SCHOOL DISTRICT SELF-REVIEW MONITORING PROTOCOL
Revised November 2011

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

For self reviews to be conducted during the 2012 school year and thereafter

New York State Education Department
Albany, NY 12234

November 2011

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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 data showing:

- significant discrepancy in the rate of long-term suspensions of students with disabilities (34 CFR §300.170(a)(1)); and/or
- significant discrepancy in the rate of long-term suspensions of students with disabilities by race/ethnicity (34 CFR §300.170(a)(2)); and/or
- significant disproportionality based on race and ethnicity in the incidence, duration, and type of disciplinary actions, including suspensions and expulsions (34 CFR §300.646(a)(3)).

Long-term suspension means an out-of-school suspension of greater than 10 days in a school year. For purposes of identification of a school district as having a significant discrepancy in the rate of long-term suspension of students with disabilities, data on removal of students to interim alternative educational settings (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 is not considered.

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://www.p12.nysed.gov/sedcar/data.htm and results are submitted 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 interventions, 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 or, as appropriate, subjected to identified disciplinary actions, 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.

<u>Forms to Guide the Self-Review</u>

- **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. The district must conduct the review following this process.

- **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 unless requested, but should be used to guide the district 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 as to 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. Each individual student record review form must be available for review upon request by SED.

- **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 at http://pd.nysed.gov. Directions and due dates are posted at http://www.p12.nysed.gov/sedcar/data.htm.**

IV. Identification of Noncompliance

The team must carefully review all findings from all the documentation and evidence to make its determination of compliance for each regulatory requirement on the School District Self-Review Monitoring Protocol (Attachment 2).

- Any absent or inappropriate policy, procedure or practice must be reported as noncompliance.

- When fewer than 100 percent of the total number of student records reviewed show evidence that a particular regulatory requirement has been met, the regulation must be reported as noncompliance.

V. Report to the State Education Department (SED)

Unless otherwise directed by 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

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 School District Self-Review Monitoring Protocol (Attachment 2) the steps the school district will take (i.e., corrective actions required and improvement activities recommended) to correct findings of noncompliance;
- correct all instances of noncompliance, **including for each individual student, any findings of noncompliance found for that student,** immediately, but not later than one year from identification of the issues (i.e., date reported to SED); 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.)
- In addition, for issues of significant disproportionality by race/ethnicity in the incidence, duration, and type of disciplinary actions, including suspensions and expulsions, publicly report (e.g., public meeting, posting on school district website) on the revision of policies, practices and procedures (34 CFR §300.646).

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 Support Centers (RSE-TASC) - http://www.p12.nysed.gov/specialed/techassist/rsetasc/

- Quality Indicator Review and Resource Guide on Behavioral Supports and Interventions - http://www.p12.nysed.gov/specialed/techassist/behaviorQI.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/publications/briefs.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* - www.p12.nysed.gov/specialed/publications/policy/functionbehav.htm

- *Discipline Procedures for Students with Disabilities (under revision)* - http://www.p12.nysed.gov/specialed/publications/policy/discipcover.htm

- Section 200.22 and Part 201 of the Regulations of the Commissioner of Education - http://www.p12.nysed.gov/specialed/lawsregs/part200.htm

- *Requirements Relating to the Use of Behavioral Interventions and Supports* - http://www.p12.nysed.gov/specialed/publications/policy/BI-909.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.p12.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.	• 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 a representative of the Regional Special Education Technical Assistance Support Centers (RSE-TASC), and, when the review is required because of identification of a significant discrepancy and/or disproportionality 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.	• Assign staff responsible to: o Identify the sample of students o Complete the student record reviews o 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.	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, and/or by the type of disciplinary action for the race/ethnicity group identified for disproportionality. • 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,

Activity	Recommendations and Required Components of the Review
	based on the record reviews, you are finding inconclusive patterns of policy implementation. For **Indicator 4A** - Ensure the sample of student records is representative of the student population and school buildings (e.g., building, age/grade, disability category, race/ethnicity, special education program/placement). For **Indicator 4B and/or disproportionality identifications by disciplinary action** – 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. **For districts identified for both 4A and 4B and/or disproportionality identifications by disciplinary action** - (1) select the student records to be representative of the student population and school buildings as required for 4A and (2) add 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 the Committee on Special Education (CSE) and manifestation team meetings, individualized education programs (IEPs), disciplinary reports and notices to parents.
6. Compile all the results. • Individual Student Record Reviews • Review of policies and procedures • Class observation and interviews	One individual should be assigned to collect the data from all the Individual Student Record Review forms. Compile the findings from the Individual Student Record Review forms, notes from class observations, progress monitoring charts, reviews of policies and procedures, etc.; and transfer the findings to the self-review protocol (Attachment 2).
7. 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.	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/or disproportionality by race/ethnicity in

