

## Definition and Process

**Indicator 4:** Significant discrepancy in the rates of suspension and expulsions for students with IEPs of greater than 10 days in a school year.

Step 1	<p>Self Assessment Tool Completion</p> <p><u>School Identified for Significant Discrepancy</u></p>	<p><b>Met SPP indicator target:</b> Any school not identified with significant discrepancy of suspension and expulsion rates for students with IEPs of greater than 10 days in a school year <i>is encouraged</i> to complete the Self-Assessment Tool.</p> <ol style="list-style-type: none"> <li>a. Identify potential areas in need of improvement related to significant discrepancy of suspension and expulsion rates for students with IEPs, and revise policies, practices and procedures as necessary to reflect compliance.</li> <li>b. No submittal of information to BIE-DPA is required at this time.</li> </ol> <p><b>Did not met SPP indicator target:</b> All schools identified with significant discrepancy of suspension and expulsion rates for students with IEPs of greater than 10 days in a school year <b>must</b> complete the Self-Assessment Tool.</p> <p><b>School Identified for Significant Discrepancy</b>          – Complete the following sections:</p> <ul style="list-style-type: none"> <li>• Behavioral management and discipline (Behavioral Planning in the IEP)</li> <li>• Disciplinary Removals of Students with Disabilities (including procedural safeguards re: discipline)</li> <li>• Procedural Safeguards and IEP Implementation</li> </ul> <ol style="list-style-type: none"> <li>a. Review school policies, procedures and practices specific to the identified disability to determine if the identified practices within the self assessment occur.</li> <li>b. Answer Yes if the practice does occur and is defined within school policies.             <ul style="list-style-type: none"> <li>- Provide the specific section/page within school policies, practices and procedures in which the practice is defined.</li> </ul> </li> <li>c. Answer NO if the practice does not occur and is not defined within school policies.             <ul style="list-style-type: none"> <li>- Identify the Corrective Action Plan activities that will target the specific practice and include timelines for completion.</li> </ul> </li> </ol>
Step 2	<p>Self Assessment Tool Submittal and Review</p> <p><u>School Identified for Significant Discrepancy only</u></p>	<p><b>School Identified for Significant Discrepancy</b></p> <ol style="list-style-type: none"> <li>a. <b><u>- All practices occur and are documented within policies:</u></b> <ul style="list-style-type: none"> <li>- Submit an <b>electronic copy</b> of the completed Self Assessment tool and a copy of the specific school practices that have been identified in the Self Assessment Tool. Please highlight/color code and identify each specific practice.</li> </ul> </li> <li>b. <b><u>- Some practices do not occur and are not documented within policies:</u></b> <ul style="list-style-type: none"> <li>- Submit an <b>electronic copy</b> of the completed Self Assessment tool and the Corrective Action Plan activities. The school is responsible for <b>implementing and completing the CAP activities within one year upon receipt of written notification of finding.</b></li> </ul> </li> <li>c. - A summary report will be required at the end of the year to document progress of Corrective Action Plan activities.</li> </ol>

## Suspension/Expulsion >10 Days and Disability Categorization

School: \_\_\_\_\_ Date Submitted to BIE-DPA: \_\_\_\_\_

**Indicator 4A:**  
 Significant discrepancy in the rates of suspensions and expulsions of students with IEPs for greater than 10 days in a school year.

If **any category** is flagged, (any number >0), completion of Self-Assessment Tool, which begins on the next page, is required.

**Understanding the 10-Day Rule: Removals for Up to 10 Consecutive Days vs. Series of Short-term Removals**

The 10-Day rule (CFR 34 615(k)(1)(B)) allows schools personnel to remove a SWD for “not more than 10 school days” by applying the same disciplinary action, (including suspension), as is applied to nondisabled students. Schools can utilize the 10-Day rule to remove a SWD for either:

- A removal of not more than 10 consecutive schooldays; or
- Short-term removals (in which each removal is less than 10) for separate instances over the course of a school year, where a pattern of behavior is not identified.

