Student Record Review form.	This sheet provides a tool for you to summarize the number of instances of compliance and noncompliance.
7. Compile all the results. <ul style="list-style-type: none"> • Individual Student Record Reviews • Summary of Student Record Reviews • Implementation visitations and interviews 	<p>One individual should be assigned to collect the data from all the Individual Student Record Review forms and summarize the compliance findings on the Summary of Student Record Reviews.</p> <p>Compile copies of the Summary of Student Record Reviews and notes from implementation visitations and interviews for review by the Team.</p>
8. Convene a review team meeting to discuss the findings and analyze the data to identify the specific nature and extent of the areas in need of improvement.	<p>Upon completion of the review of documentation for each of the six areas of the review, the team should meet to review and discuss the findings. The team should question and probe data to determine relevant factors relating to the discrepancies (e.g., suspension practices at specific buildings; for specific disabilities, certain racial or ethnic groups, and specific types of placements) and to determine whether the school district's policies, procedures and/or practices are in compliance with State requirements.</p> <ul style="list-style-type: none"> • On the Self-Review Monitoring Protocol: <ul style="list-style-type: none"> ○ Document compliance and noncompliance. ○ Describe the specific details of noncompliance ○ Identify what must be corrected and how it will be corrected. ○ Set a timetable for correction. All compliance

Activity	Recommendations and Required Components of the Review
	<p>must be corrected no later than one year from the date of identification (i.e., date reported to SED).</p> <ul style="list-style-type: none"> ○ Identify and document improvement activities (e.g., staff development).
<p>9. Submit the completed Self-Review Monitoring Protocol (Attachment 2) to the Superintendent of Schools or Chief School Officer for approval and certification of accuracy.</p>	<p>The Superintendent of Schools or Chief School Officer should review the completed School District Self-Review Monitoring Protocol to accept responsibility for the accuracy of the compliance report.</p>
<p>10. Submit a report to SED (see sample in Attachment 4).</p>	<p>Manner of submission: Web-based electronic submission. To submit this form, go to http://pd.nysed.gov</p> <p>The Superintendent of Schools or Chief School Officer must verify that the report to be submitted to SED provides accurate data and information.</p> <p>Print the Self-Review Monitoring Report after submitting the report for record-keeping purposes.</p>

Maintain all documentation used to complete the self-review for seven years. Records should be retained in an organized and easily retrievable format. All documentation is subject to SED review.

**SCHOOL DISTRICT SELF-REVIEW MONITORING PROTOCOL
SUSPENSION OF STUDENTS WITH DISABILITIES**

School District: _____

Form completed by: (Name/Title) _____

Telephone/Email: _____

Date review completed: _____

- Review required for significant discrepancy in the school district's rate of long-term suspensions of students with disabilities as compared to other school districts. (Indicator 4A)**
- Review required for significant discrepancy in the rate of long-term suspensions of students with disabilities by race/ethnicity. (Indicator 4B)**

Names and titles of team members conducting the self-review:

_____	_____
_____	_____
_____	_____

For reviews required for significant discrepancy by race/ethnicity, indicate the name(s) of community representative(s) from diverse racial and ethnic backgrounds.

DIRECTIONS

This form establishes the protocol to conduct the self-review. The district must conduct a review of each area as identified on this protocol. Each page of the protocol provides the following information:

Area to be reviewed: The six areas that must be reviewed include:

1. Individual Evaluations of Students with Disabilities
2. Individualized Education Programs (IEPs)
3. Behavioral Intervention Plans
4. Manifestation Determinations
5. General Procedures for Disciplinary Removals
6. Interim Alternative Educational Settings and Instructional Services

Citation and Issue: Regulatory requirements that have been determined by SED to be most closely related to the area and suspensions of students with disabilities have been identified for review.

Documentation and Evidence: For each area, the protocol provides a specific list of documentation (information to look at) and evidence (information to look for) that must be considered in the district's review of its policies, procedures and practices in the identified area.

Number and Percentage of Compliance Based on Record Reviews: Upon completion of the individual record reviews, document the number of student records found in compliance for each citation. In the next column, calculate the percentage of compliance based on record reviews (total number of records in compliance divided by the total number of records reviewed).

Determination of Compliance: Y (Yes) or N (No): A notation of Y indicates that the district is in compliance with the specific regulatory requirement. A notation of N indicates that the district is not in compliance with the regulatory requirement. The determination of compliance for some of the issues may be able to be made based solely on the review of individual student records. Instances of compliance noted for fewer than 100 percent of the records reviewed must be indicated as noncompliance. For other issues, the school district will need to consider other sources of documentation as indicated on the protocol. The team should carefully review all findings from all the documentation and evidence to make its determination of compliance for each citation.