Activity	Recommendations and Required Components of the Review
	disciplinary actions, and to determine whether the school district's policies, procedures and/or practices are in compliance with State requirements. On the Self-Review Monitoring Protocol: o Document compliance and noncompliance. o Describe the specific details of noncompliance. o Identify what must be corrected and how it will be corrected. o Set a timetable for correction. All compliance must be corrected no later than one year from the date of identification (i.e., date reported to the State Education Department (SED)). o Identify and document improvement activities (e.g., staff development).
8. Submit the completed Self-Review Monitoring Protocol (Attachment 2) to the Superintendent of Schools or Chief School Officer for approval and certification of accuracy.	The Superintendent of Schools or Chief School Officer must review the completed School District Self-Review Monitoring Protocol to accept responsibility for the accuracy of the compliance report.
9. Submit a report to SED (see sample in Attachment 4).	Manner of submission: Web-based electronic submission. To submit this form, go to http://pd.nysed.gov The Superintendent of Schools or Chief School Officer must verify that the report to be submitted to SED provides accurate data and information. Print the Self-Review Monitoring Report after submitting the report for record-keeping purposes.

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: _____

Check all that apply based on the State Education Department's (SED) notification to the school district. If a school district is identified for both Indicators 4A and 4B, the same self review protocol is 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)**
- ☐ **Review required for disproportionality by race/ethnicity in the incidence, duration and type of disciplinary actions. (34 CFR §300.646(a))**

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

_____ _____

_____ _____

_____ _____

For reviews required for significant discrepancy and/or disproportionality 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 and/or disproportionality by race/ethnicity in disciplinary actions.

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)	Functional behavioral assessments (FBAs) are conducted as part of an individual evaluation of a student whose behavior impedes his or her learning or that of others.				
§200.22(a)(1)	FBAs are conducted when a decision is made to impose a suspension that constitutes a disciplinary change in placement[1] and the manifestation team determines that the conduct subject to disciplinary action was a manifestation of the student's disability (unless the school district conducted an FBA before the behavior that resulted in the change of placement occurred).				
§200.1(r)	FBA means the process of determining why a student engages in the behaviors that impede learning and how the student's behavior relates to the environment. The FBA must include, but is not limited to the: • identification of the problem behavior; • definition of the behavior in concrete terms; • identification of the contextual factors that contribute to the behavior (including cognitive and affective factors); and • formulation of a hypothesis regarding the general conditions under which a behavior usually occurs and the probable consequences that serve to maintain it.				

[1] *Disciplinary change in placement* means a suspension or removal from a student's current educational placement for more than 10 consecutive school days or a series of suspensions or removals that cumulate to more than 10 school days in a school year and constitutes a pattern pursuant to §201.2(e)(2).

Documentation	Evidence
Look at: • A random sample of records of students with disabilities suspended for 10 days or more • FBAs • Policies and procedures for individual evaluations and reevaluations	**Look for evidence of:** • 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

Individual Evaluations of Students with Disabilities

Findings	
Description of specific details of noncompliance in policy, procedures and practices:	**Corrective action required, including:** • **The steps the school district will take to correct any findings of noncompliance found for individual students.** • **Identification of the policies and procedures that will be revised.**
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
§200.22(b)(2)	If a particular device or service, including an intervention, accommodation or other program modification is needed to address a student's behavior that impedes his or her learning or that of others, the IEP must so indicate. A student's need for a behavioral intervention plan (BIP) must be documented on the IEP.				
§200.4(e)(3)	The school district must ensure that the recommendations of a student's IEP, including changes made to the IEP after the annual review, are implemented.				
§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: • Samples of IEPs of students with disabilities suspended for 10 days or more • Student progress reports • Committee on Special Education (CSE) meeting minutes	**Look for evidence of:** • Behavioral needs documented in present levels of performance • Annual goals to address behavior needs related to the disability • Use of time out room documented in the IEP, if appropriate • Documentation in the IEP of student's need for a BIP • Consistency across race/ethnic groups

Individualized Education Programs (IEP)