**\*\*Neither type of removal is a change of placement under IDEA.**

**Pattern of Behavior (POB) considerations:**

- Is the behavior substantially similar to the behavior in the previous incidents?
- What was the nature of the offense?
- What was the length of each removal?
- What was the total amount of time the SWD was removed?
- How close in time are the incidents?
- IEP considerations? Implementation of Positive Behavior Supports- BIP?

**If a pattern exists, the school’s proposed suspension would constitute a change in placement and change of placement rules would apply.**

### SWD Discipline Data

<b>Indicator # 4A Significant Discrepancy</b>  (Suspensions: In-School, >10 days)	Number of SWD having ISS of short-term removals cumulating a total >10 Days, or 10 consecutive school days	Beginning on the 11 <sup>th</sup> day of disciplinary removal, SWD is provided participation in general education curriculum and special education services. -School personnel, in consultation with at least one of the student’s teacher’s, must determine the extent to which services are needed to enable the student to continue in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student’s IEP. (34 CFR Section 300.530(d)(4))
<div style="border: 1px solid black; width: 100%; height: 40px; margin: 0 auto;"></div>		

<b>Indicator #4A Significant Discrepancy</b>  (Out of school suspension, expulsions >10 days)	Number of SWD having Out-of-School Suspension totaling >10 Days	Number of SWD having/ Out-of-School Expulsion Totaling >10 Days
<div style="border: 1px solid black; width: 100%; height: 40px; margin: 0 auto;"></div>	<div style="border: 1px solid black; width: 100%; height: 40px; margin: 0 auto;"></div>	<div style="border: 1px solid black; width: 100%; height: 40px; margin: 0 auto;"></div>

<b>Indicator # 4A Significant Discrepancy</b>  (Total number of suspension, expulsions >10 days)	Number of SWD having Disciplinary Removals Totaling >10 Days	School SWD Student Count	School SWD percentage rate of suspensions and expulsions >10 days
<div style="border: 1px solid black; width: 100%; height: 40px; margin: 0 auto;"></div>	<div style="border: 1px solid black; width: 100%; height: 40px; margin: 0 auto;"></div>	<div style="border: 1px solid black; width: 100%; height: 40px; margin: 0 auto;"></div>	<div style="border: 1px solid black; width: 100%; height: 40px; margin: 0 auto;"></div>

(Percentage rate= # Disciplinary Removals Totaling >10 Days /SWD student count)

**Note: To complete the following Self-Assessment Tool, keep in mind each identified disability category to determine if school policies, procedures and practices reflect their specific academic, cultural and personal needs – both within the general education classroom as well as special education and related services.**

### Disability Category of SWD Suspension/Expulsion >10 Days

40 Mental Retardation	41 Hearing Impairment	42 Speech or language impairment	43 Visual Impairment	44 Emotional Disturbance	45 Orthopedic Impairment	46 Other health Impairment

47 Specific Learning Disabilities	48 Deaf-Blindness	49 Multiple Disabilities	50 Autism	51 Traumatic Brain Injury	52 Developmental Delay

**\*Identified for Significant Discrepancy\***

Complete Behavioral Management and Discipline, Disciplinary Removals of Students with Disabilities, IEP Implementation and Procedural Safeguards.

**Self-Assessment for Significant Discrepancy in the Rates Long Term Suspensions/Expulsions of Students with IEPs  
State Performance Plan (SPP) Indicator 4**