Findings: This page is to be used by the school district to document the review team's findings and to identify any corrective actions necessary to correct identified compliance issues. The district should also note any improvement activities necessary in the identified area, whether related to a compliance finding or not, to address the school district's significant discrepancy in its rate of long-term suspensions of students with disabilities.

This form must be kept on file by the school district and is not submitted to SED unless requested.

I. Individual Evaluations of Students with Disabilities

The district's evaluation policies, procedures and practices must be reviewed to determine if students with disabilities have received appropriate evaluations upon which to base positive behavioral supports and services that would prevent the behaviors from occurring.

Citation 8 NYCRR	Issue	Total # Records in Compliance (checked 'yes' or 'N/A')	Percentage in Compliance (total # records in compliance divided by total # of records reviewed)	Determination of Compliance Based on Record Review and Other Findings	
				Y	N
§200.4(b)(1)(v)	Individual evaluations of students with disabilities include a functional behavioral assessment (FBA) for students whose behaviors impede their learning or that of others.				
§200.4(b)(4)	The reevaluation is sufficient to determine the student's individual needs.				
§200.1(r)	FBAs identify the problem behavior, define the behavior in concrete terms, identify contextual factors that contribute to the behavior and formulate a hypothesis regarding the general conditions under which a behavior usually occurs and the probable consequences that serve to maintain it.				
§200.22(a)(2)	FBAs are based on multiple sources of data, including but not limited to, information obtained from direct observation of the student, information from the student, the student's teacher(s) and/or related service providers(s), a review of available data and information from the student's record and other sources including any relevant information provided by the student's parent. The FBA is not based solely on the student's history of presenting problem behaviors.				

Citation	Issue	Total # Records in Compliance (checked 'yes' or 'N/A')	Percentage in Compliance (total # records in compliance divided by total # of records reviewed)	Determination of Compliance Based on Record Review and Other Findings	
				Y	N
§200.22(a)(3)	The FBA provides a baseline of the student's problem behaviors with regard to frequency, duration, intensity, and/or latency across activities, settings, people and times of the day and includes information in sufficient detail to form the basis for a behavioral intervention plan for the student that addresses antecedent behaviors, reinforcing consequences of the behavior, recommendations for teaching alternative skills or behaviors and an assessment of student preferences for reinforcement.				
Documentation			Evidence		
Look at: <ul style="list-style-type: none"> • A random sample of records of students with disabilities suspended for 10 days or more • FBAs • Policies and procedures for individual evaluations and reevaluations • Staff interviews 			Look for evidence of: <ul style="list-style-type: none"> • FBAs in student records • FBAs conducted for individual and reevaluations • FBAs conducted subsequent to 10 or more day suspensions • FBA written reports include all components as defined in section 200.1(r) • Consistent implementation across different race/ethnic groups • Consistent implementation across disability categories 		

Individual Evaluations of Students with Disabilities

Findings

Description of specific details of noncompliance in policy, procedures and practices:

Corrective action required:

Improvement activities recommended:

II. Individualized Education Programs (IEP)

The IEPs of students with disabilities suspended for 10 days or more must be reviewed to ensure they include positive behavioral supports and services a student with a disability needs to prevent the occurrence of a behavior.

Citation 8 NYCRR	Issue	Total # Records in Compliance (checked 'yes' or 'N/A')	Percentage in Compliance (total # records in compliance divided by total # of records reviewed)	Determination of Compliance Based on Record Review and Other Findings	
				Y	N
§200.4(d)(3)(i)	For students whose behaviors impede their learning or that of others, the CSE considered strategies including positive behavioral interventions and supports and other strategies to address the behaviors.				
§200.3(d)(1)	The general education teacher participated, to the extent appropriate, in the development, review and revision of the student's IEP to assist in the determination appropriate positive behavioral interventions and strategies for the student.				
§200.22(b)(2)	A student's need for a behavioral intervention plan shall be documented in the IEP and such plan shall be reviewed at least annually by the CSE.				
§201.4(e)	If the manifestation team determined the conduct in question was the direct result of the school district's failure to implement the IEP, the school district took immediate steps to remedy those deficiencies.				
Documentation		Evidence			
Look at: <ul style="list-style-type: none"> • Samples of IEPs of students with disabilities suspended for 10 days or more • Student progress reports • CSE meeting minutes • Staff interviews 		Look for evidence of: <ul style="list-style-type: none"> • Behavioral needs documented in present levels of performance • Annual goals to address behavior needs related to the disability • Use of time out room documented on the IEP, if appropriate • Documentation on the IEP of student's need for a behavioral plan • Teacher recommendations for positive behavioral supports and services for the student • Consistency across race/ethnic groups • Consistency across disability categories 			