Findings	
Description of specific details of noncompliance in policy, procedures and practices:	**Corrective action required, including:** • **The steps the school district will take to correct any findings of noncompliance found for individual students.** • **Identification of the policies and procedures that will be revised.**
Improvement activities recommended:	

III. Behavioral Intervention Plans

Policies, procedures and practices to develop and implement appropriate behavioral intervention plans (BIP) 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)	BIPs 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.				
§201.3	If the conduct resulting in the suspension is determined to be a manifestation of (related to) the student's disability, the school district implemented a BIP for the student, or if a BIP had already been developed, reviewed the BIP and modified it as necessary to address the behavior.				
§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, as specified in the BIP and on the student's IEP. 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 a student's BIP or IEP.				

Documentation	Evidence
Look at: • 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 • Student progress reports	**Look for evidence of:** • BIPs 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, including:** • **The steps the school district will take to correct any findings of noncompliance found for individual students.** • **Identification of the policies and procedures that will be revised.**
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 or a series of suspensions or removals that cumulate to more than 10 school days in a school year and constitutes a pattern 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)	A review of the relationship between the student's disability and the behavior subject to disciplinary action is conducted immediately, if possible, but in no case later than 10 days after a decision is made to impose a suspension that constitutes a disciplinary change in placement.				
§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** • was the direct result of the school district's failure to implement the IEP.				
§201.4(d)(2)(ii)	If the manifestation team determines that the conduct was a manifestation of (related to) the student's disability, the CSE returns the student to the placement from which the student was removed (except for a change in placement to an IAES for behavior involving serious bodily injury, weapons, illegal drugs or controlled substances).				

Documentation	Evidence
Look at: • Manifestation team minutes • Parent notification letters, including references to dates (i.e., the date of the superintendent's decision to impose a suspension that constitutes a disciplinary change in placement and the date of the manifestation review) • Superintendent's hearing proceedings	**Look for evidence of:** • Full team participation • Decisions based on a review of relevant information • Consistency in manifestation determination procedures among students by race/ethnicity • Manifestation reviews being conducted within the required timeline

Manifestation Determinations

Findings	
Description of specific details of noncompliance in policy, procedures and practices:	**Corrective action required, including:** • **The steps the school district will take to correct any findings of noncompliance found for individual students.** • **Identification of the policies and procedures that will be revised.**
Improvement activities recommended:	

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 procedural 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 impose a suspension or removal that constitutes a disciplinary change in placement.				
§201.7(b)	The suspension or removal of students with disabilities does not exceed the amount of time that a nondisabled student would be subject to suspension for the same behavior.				
§201.7(f)	School personnel consider any 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 interim alternative educational setting (IAES) for behavior involving serious bodily injury, weapons, illegal drugs or controlled substances.				

Documentation	Evidence
Look at: • Notification letters to parents for disciplinary actions • Files of students with disabilities and nondisabled students • Discipline files/suspension records • Superintendent's hearing records	**Look for evidence of:** • Parents notified of meetings and their rights under IDEA • Suspensions of students with disabilities that do not exceed the amount of time nondisabled students would be subject to for the same behaviors • Unique needs of students with disabilities were considered in penalty determinations • Manifestation reviews are conducted prior to imposing a penalty of more than 10 days • Frequency and duration of suspensions are equitable by race/ethnicity

General Procedures for Disciplinary Removals

Findings	
Description of specific details of noncompliance in policy, procedures and practices:	**Corrective action required, including:** • **The steps the school district will take to correct any findings of noncompliance found for individual students.** • **Identification of the policies and procedures that will be revised.**
Improvement activities recommended:	

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 attendance 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.				
§201.2(k)(1)	A student who is placed in an IAES must continue to receive educational services so as to: • enable the student to continue to participate in the general education curriculum, although in another setting; and • progress toward meeting the goals set out in the student's IEP.				
§201.2(k)(2)	A student who is placed in an IAES must receive, as appropriate, an FBA and behavioral intervention services and modifications that are designed to address the violation so that it does not recur.				
§201.10(c)	During suspensions for periods of 10 school days (or less that total 10 or more school days) in a school year, but do not constitute a disciplinary change in placement, school personnel, in consultation with at least one of the student's teachers, determine the extent to which services are needed.				
§201.10(d)	During suspensions or other disciplinary removals in excess of 10 school days in a school year which constitute a disciplinary change in placement, the IAES and services are determined by the CSE.				