**Policy, Procedures, and Practices**

<b>Behavioral Management and Discipline</b>	<b>Practice Occurs Y/N</b>	<b>YES - Provide specific reference (section, page) within school policies, practices and procedures document in which this practice is defined.</b>
<p><b>Behavioral planning in the IEP.</b> Pursuant to <b>34 CFR Section 324(a)(2)(i)</b>, the IEP team for a child with a disability whose behavior impedes his or her learning or that of others shall consider, if appropriate, strategies to address that behavior, including the development of behavioral goals and objectives and the use of positive behavioral interventions, strategies and supports to be used in pursuit of those goals and objectives. Public agencies are strongly encouraged to conduct functional behavioral assessments (FBAs) and integrate behavioral intervention plans (BIPs) into the IEPs for students who exhibit problem behaviors well before the behaviors result in proposed disciplinary actions for which FBAs and BIPs are required under the federal regulations.</p>		
<p><b>Suspensions, expulsions and disciplinary changes of placement.</b> Suspensions, expulsions and other disciplinary changes of placement for children with disabilities shall be carried out in compliance with all applicable requirements of <b>34 CFR Sections. 300.530-300.536</b>, and these or other department rules and standards, which govern interim disciplinary placements and long-term suspensions or expulsions of students with disabilities.</p>		
<p><b>FAPE for children removed from current placement for more than 10 school days in a school year.</b> FAPE shall be provided in compliance with all applicable requirements of <b>34 CFR Section 300.530(d)</b> and these or other department rules and standards for all children with disabilities who have been removed from their current educational placements for disciplinary reasons for more than 10 school days during a school year, as defined in <b>34 CFR Section 300.536</b>.</p>		
<p>Schools must keep an accurate accounting of suspension and expulsion rates for children with disabilities as compared to children without disabilities to ensure that children with disabilities are not being expelled or suspended at a significantly higher rate than children without disabilities.</p>		
<p><b>NO – Provide Improvement Plan Activities in the LSPP or CAP</b> Activities must be included if the school has been identified as having a practice as not occurring. Activities need to be completed within 1 year from date of BIE-DPA written notification.</p>	<p align="center"><b>Anticipated Completion Date</b></p>	

<p align="center"><b>Disciplinary Removals of Students with Disabilities</b></p>	<p align="center"><b>Practice Occurs Y/N</b></p>	<p align="center"><b>YES - Provide specific reference (section, page) within school policies, practices and procedures document in which this practice is defined.</b></p>
<p><b>A. General.</b> The following rules shall apply when a student with a disability under IDEA violates a rule of conduct as set forth in this rule which may result in:</p> <p>(1) long-term suspension or expulsion;</p> <p>(2) any other disciplinary change of the student’s current educational placement as specified in the federal regulations implementing IDEA at <b>34 CFR Sections. 300.5-300.536</b> and these or other department rules and standards.</p>		
<p><b>B. When behavior is not a manifestation of disability.</b> For disciplinary changes in placement that would exceed 10 consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child’s disability, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities, except as provided in <b>Subsection I of this section.</b></p>		
<p><b>C. Manifestation determination.</b></p> <p>(1) Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a rule of student conduct, the administrative authority, the parent and relevant members of the child’s IEP team (as determined by the parent and the administrative authority) must review all relevant information in the student’s file, including the child’s IEP, any teacher observations and any relevant information provided by the parents to determine:</p> <p>(a) if the conduct in question was caused by, or had a direct and substantial relationship to the child’s disability; or</p> <p>(b) if the conduct in question was the direct result of the administrative authority’s failure to implement the IEP.</p> <p>(2) The conduct must be determined to be a manifestation of the child’s disability if the administrative authority, the parent and relevant members of the child’s IEP team determine that a condition in either <b>Subparagraph (a) or (b) of Paragraph (1)</b> was met.</p> <p>(3) If the administrative authority, the parent and relevant members of the child’s IEP team determine the condition described in <b>Subparagraph (b) of Paragraph (1)</b> was met, the administrative authority must take immediate steps to remedy those deficiencies.</p>		
<p><b>D. Determination that behavior is manifestation of disability.</b></p> <p>If the administrative authority, the parent and relevant members of the IEP team make the determination that the conduct was a manifestation of the child’s disability, the IEP team must comply within <b>34 CFR Section 300.530(f).</b></p>		
<p><b>E. Special circumstances.</b></p> <p>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’s</p>		