Individualized Education Programs (IEP)

Findings

Description of specific details of noncompliance in policy, procedures and practices:

Corrective action required:

Improvement activities recommended:

III. Behavioral Intervention Plans

Policies, procedures and practices to develop and implement appropriate behavioral intervention plans for students with disabilities must be reviewed to ensure the district is taking appropriate steps to prevent the reoccurrence of a student's behaviors.

Citation 8NYCRR	Issue	Total # Records in Compliance (checked 'yes' or 'N/A')	Percentage in Compliance (total # records in compliance divided by total # of records reviewed)	Determination of Compliance Based on Record Review and Other Findings	
				Y	N
§201.2(a)	Behavioral intervention plans are based on the results of the FBA and, at a minimum, include a description of the problem behavior, global and specific hypotheses as to why the problem behavior occurs and intervention strategies that include positive behavioral supports and services to address the behavior.				
§200.22(b)(4)(i)	BIPs identify the baseline measure of the problem behavior, including the frequency, duration, intensity and/or latency of the targeted behaviors. Such baseline, to the extent practicable, includes data taken across activities, settings, people and times of the day.				
§200.22(b)(4)(ii)	BIPs identify the intervention strategies to be used to alter antecedent events to prevent the occurrence of the behavior, teach individual alternative and adaptive behaviors to the student, and provide consequences for the targeted inappropriate behavior(s) and alternative acceptable behaviors.				
§200.22(b)(4)(iii)	BIPs include a schedule to measure the effectiveness of the interventions, including the frequency, duration and intensity of the targeted behaviors at scheduled intervals.				

Citation	Issue	Total # Records in Compliance (checked 'yes' or 'N/A')	Percentage in Compliance (total # records in compliance divided by total # of records reviewed)	Determination of Compliance Based on Record Review and Other Findings	
§200.22(b)(5)	The implementation of a student's BIP includes regular progress monitoring of the frequency, duration and intensity of the behavioral interventions at scheduled intervals. The results of the progress monitoring are documented and reported to the student's parents and to the CSE and are considered in any determination to revise the student's BIP or IEP.				
§201.3(a) and (b)	When a decision is made to impose a suspension on a student that constitutes a disciplinary change in placement (i.e., the student has been removed for more than 10 consecutive school days, or the student has been subjected to a series of removals that constitute a pattern) and the student's conduct was determined to be a manifestation of the student's disability, the CSE either conducts an FBA, unless one was conducted before the behavior that resulted in the change of placement occurred, and implements a BIP for that student; or, if the student already has a BIP, reviews the BIP and modifies it as necessary, to address the behavior.				
Documentation			Evidence		
Look at: <ul style="list-style-type: none"> • Written behavioral intervention plans for a sample of students suspended for more than 10 consecutive school days • Classroom visitations (behavioral intervention plan implementation) • Staff/parent interviews 			Look for evidence of: <ul style="list-style-type: none"> • Behavioral intervention plans that include the required components • Staff informed of their responsibilities to implement IEPs • Evidence of consistent implementation of behavioral plans • Regular review, revision and progress monitoring of plans • Documentation of student progress 		

Behavioral Intervention Plans

Findings

Description of specific details of noncompliance in policy, procedures and practices:

Corrective action required:

Improvement activities recommended:

IV. Manifestation Determinations

The district's policies, procedures and practices relating to manifestation determinations (a review of the relationship of the student's conduct to the disability) must be made to ensure that students with disabilities are not suspended or removed for more than 10 consecutive school days in a school year for behaviors related to their disabilities.

Citation 8 NYCRR	Issue	Total # Records in Compliance (checked 'yes' or 'N/A')	Percentage in Compliance (total # records in compliance divided by total # of records reviewed)	Determination of Compliance Based on Record Review and Other Findings	
				Y	N
§201.4(a)	The manifestation review is conducted immediately, but not later than 10 days after the decision to remove or suspend the student.				
§201.4(b)	A team that includes the student's parent, an individual knowledgeable about the student and the interpretation of behavior and other relevant members of the CSE as determined by the parent and the school district conducts the manifestation review. Parents are notified in writing of the meeting.				
§201.4(c)	The manifestation team reviews all relevant information in the student's file, including the student's IEP, any teacher observations and any relevant information provided by the parent.				
§201.4(d)	The manifestation team determines that the student's conduct is a manifestation of the student's disability if the conduct in question was caused by or had a direct and substantial relationship to the student's disability; or the conduct in question was the direct result of the school district's failure to implement the IEP.				
§201.4(d)(2)(ii)	If the conduct was determined to be related to the student's disability, the student is returned to the placement from which the student was removed (except drugs, weapons or serious bodily injury removals).				