Documentation	Evidence
Look at: • Student records • Alternative instruction school records • CSE minutes • Suspension and Superintendent's hearing records • Student progress reports • Prior written notice	**Look for evidence of:** • Alternative instruction substantially equivalent in content to the student's program and sufficient to permit the student to complete required coursework • Appropriate IAES placements • Length of removal considered in the CSE determination of IAES and type and extent to which instructional services are provided • Students receiving appropriate content area instruction • Students receiving IEP services and modifications to progress toward goals • Student progress reports reflect progress during periods of suspension • Consistent implementation by race/ethnicity; disability categories • Prior written includes the setting for the IAES and the special education services that are to be provided to the student in the IAES

Interim Alternative Educational Settings and Instructional Services

Findings	
Description of specific details of noncompliance in policy, procedures and practices:	**Corrective action required, including:** • **The steps the school district will take to correct any findings of noncompliance found for individual students.** • **Identification of the policies and procedures that will be revised.**
Improvement activities recommended:	

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 the State Education Department (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. For example:

  Documentation that students with disabilities of compulsory attendance age are provided with alternative instruction for short-term suspensions on the same basis as nondisabled students would be noted as "NA" if the student under review is not of compulsory attendance age.
- 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)	Functional behavioral assessments (FBAs) are conducted as part of an individual evaluation of a student whose behavior impedes his or her learning or that of others.		
§200.22(a)(1)	FBAs are conducted when a decision is made to impose a suspension that constitutes a disciplinary change in placement and the manifestation team determines that the conduct subject to disciplinary action was a manifestation of the student's disability (unless the school district conducted an FBA before the behavior that resulted in the change of placement occurred).		
§200.1(r)	FBA means the process of determining why a student engages in the behaviors that impede learning and how the student's behavior relates to the environment. The FBA must include, but is not limited to the: • identification of the problem behavior; • definition of the behavior in concrete terms; • identification of the contextual factors that contribute to the behavior (including cognitive and affective factors); and • formulation of a hypothesis regarding the general conditions under which a behavior usually occurs and the probable consequences that serve to maintain it.		

IEPS

Citation 8 NYCRR	Issue	Y/ N/ NA	Source of Data/Comments
§200.22(b)(2)	If a particular device or service, including an intervention, accommodation or other program modification is needed to address a student's behavior that impedes his or her learning or that of others, the IEP must so indicate. A student's need for a behavioral intervention plan (BIP) must be documented in the IEP.		

Citation 8 NYCRR	Issue	Y/ N/ NA	Source of Data/Comments
§200.4(e)(3)	The school district must ensure that the recommendations of a student's IEP, including changes made to the IEP after the annual review, are implemented.		
§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)	BIPs 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.		
§201.3	If the conduct resulting in the suspension is determined to be a manifestation of (related to) the student's disability, the school district implemented a BIP for the student, or if a BIP had already been developed, reviewed the BIP and modified it as necessary to address the behavior.		
§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, as specified in the BIP and in the student's IEP. 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.		

Manifestation Determinations

Citation 8 NYCRR	Issue	Y/ N/ NA	Source of Data/Comments
§201.4(a)	A review of the relationship between the student's disability and the behavior subject to disciplinary action is conducted immediately, if possible, but in no case later than 10 days after a decision is made to impose a suspension that constitutes a disciplinary change in placement.		
§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** • was the direct result of the school district's failure to implement the IEP.		
§201.4(d)(2)(ii)	If the manifestation team determines that the conduct was a manifestation of (related to) the student's disability, the Committee on Special Education (CSE) returns the student to the placement from which the student was removed (except for a change in placement to an interim alternative educational setting (IAES) for behavior involving serious bodily injury, weapons, illegal drugs or controlled substances).		

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 impose a suspension or removal that constitutes a disciplinary change in placement.		

Citation 8 NYCRR	Issue	Y/ N/ NA	Source of Data/Comments
§201.7(b)	The suspension or removal of students with disabilities does not exceed the amount of time that a nondisabled student would be subject to suspension for the same behavior.		
§201.7(f)	School personnel consider any 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 attendance 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.		
§201.2(k)(1)	A student who is placed in an IAES must continue to receive educational services so as to: • enable the student to continue to participate in the general education curriculum, although in another setting; and • progress toward meeting the goals set out in the student's IEP.		
§201.2(k)(2)	A student who is placed in an IAES must receive, as appropriate, an FBA and behavioral intervention services and modifications that are designed to address the violation so that it does not recur.		