<p>behavior involves one of the special circumstances listed in <b>34 CFR Section 300.530(g)</b>. For purposes of this subsection, the definitions provided in <b>34 CFR Section 300.530(i)</b> shall apply.</p>		
<p><b>F. Determination of setting.</b> The student’s IEP team determines the interim alternative educational setting for services under <b>Subsections B and E of this section</b>.</p>		
<p><b>G. Change of placement because of disciplinary removals.</b> For purposes of removals of a student with a disability from the child’s current educational placement, a change of placement occurs if the conditions provided in <b>34 CFR Section 300.536</b> are met.</p>		
<p><b>H. Parental notification.</b> On the date on which the decision is made to make a removal that constitutes a change of placement of a student with a disability because of a violation of a code of student conduct, the administrative authority must notify the parents of that decision, and provide the parents the procedural safeguards notice described in <b>34 CFR Section 300.504</b>.</p>		
<p><b>I. Services.</b> A student with a disability who is removed from the student’s current placement pursuant to this section must continue to receive special education and related services as provided in <b>34 CFR Section 300.530(d)</b>.</p>		
<p><b>J. Appeal.</b> (1) The parent of a student with a disability who disagrees with any decision regarding the placement or the manifestation determination under this section, or an administrative authority that believes that maintaining the current placement of the student is substantially likely to result in injury to the student or others may appeal the decision by requesting a hearing. The hearing is requested by filing a complaint pursuant to <b>Subsection I</b>.  (2) A hearing officer who hears a matter under <b>Paragraph (1) of Subsection J</b>, has the authority provided in <b>34 CFR Section 300.532(b)</b>.  (3) When an appeal under this subsection has been made by either the parent or the administrative authority, the student must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period specified in <b>Subsections B or E of this section</b>, whichever occurs first, unless the parent and the administrative authority agree otherwise.</p>		
<p><b>NO – Provide Improvement Plan Activities in the LSPP or CAP</b> Activities must be included if the school has been identified as having a practice as not occurring. Activities need to be completed within 1 year from date of BIE-DPA written notification.</p>	<p><b>Anticipated Completion Date</b></p>	

<p align="center"><b>Individualized Education Program (IEP) Implementation</b></p>	<p align="center"><b>Practice Occurs Y/N</b></p>	<p align="center"><b>YES - Provide specific reference (section, page) within school policies, practices and procedures document in which this practice is defined.</b></p>
<p><b>34 CFR 300.323(a)(c)(d)(e)(f)(g)</b>  <b>When IEPs must be in effect.</b>  <i>(a) General.</i>            At the beginning of each school year, each public agency must have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in <b>34 CFR Section 300.320</b>.</p> <p><i>(c) Initial IEPs; provision of services.</i>            Each public agency must ensure that—            (1) A meeting to develop an IEP for a child is conducted within 30 days of a determination that the child needs special education and related services; and            (2) As soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child’s IEP.</p> <p><i>(d) Accessibility of child’s IEP to teachers and others.</i>            Each public agency must ensure that—            (1) The child’s IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation; and            (2) Each teacher and provider described in <b>paragraph (d)(1) of this section</b> is informed of—            (i) His or her specific responsibilities related to implementing the child’s IEP; and            (ii) The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.</p> <p><i>(e) IEPs for children who transfer public agencies in the same State.</i> If a child with a disability (who had an IEP that was in effect in a previous public agency in the same State) transfers to a new public agency in the same State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide FAPE to the child (including services comparable to those described in the child’s IEP from the previous public agency), until the new public agency either—            (1) Adopts the child’s IEP from the previous public agency; or            (2) Develops, adopts, and implements a new IEP that meets the applicable requirements in <b>34 CFR Sections 300.320-300.324</b>.</p> <p><i>(f) IEPs for children who transfer from another State.</i>            If a child with a disability (who had an IEP that was in effect in a previous public agency in another State) transfers to a public agency in a new State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide the child with FAPE (including services comparable to those described in the child’s IEP from the previous public agency), until the new public agency—</p>		