V. General Procedures for Disciplinary Removals

The policies, procedures and practices of the school district must be reviewed to determine if the general procedures for disciplinary actions by school principals and superintendent's hearings ensure that the rights of students with disabilities under IDEA are protected.

Citation 8 NYCRR	Issue	Total # Records in Compliance (checked 'yes' or 'N/A')	Percentage in Compliance (total # records in compliance divided by total # of records reviewed)	Determination of Compliance Based on Record Review and Other Findings	
				Y	N
§201.7(a)	The parent is notified and provided a copy of the procedural safeguards notice no later than the date on which a decision is made to suspend or remove a student for more than 10 consecutive or cumulative school days (disciplinary change in placement) in a school year.				
§201.7(b)	Suspensions of students with disabilities do not exceed the amount of time that a nondisabled student would be subject to suspension for the same behavior.				
§201.7(d)	A student cannot be removed if imposition of a 5 or 10 day school suspension would result in a disciplinary change in placement based on a pattern of suspensions or removals, except where the behavior was determined not to be a manifestation of the student's disability or the student is placed in an IAES for behavior involving serious bodily injury, weapons, illegal drugs or controlled substances				
§201.7(f)	School personnel consider unique circumstances on a case-by-case basis when determining whether a disciplinary change in placement is appropriate for a student with a disability who violates the school's code of conduct.				
§201.9(c)(2)	If a manifestation team determines that the behavior is a manifestation of the student's disability, the penalty phase of a superintendent's hearing is dismissed, except where the student is placed in an IAES for behavior involving serious bodily injury, weapons, illegal drugs or controlled substances.				

VI. Interim Alternative Educational Settings (IAES) and Instructional Services

The temporary educational settings where students with disabilities are removed and education services provided to such students must be reviewed to ensure that students with disabilities receive the instructional services to which they are entitled.

Citation 8 NYCRR	Issue	Total # Records in Compliance (checked 'yes' or 'N/A')	Percentage in Compliance (total # records in compliance divided by total # of records reviewed)	Determination of Compliance Based on Record Review and Other Findings	
				Y	N
§201.10(b)	Students with disabilities of compulsory school age are provided with alternative instruction for short-term suspensions (10 days or less in the school year) on the same basis as nondisabled students.				
§201.10(c)	During suspensions of more than 10 school days in a school year that do not constitute a disciplinary change in placement, regardless of the manifestation determination, students with disabilities receive services necessary to enable them to continue to participate in the general curriculum and to progress toward their IEP goals. The extent to which services are needed is determined by school personnel, in consultation with at least one of the student's teachers.				
§201.10(d)	During suspensions of more than 10 school days in a school year which constitute a disciplinary change in placement, regardless of the manifestation determination, students with disabilities receive services necessary to enable them to continue to participate in the general curriculum and to progress toward their IEP goals. The IAES and the services to be provided to a student are determined by the CSE.				
Documentation			Evidence		
Look at: <ul style="list-style-type: none"> • Student records • Alternative instruction school records • CSE minutes • Suspension and Superintendent's hearing records 			Look for evidence of: <ul style="list-style-type: none"> • Alternative instruction substantially equivalent in content to the student's program and sufficient to permit the student to complete required coursework • Appropriate IAES placements 		

Individual Student Record Review Form

School District: _____

Building: _____

Person Completing Form: _____

Date of Record Review: _____

Student Name/ID:	DOB:
School:	Race/Ethnicity:
Grade/Program:	Disability:

Directions:

This form is designed to assist the team in compiling documentation of compliance findings. It is must be kept on file by the school district and is not submitted to SED unless requested.

Individual student records must be reviewed to look for information to determine if the student's individualized education program (IEP) has been reasonably calculated to prevent the occurrence of a behavior that may impede the student's learning or that of others and/or that may result in disciplinary action. Each compliance issue must have a notation for each student record reviewed.