Citation 8 NYCRR	Issue	Y/ N/ NA	Source of Data/Comments
§201.10(c)	During suspensions for periods of 10 school days (or less that total 10 or more school days) in a school year, but do not constitute a disciplinary change in placement, school personnel, in consultation with at least one of the student's teachers, determine the extent to which services are needed.		
§201.10(d)	During suspensions or other disciplinary removals in excess of 10 school days in a school year which constitute a disciplinary change in placement, the IAES and services 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)	Functional behavioral assessments (FBAs) are conducted as part of an initial evaluation or reevaluation of a student whose behavior impedes his or her learning or that of others.	☐	☐
§200.22(a)(1)	FBAs are conducted when a decision is made to impose a suspension that constitutes a disciplinary change in placement and the manifestation team determines that the conduct subject to disciplinary action was a manifestation of the student's disability (unless the school district conducted an FBA before the behavior that resulted in the change of placement occurred).	☐	☐
§200.1(r)	FBA means the process of determining why a student engages in the behaviors that impede learning and how the student's behavior relates to the environment. The FBA must include, but is not limited to the: • identification of the problem behavior; • definition of the behavior in concrete terms; • identification of the contextual factors that contribute to the behavior (including cognitive and affective factors); and • formulation of a hypothesis regarding the general conditions under which a behavior usually occurs and the probable consequences that serve to maintain it.	☐	☐
§200.22(b)(2)	If a particular device or service, including an intervention, accommodation or other program modification is needed to address a student's behavior that impedes his or her learning or that of others, the individualized education program (IEP) must so indicate. A student's need for a behavioral intervention plan (BIP) must be documented in the IEP.	☐	☐
§200.4(e)(3)	The school district must ensure that the recommendations of a student's IEP, including changes made to the IEP after the annual review, are implemented.	☐	☐

Sample of electronic form

Attachment 4

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(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.	☐	☐
§201.2(a)	BIPs 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.	☐	☐
§201.3	If the conduct resulting in the suspension is determined to be a manifestation of (related to) the student's disability, the school district implemented a BIP for the student, or if a BIP had already been developed, reviewed the BIP and modified it as necessary to address the behavior.	☐	☐
§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, as specified in the BIP and on the student's IEP. 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 a student's BIP or IEP.	☐	☐
§201.4(a)	A review of the relationship between the student's disability and the behavior subject to disciplinary action is conducted immediately, if possible, but in no case later than 10 days after a decision is made to impose a suspension that constitutes a disciplinary change in placement.	☐	☐
§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.	☐	☐

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)(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** • was the direct result of the school district's failure to implement the IEP.	☐	☐
§201.4(d)(2)(ii)	If the manifestation team determines that the conduct was a manifestation of (related to) the student's disability, the CSE returns the student to the placement from which the student was removed (except for a change in placement to an interim alternative educational setting (IAES) for behavior involving serious bodily injury, weapons, illegal drugs or controlled substances).	☐	☐
§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 impose a suspension or removal that constitutes a disciplinary change in placement.	☐	☐
§201.7(b)	The suspension or removal of students with disabilities does not exceed the amount of time that a nondisabled student would be subject to suspension for the same behavior.	☐	☐
§201.7(f)	School personnel consider any 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.	☐	☐
§201.10(b)	Students with disabilities of compulsory attendance 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.	☐	☐

Sample of electronic form

Attachment 4

Citation 8 NYCRR	Issue	Are the district's policies, procedures and practices in compliance with federal and State law and regulations	
		Yes	No
§201.2(k)(1)	A student who is placed in an IAES must continue to receive educational services so as to: • enable the student to continue to participate in the general education curriculum, although in another setting; and • progress toward meeting the goals set out in the student's IEP.	☐	☐
§201.2(k)(2)	A student who is placed in an IAES must receive, as appropriate, an FBA and behavioral intervention services and modifications that are designed to address the violation so that it does not recur.	☐	☐
§201.10(c)	During suspensions for periods of 10 school days (or less that total 10 or more school days) in a school year, but do not constitute a disciplinary change in placement, school personnel, in consultation with at least one of the student's teachers, determine the extent to which services are needed.	☐	☐
§201.10(d)	During suspensions or other disciplinary removals in excess of 10 school days in a school year which constitute a disciplinary change in placement, the IAES and services are determined by the CSE.	☐	☐