<p>(1) Conducts an evaluation pursuant to <b>34 CFR Sections 300.304-300.306</b> (if determined to be necessary by the new public agency); and</p> <p>(2) Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in <b>34 CFR Sections 300.320-300.324</b>.</p> <p>(g) <i>Transmittal of records.</i> To facilitate the transition for a child described in paragraphs (e) and (f) of this section—</p> <p>(1) The new public agency in which the child enrolls must take reasonable steps to promptly obtain the child’s records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous public agency in which the child was enrolled, pursuant to <b>34 CFR 99.31(a)(2)</b>; and</p>		
<p><b>34 CFR 324(a)(2)(i)</b> <b>Development, review, and revision of IEP.</b> (a) <i>Development of IEP—(1) General.</i> In developing each child’s IEP, the IEP Team must consider—</p> <p>(2) <i>Consideration of special factors.</i> The IEP Team must—</p> <p>(i) In the case of a child whose behavior impedes the child’s learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior;</p>		
<p><b>34 CFR 324(a)(3)</b> <b>Development, review, and revision of IEP.</b> (3) <i>Requirement with respect to regular education teacher.</i> A regular education teacher of a child with a disability, as a member of the IEP Team, must, to the extent appropriate, participate in the development of the IEP of the child, including the determination of—</p> <p>(i) Appropriate positive behavioral interventions and supports and other strategies for the child;</p>		
<p><b>34 CFR 300.504</b> <b>Procedural safeguards notice.</b> (a) <i>General.</i> A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents only one time a school year, except that a copy also must be given to the parents—</p> <p>(1) Upon initial referral or parent request for evaluation;</p> <p>(2) Upon receipt of the first State complaint under <b>34 CFR Sections 300.151-300.153</b> and upon receipt of the first due process complaint under <b>34 CFR Section 300.507</b> in a school year;</p> <p>(3) In accordance with the discipline procedures in <b>34 CFR Section 300.530(h)</b>; and</p> <p>(4) Upon request by a parent.</p> <p>(b) <i>Internet Web site.</i> A public agency may place a current copy of the procedural safeguards notice on its Internet Web site if a Web site exists.</p>		

<p>(c) <i>Contents.</i></p> <p>The procedural safeguards notice must include a full explanation of all of the procedural safeguards available under <b>34 CFR Section 300.148, 34 CFR Sections 300.151-300.153, 34 CFR Section 300.300, 34 CFR Sections 300.502-300.503, 34 CFR Sections 300.505-300.518, 34 CFR Section 300.520, 34 CFR Sections 300.530-300.536 and 34 CFR Sections 300.610-300.625</b> relating to—</p> <ol style="list-style-type: none"> <li>(1) Independent educational evaluations;</li> <li>(2) Prior written notice;</li> <li>(3) Parental consent;</li> <li>(4) Access to education records;</li> <li>(5) Opportunity to present and resolve complaints through the due process complaint and State complaint procedures, including— <ol style="list-style-type: none"> <li>(i) The time period in which to file a complaint;</li> <li>(ii) The opportunity for the agency to resolve the complaint; and</li> <li>(iii) The difference between the due process complaint and the State complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures;</li> </ol> </li> <li>(6) The availability of mediation;</li> <li>(7) The child’s placement during the pendency of any due process complaint;</li> <li>(8) Procedures for students who are subject to placement in an interim alternative educational setting;</li> <li>(9) Requirements for unilateral placement by parents of children in private schools at public expense;</li> <li>(10) Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations;</li> <li>(11) State-level appeals (if applicable in the State);</li> <li>(12) Civil actions, including the time period in which to file those actions; and</li> <li>(13) Attorneys’ fees.</li> </ol> <p>(d) <i>Notice in understandable language.</i></p> <p>The notice required under <b>paragraph (a) of this section</b> must meet the requirements of <b>34 CFR Section 300.503(c).</b></p>		
<p><b>NO – Provide Improvement Plan Activities in the LSPP or CAP</b></p> <p>Activities must be included if the school has been identified as having a practice as not occurring. Activities need to be completed within 1 year from date of BIE-DPA written notification.</p>	<p><b>Anticipated Completion Date</b></p>	

# **Bureau of Indian Education Self-Assessment Tool**

## **Long-Term Suspension/Expulsion Rates**

*State Performance Plan (SPP) Indicator 4 A  
Significant Discrepancy*

<i>Local School Agency (School) Name:</i>	
<i>School Contact Name:</i>	
<i>School Contact Email:</i>	
<i>School Contact Phone:</i>	