- Put "Y" (yes) in the column if the item is present and meets compliance.
- Put "N" (no) in the column if the item is missing or if the item does not meet compliance.
- Put "NA" (not applicable) in the column if the item is not applicable to this student. An item should be noted as "not applicable" (NA) if it clearly does not pertain to the individual student. As examples:
 - Documentation that the reevaluation includes a functional behavioral assessment (FBA) would be noted as "NA" if the student has not been referred for a reevaluation or the student has not been receiving special education services for three years.
 - Documentation that the initial evaluation includes a FBA would be noted as "NA" if the student under review is a high school student but the initial evaluation was conducted when the student was in elementary school (e.g., too many years have passed for this to be a relevant issue; the requirement for a FBA upon initial evaluation was not in effect at the time the student was first evaluated).
- In the "Source of Data/Comments" column, indicate where the data to identify compliance was found (e.g., IEP). Provide comments such as "the evaluation should have been in native language, other than English, but was not."

Individual Evaluations

Citation 8 NYCRR	Issue	Y/ N/ NA	Source of Data/Comments
§200.4(b)(1) (v)	Individual evaluations of students with disabilities include a FBA for students whose behaviors impede their learning or that of others.		
§200.4(b)(4)	The reevaluation is sufficient to determine the student's individual needs.		
§200.1(r)	FBAs identify the problem behavior, define the behavior in concrete terms, identify contextual factors that contribute to the behavior and formulate a hypothesis regarding the general conditions under which a behavior usually occurs and the probable consequences that serve to maintain it.		
§200.22(a)(2)	FBAs are based on multiple sources of data, including but not limited to, information obtained from direct observation of the student, information from the student, the student's teacher(s) and/or related service providers(s), a review of available data and information from the student's record and other sources including any relevant information provided by the student's parent. The FBA is not based solely on the student's history of presenting problem behaviors.		
§200.22(a)(3)	The FBA provides a baseline of the student's problem behaviors with regard to frequency, duration, intensity, and/or latency across activities, settings, people and times of the day and includes information in sufficient detail to form the basis for a behavioral intervention plan for the student that addresses antecedent behaviors, reinforcing consequences of the behavior, recommendations for teaching alternative skills or behaviors and an assessment of student preferences for reinforcement.		

IEPS

Citation 8 NYCRR	Issue	Y/ N/ NA	Source of Data/Comments
§200.4(d)(3)(i)	For students whose behaviors impede their learning or that of others, the CSE considered strategies including positive behavioral interventions and supports and other strategies to address the behaviors.		
§200.3(d)(1)	The general education teacher, to the extent appropriate, participated in the development, review and revision of a student's IEP to assist in the determination of appropriate positive behavioral interventions and strategies for the student.		
200.22(b)(2)	A student's need for a behavioral intervention plan shall be documented on the IEP and such plan shall be reviewed at least annually by the CSE.		
§201.4(e)	If the manifestation team determined the conduct in question was the direct result of the school district's failure to implement the IEP, the school district took immediate steps to remedy those deficiencies.		

Behavioral Intervention Plans

Citation 8 NYCRR	Issue	Y/ N/ NA	Source of Data/Comments
§201.2(a)	Behavioral intervention plans are based on the results of the FBA and, at a minimum, include a description of the problem behavior, global and specific hypotheses as to why the problem behavior occurs and intervention strategies to address the behavior.		
§200.22(b)(4)(i)	BIPs identify the baseline measure of the problem behavior, including the frequency, duration, intensity and/or latency of the targeted behaviors. Such baseline, to the extent practicable, includes data taken across activities, settings, people and times of the day.		

Citation 8 NYCRR	Issue	Y/ N/ NA	Source of Data/Comments
§200.22(b)(4)(ii)	BIPs identify the intervention strategies to be used to alter antecedent events to prevent the occurrence of the behavior, teach individual alternative and adaptive behaviors to the student, and provide consequences for the targeted inappropriate behavior(s) and alternative acceptable behaviors.		
§200.22(b)(4)(iii)	BIPs include a schedule to measure the effectiveness of the interventions, including the frequency, duration and intensity of the targeted behaviors at scheduled intervals.		
§200.22(b)(5)	The implementation of a student's BIP includes regular progress monitoring of the frequency, duration and intensity of the behavioral interventions at scheduled intervals. The results of the progress monitoring are documented and reported to the student's parents and to the CSE and are considered in any determination to revise the student's BIP or IEP.		
§201.3(a)and (b)	When a decision is made to impose a suspension on a student that constitutes a disciplinary change in placement (i.e., the student has been removed for more than 10 consecutive school days, or the student has been subjected to a series of removals that constitute a pattern) and the student's conduct was determined to be a manifestation of the student's disability, the CSE either conducts an FBA, unless one was conducted before the behavior that resulted in the change of placement occurred, and implements a BIP for that student; or, if the student already has a BIP, reviews the BIP and modifies it as necessary, to address the behavior.		

