

STUDENTS WITH DISABILITIES

The procedures relating to the discipline of students with (or suspected) disabilities requires that school administrators work closely with their school psychologist and the committee on special education to consider whether or not the behavior is a ‘manifestation’ of the student’s disability. How this question is answered affects how the discipline should be implemented.

The principal has the authority to suspend a student with a disability for a period, not to exceed 5 consecutive school days, and not to exceed the amount of time that a non-disabled student would be subject to suspension for the same behavior.

The superintendent may order the placement of a student with a disability into an interim alternate educational placement (IAES), another setting or suspension for up to 10 consecutive school days for the same behavior, if the superintendent determines that the student warrants a suspension (in accordance with Education Law 3214). The duration of any such suspension or removal shall not exceed the amount of time that non-disabled students would be subject to suspension for the same behavior. The superintendent may order additional suspensions, of not more than 10 consecutive school days, in the same year, for separate incidents of misconduct.

Any suspension of a student with a disability, for more than 10 school days, over the course of the school year, shall be referred to the committee on special education for placement in an IAES during the time of such suspensions - when the suspensions constitute a disciplinary change in placement. If the CSE finds that the behavior leading to the suspension is related to the student’s disability, no further suspension may be imposed, and the student must return to the placement he or she was in prior to the suspension, unless:

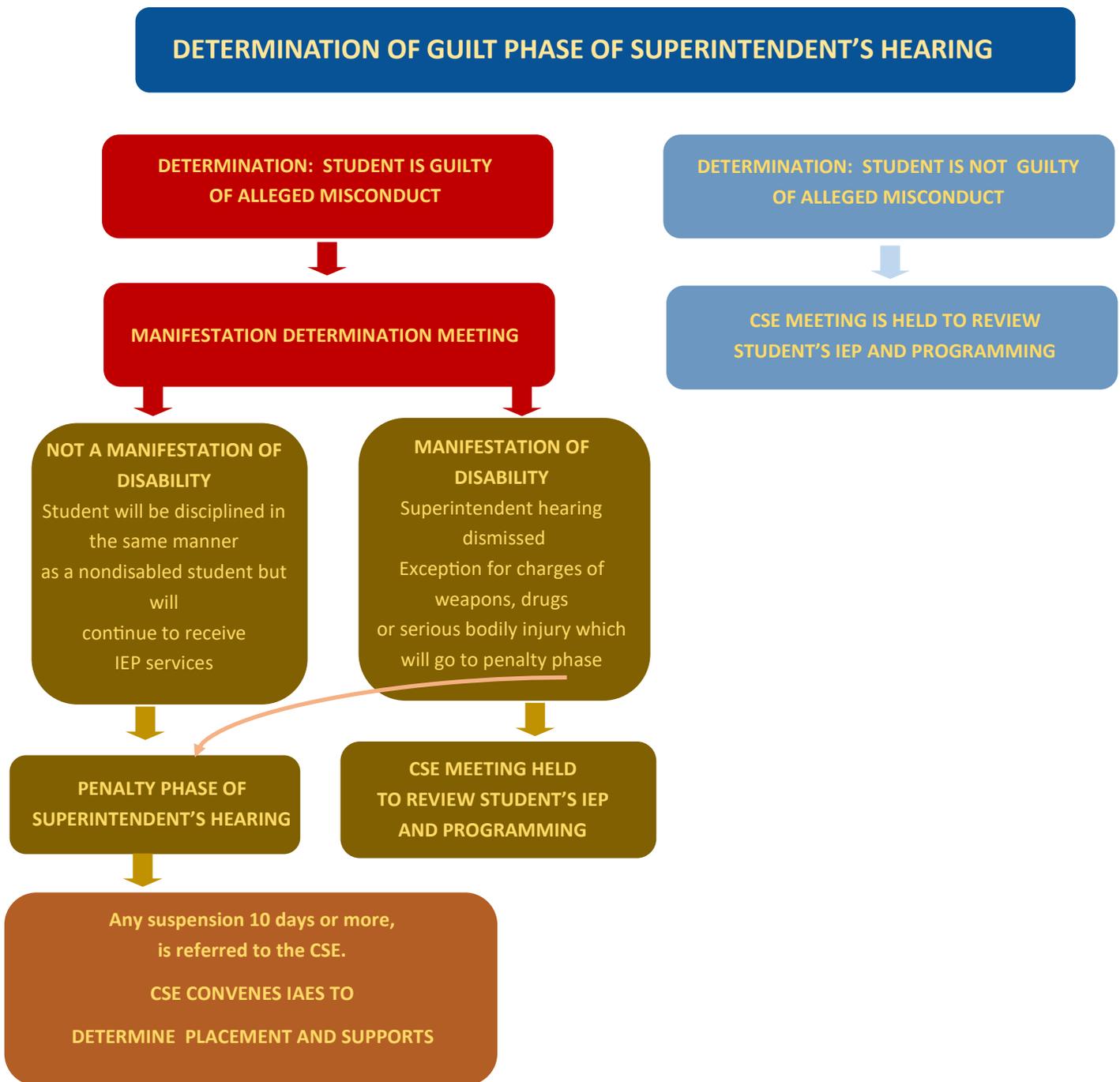
- 1) the CSE decides to recommend a new placement with which the parent agrees; or
- 2) the behavior involved drugs, weapons, or inflicted serious bodily injury.

There is an exception when the student is found guilty of possessing, using, selling or soliciting illegal drugs, using or possessing a weapon or inflicting serious bodily injury. In this case, the superintendent may suspend the student for up to 45 school days even if the manifestation team finds that the behavior leading to the suspension was related to the student’s disability.

During a superintendent’s hearing, if the manifestation team finds that the behavior leading to the student’s suspension is **not** a manifestation of the student’s disability, the student will be referred back to the hearing for the penalty phase. The superintendent may impose the same period of suspension applicable to a non-disabled student.

If the superintendent concludes, based upon the evidence presented at the hearing, that maintaining the student in his or her current educational placement is dangerous, the matter will be referred to the CSE to determine whether additional steps can be reasonably taken to minimize the potential for harm. If the CSE is unable to identify additional supports or services to eliminate the danger, and the CSE is unable to reach a mutually agreeable alternative plan to continue the student's education elsewhere, the district director of pupil personnel services may—after consultation with the superintendent—initiate an expedited hearing or petition a court to seek permission to enforce a unilateral removal of the student.

PROCEDURE FOR FORMAL HEARING OF STUDENTS WITH DISABILITIES OR PRESUMED DISABILITIES



A student will not be a student presumed to have a disability for discipline purposes if the district either:

1. conducted an individual evaluation and determined that the student is not a student with a disability, or
2. The parent of the student has refused services, or
3. The parent of the student has not allowed an evaluation of the student pursuant to Section 200.4 of the commissioner's regulations.