Manifestation Determinations

Citation 8 NYCRR	Issue	Y/ N/ NA	Source of Data/Comments
§201.4(a)	The manifestation review is conducted immediately, but not later than 10 days after the decision to remove or suspend the student.		
§201.4(b)	A team that includes the student's parent, an individual knowledgeable about the student and the interpretation of behavior and other relevant members of the CSE as determined by the parent and the school district conducts the manifestation review. Parents are notified in writing of the meeting.		
§201.4(c)	The manifestation team reviews all relevant information in the student's file, including the student's IEP, any teacher observations and any relevant information provided by the parent.		
§201.4(d)(1)	The manifestation team determines that the student's conduct is a manifestation of the student's disability if the conduct in question was caused by or had a direct and substantial relationship to the student's disability; or the conduct in question was the direct result of the school district's failure to implement the IEP.		
§201.4(d) (2)(ii)	If the conduct was determined to be related to the student's disability, the student is returned to the placement from which the student was removed (except drugs, weapons or serious bodily injury removals).		

General Procedures for Disciplinary Removals

Citation 8 NYCRR	Issue	Y/ N/ NA	Source of Data/Comments
§201.7(a)	The parent is notified and provided a copy of the procedural safeguards notice no later than the date on which a decision is made to suspend or remove a student for more than 10 consecutive or cumulative school days (disciplinary change in placement) in a school year.		
§201.7(b)	Suspensions of students with disabilities do not exceed the amount of time that a nondisabled student would be subject to suspension for the same behavior.		

Citation 8 NYCRR	Issue	Y/ N/ NA	Source of Data/Comments
§201.7(d)	A student cannot be removed if imposition of a 5 or 10 day school suspension would result in a disciplinary change in placement based on a pattern of suspensions or removals, except where the behavior was determined not to be a manifestation of the student's disability or the student is placed in an IAES for behavior involving serious bodily injury, weapons, illegal drugs or controlled substances.		
§201.7(f)	School personnel consider unique circumstances on a case-by-case basis when determining whether a disciplinary change in placement is appropriate for a student with a disability who violates the school's code of conduct.		
§201.9(c)(2)	If a manifestation team determines that the behavior is a manifestation of the student's disability, the penalty phase of a superintendent's hearing is dismissed, except where the student is placed in an IAES for behavior involving serious bodily injury, weapons, illegal drugs or controlled substances.		

Interim Alternative Educational Settings (IAES) and Instructional Services

Citation 8 NYCRR	Issue	Y/ N/ NA	Source of Data/Comments
§201.10(b)	Students with disabilities of compulsory school age are provided with alternative instruction for short term suspensions (10 days or less in the school year) on the same basis as nondisabled students.		
§201.10(c)	During suspensions of more than 10 school days in a school year that do not constitute a disciplinary change in placement, regardless of the manifestation determination, students with disabilities receive services necessary to enable them to continue to participate in the general curriculum and to progress toward their IEP goals. The extent to which services are needed is determined by school personnel, in consultation with at least one of the student's teachers.		

Citation 8 NYCRR	Issue	Y/ N/ NA	Source of Data/Comments
§201.10(d)	During suspensions of more than 10 school days in a school year which constitute a disciplinary change in placement, regardless of the manifestation determination, students with disabilities receive services necessary to enable them to continue to participate in the general curriculum and to progress toward their IEP goals. The IAES and the services to be provided to a student are determined by the CSE.		

Sample of electronic form

Suspension Self-Review Monitoring Report to the New York State Education Department

Directions:

1. Go to <http://pd.nysed.gov>
2. Log on using the user id and password assigned to the PD data system contact person in your school district.
3. Click on the school year in which the self-review monitoring report is required.
4. Click on Self-Review Checklists and select the checklist for the appropriate issue, if there is more than one.
5. Follow the on-line directions to complete the form.
6. Using documentation from the Monitoring Protocol (Attachment 2), click the box under the "Yes" or "No" column as appropriate for each regulatory requirement. All citations must have a compliance indication.
7. Read the statement of verification of accuracy of data and if you agree, place a check in the box next to it.
8. Select "Click here to submit your data." Click on either the HTML Verification Report or the PDF Verification Report and print a copy.
9. Follow the directions on the verification report for any next steps that are noted on the verification report.

Statement of Verification of Accuracy

I verify that the information submitted in this report is accurate based upon the findings from the Suspension Self-Review Monitoring process.

Superintendent or Chief School Officer

Date submitted: ___/___/___

Sample of electronic form

Directions: Transfer findings for each regulatory citation from the last column of Attachment 2, "Determination of Compliance."

Citation 8 NYCRR	Issue	Are the district's policies, procedures and practices in compliance with federal and State law and regulations	
		Yes	No
§200.4(b)(1)(v)	Individual evaluations of students with disabilities include a functional behavioral assessment (FBA) for students whose behaviors impede their learning or that of others.	<input type="checkbox"/>	<input type="checkbox"/>
§200.4(b)(4)	The reevaluation is sufficient to determine the student's individual needs.	<input type="checkbox"/>	<input type="checkbox"/>
§200.1(r)	FBAs identify the problem behavior, define the behavior in concrete terms, identify contextual factors that contribute to the behavior and formulate a hypothesis regarding the general conditions under which a behavior usually occurs and the probable consequences that serve to maintain it.	<input type="checkbox"/>	<input type="checkbox"/>
§200.22(a)(2)	FBAs are based on multiple sources of data, including but not limited to, information obtained from direct observation of the student, information from the student, the student's teacher(s) and/or related service providers(s), a review of available data and information from the student's record and other sources including any relevant information provided by the student's parent. The FBA is not based solely on the student's history of presenting problem behaviors.	<input type="checkbox"/>	<input type="checkbox"/>
§200.22(a)(3)	The FBA provides a baseline of the student's problem behaviors with regard to frequency, duration, intensity, and/or latency across activities, settings, people and times of the day and includes information in sufficient detail to form the basis for a behavioral intervention plan for the student that addresses antecedent behaviors, reinforcing consequences of the behavior, recommendations for teaching alternative skills or behaviors and an assessment of student preferences for reinforcement.	<input type="checkbox"/>	<input type="checkbox"/>
§200.4(d)(3)(i)	For students whose behaviors impede their learning or that of others, the CSE considered strategies including positive behavioral interventions and supports and other strategies to address the behaviors.	<input type="checkbox"/>	<input type="checkbox"/>

Sample of electronic form

Citation 8 NYCRR	Issue	Are the district's policies, procedures and practices in compliance with federal and State law and regulations	
		Yes	No
§200.3(d)(1)	The general education teacher, to the extent appropriate, participated in the development, review and revision of the student's IEP to assist in the determination of appropriate positive behavioral interventions and strategies for the student.	<input type="checkbox"/>	<input type="checkbox"/>
200.22(b)(2)	A student's need for a behavioral intervention plan shall be documented on the IEP and such plan shall be reviewed at least annually by the CSE.	<input type="checkbox"/>	<input type="checkbox"/>
§201.4(e)	If the manifestation team determined the conduct in question was the direct result of the school district's failure to implement the IEP, the school district took immediate steps to remedy those deficiencies.	<input type="checkbox"/>	<input type="checkbox"/>
§201.2(a)	Behavioral intervention plans are based on the results of the FBA and, at a minimum, include a description of the problem behavior, global and specific hypotheses as to why the problem behavior occurs and intervention strategies to address the behavior.	<input type="checkbox"/>	<input type="checkbox"/>
§200.22(b)(4) (i)	BIPs identify the baseline measure of the problem behavior, including the frequency, duration, intensity and/or latency of the targeted behaviors. Such baseline, to the extent practicable, includes data taken across activities, settings, people and times of the day.	<input type="checkbox"/>	<input type="checkbox"/>
§200.22(b)(4) (ii)	BIPs identify the intervention strategies to be used to alter antecedent events to prevent the occurrence of the behavior, teach individual alternative and adaptive behaviors to the student, and provide consequences for the targeted inappropriate behavior(s) and alternative acceptable behaviors.	<input type="checkbox"/>	<input type="checkbox"/>
§200.22(b)(4) (iii)	BIPs include a schedule to measure the effectiveness of the interventions, including the frequency, duration and intensity of the targeted behaviors at scheduled intervals.	<input type="checkbox"/>	<input type="checkbox"/>

Sample of electronic form

Citation 8 NYCRR	Issue	Are the district's policies, procedures and practices in compliance with federal and State law and regulations	
		Yes	No
§200.22(b) (5)	The implementation of a student's BIP includes regular progress monitoring of the frequency, duration and intensity of the behavioral interventions at scheduled intervals. The results of the progress monitoring are documented and reported to the student's parents and to the CSE and are considered in any determination to revise the student's BIP or IEP.	<input type="checkbox"/>	<input type="checkbox"/>
§201.3(a) and (b)	When a decision is made to impose a suspension on a student that constitutes a disciplinary change in placement (i.e., the student has been removed for more than 10 consecutive school days, or the student has been subjected to a series of removals that constitute a pattern) and the student's conduct was determined to be a manifestation of the student's disability, the CSE either conducts an FBA, unless one was conducted before the behavior that resulted in the change of placement occurred, and implements a BIP for that student; or, if the student already has a BIP, reviews the BIP and modifies it as necessary, to address the behavior.	<input type="checkbox"/>	<input type="checkbox"/>
§201.4(a)	The manifestation review is conducted immediately, but not later than 10 days after the decision to remove or suspend the student.	<input type="checkbox"/>	<input type="checkbox"/>
§201.4(b)	A team that includes the student's parent, an individual knowledgeable about the student and the interpretation of behavior and other relevant members of the CSE as determined by the parent and the school district conducts the manifestation review. Parents are notified in writing of the meeting.	<input type="checkbox"/>	<input type="checkbox"/>
§201.4(c)	The manifestation team reviews all relevant information in the student's file, including the student's IEP, any teacher observations and any relevant information provided by the parent.	<input type="checkbox"/>	<input type="checkbox"/>
§201.4(d)(1)	The manifestation team determines that student's conduct of is a manifestation of the student's disability if the conduct in question was caused by or had a direct and substantial relationship to the student's disability; or the conduct in question was the direct result of the school district's failure to implement the IEP.	<input type="checkbox"/>	<input type="checkbox"/>

Sample of electronic form

Citation 8 NYCRR	Issue	Are the district's policies, procedures and practices in compliance with federal and State law and regulations	
		Yes	No
§201.4(d) (2)(ii)	If the conduct was determined to be related to the student's disability, the student is returned to the placement from which the student was removed (except drugs, weapons or serious bodily injury removals).	<input type="checkbox"/>	<input type="checkbox"/>
§201.7(a)	The parent is notified and provided a copy of the procedural safeguards notice no later than the date on which a decision is made to suspend or remove a student for more than 10 consecutive or cumulative school days (disciplinary change in placement) in a school year.	<input type="checkbox"/>	<input type="checkbox"/>
§201.7(b)	Suspensions of students with disabilities do not exceed the amount of time that a nondisabled student would be subject to suspension for the same behavior.	<input type="checkbox"/>	<input type="checkbox"/>
§201.7(d)	A student cannot be removed if imposition of a 5 or 10 day school suspension would result in a disciplinary change in placement based on a pattern of suspensions or removals, except where the behavior was determined not to be a manifestation of the student's disability or the student is placed in an IAES for behavior involving serious bodily injury, weapons, illegal drugs or controlled substances.	<input type="checkbox"/>	<input type="checkbox"/>
§201.7(f)	School personnel consider unique circumstances on a case-by-case basis when determining whether a disciplinary change in placement is appropriate for a student with a disability who violates the school's code of conduct.	<input type="checkbox"/>	<input type="checkbox"/>
§201.9(c)(2)	If a manifestation team determines that the behavior is a manifestation of the student's disability, the penalty phase of a superintendent's hearing is dismissed, except where the student is placed in an IAES for behavior involving serious bodily injury, weapons, illegal drugs, or controlled substances.	<input type="checkbox"/>	<input type="checkbox"/>
§201.10(b)	Students with disabilities of compulsory school age are provided with alternative instruction for short-term suspensions (10 days or less in the school year) on the same basis as nondisabled students.	<input type="checkbox"/>	<input type="checkbox"/>

Sample of electronic form

Citation 8 NYCRR	Issue	Are the district's policies, procedures and practices in compliance with federal and State law and regulations	
		Yes	No
§201.10(c)	During suspensions of more than 10 school days in a school year that do not constitute a disciplinary change in placement, regardless of the manifestation determination, students with disabilities receive services necessary to enable them to continue to participate in the general curriculum and to progress toward their IEP goals. The extent to which services are needed is determined by school personnel, in consultation with at least one of the student's teachers.	<input type="checkbox"/>	<input type="checkbox"/>
§201.10(d)	During suspensions of more than 10 days in a school year which constitute a disciplinary change in placement, regardless of the manifestation determination, students with disabilities receive services necessary to enable them to continue to participate in the general curriculum and to progress toward their IEP goals. The IAES and the services to be provided to a student are determined by the CSE.	<input type="checkbox"/>	<input type="checkbox"/>