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REGULATIONS OF THE COMMISSIONER OF EDUCATION
Pursuant to Sections 207, 3214, 4403, 4404 and 4410 of the Education Law

PART 201 - PROCEDURAL SAFEGUARDS FOR STUDENTS WITH DISABILITIES SUBJECT TO DISCIPLINE
(Includes all Amendments through October 2008)

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PART 201
PROCEDURAL SAFEGUARDS FOR STUDENTS WITH DISABILITIES SUBJECT TO DISCIPLINE

201.1 Purpose.

The purpose of this Part is to implement the procedural protections of paragraph g of subdivision 3 of section 3214 and subdivision 1 of section 4404 of the Education Law relating to student discipline by coordinating the general procedures for suspension of students under Education Law section 3214 with the requirements of section 615(k) of the Individuals with Disabilities Education Act (20 U.S.C. section 1415[k]) and the Federal regulations implementing such statute.

201.2 Definitions.

As used in this Part, the following terms shall have the following meanings:

(a) *Behavioral intervention plan* means a plan that is based on the results of the functional behavioral assessment and, at a minimum, includes 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.

(b) *Committee on special education or CSE* means a committee on special education, subcommittee on special education, or other multidisciplinary team established in accordance with Education Law section 4402 or, in the case of a preschool student with a disability, the committee on preschool special education.

(c) *Controlled substance* means a drug or other substance identified under schedule I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. section 812[c]) (*United States Code*, 1994 edition, volume 11; Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402-9328: 1995 - available at the Office of Vocational and Educational Services for Individuals with Disabilities, Room 1624, One Commerce Plaza, Albany, NY 12234).

(d) *Day* shall mean a calendar day, except where a school day or business day is specified.

(1) *School day* means any day, including a partial day, that students are in attendance at school for instructional purposes. The term *school day* has the same meaning for all students in school, including students with and without disabilities.

(2) *Business day* means Monday through Friday, except for Federal and State holidays (unless holidays are specifically included in the designation of business day).

(e) *Disciplinary change in placement* means a suspension or removal from a student's current educational placement that is either:

(1) for more than 10 consecutive school days; or

(2) for a period of 10 consecutive days or less if the student is subjected to a series of suspensions or removals that constitute a pattern because they cumulate to more than 10 school days in a school year; because the student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals; and because of such additional factors as the length of each suspension or removal, the total amount of time the student has been removed and the proximity of the suspensions or removals to one another. The school district determines on a case-by-case basis whether a pattern of removals constitutes a change of placement. This determination is subject to review through due process and judicial proceedings.

(f) *Expedited due process hearing* means an impartial hearing conducted in an expedited manner under the circumstances and in accordance with the procedures specified in section 201.11 of this Part.

(g) *Expedited evaluation* means an individual evaluation conducted in an expedited manner under the circumstances and in accordance with the procedures specified in section 201.6 of this Part.

(h) *Functional behavioral assessment* means a functional behavioral assessment as defined in section 200.1(r) of this Title.

(i) *Illegal drug* means a controlled substance, but does not include a controlled substance legally possessed or used under the supervision of a licensed health-care professional or a substance that is otherwise legally possessed or used under the authority of the Controlled Substances Act or under any other provision of Federal law.

(j) *Impartial hearing officer* means an impartial hearing officer as defined in section 200.1(x) of this Title who is appointed to conduct an impartial hearing or expedited due process hearing pursuant to Education Law section 4404(1). Such term shall not include a hearing officer designated by a superintendent of schools to conduct a superintendent's hearing pursuant to Education Law section 3214(3)(c).

(k) *Interim alternative educational setting or IAES* a temporary educational placement, other than the student's current placement at the time the behavior precipitating the IAES placement occurred. A student who is placed in an IAES shall:

(1) 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 to progress toward meeting the goals set out in the student's IEP; and

(2) receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur.

(l) *Removal means:* (1) a removal of a student with a disability for disciplinary reasons from that student's current educational placement, other than a suspension as defined in subdivision (r) of this section; and

(2) the change in placement of a student with a disability to an IAES by an impartial hearing officer pursuant to section 201.8 of this Part. Such term shall also include the change of placement of a student with a disability to an IAES pursuant to section 201.7(e) of this Part made in conjunction with a suspension.

(m) *Serious bodily injury* means bodily injury which involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

(n) *Student presumed to have a disability for discipline purposes* means a student who the school district is deemed to have knowledge was a student with a disability before the behavior that precipitated disciplinary action under the criteria in section 201.5(b) of this Part.

(o) *Student with a disability* means a student with a disability as defined in section 200.1(zz) of this Part or a preschool student with a disability as defined in section 200.1(mm) of this Part.

(p) *Superintendent* or *superintendent of schools* means a superintendent of schools of a school district, including a community superintendent, or the chief school officer of an approved private school. Such term does not include a district superintendent of schools.

(q) *Superintendent's hearing* means a disciplinary hearing conducted pursuant to Education Law section 3214(3)(c) and (g) by a superintendent of schools, or a hearing officer designated by a superintendent of schools, to determine whether

a student should be suspended from instruction for more than five consecutive school days.

(r) *Suspension* means suspension pursuant to Education Law section 3214(3)(a) through (d).

(s) *Weapon* means a weapon, device, instrument, material or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than two and one-half inches in length.

201.3 CSE responsibilities for functional behavioral assessments and behavioral intervention plans.

If the manifestation team pursuant to section 201.4 of this Part, makes the determination that the conduct subject to the disciplinary action was a manifestation of the student's disability, the CSE must either:

(a) conduct a functional behavioral assessment, unless the school district had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the student; or

(b) if a behavioral intervention plan has already been developed, review the behavioral intervention plan and modify it as necessary to address the behavior.

201.4 Manifestation determinations.

(a) *General requirement for manifestation review.* A review of the relationship between the student's disability and the behavior subject to disciplinary action to determine if the conduct is a manifestation of the disability must be made immediately, if possible, but in no case later than 10 school days after:

(1) a decision is made by a superintendent of schools to change the placement of a student to an interim alternative educational setting pursuant to section 201.7(e) of this Part; or

(2) a decision is made by an impartial hearing officer to place a student in an interim alternative educational setting pursuant to section 201.8 of this Part; or

(3) a decision is made by a board of education, district superintendent of schools, building principal or superintendent pursuant to section 201.7(a) or (b) of this Part to impose a suspension that constitutes a disciplinary change in placement.

(b) *Individuals to carry out review*. A review described in subdivision (a) of this section shall be conducted by a manifestation team in a meeting, which shall include a representative of the school district knowledgeable about the student and the interpretation of information about child behavior, the parent and relevant members of the CSE as determined by the parent and the school district. The parent must receive written notification prior to any manifestation team meeting to ensure that the parent has an opportunity to attend. The notification shall inform the parent of the purpose of the meeting, the names of the individuals expected to attend and inform the parent of his or her right to have relevant members of the CSE participate at the parent's request.

(c) *Conduct of review*. The manifestation team shall review all relevant information in the student's file including the student's IEP, any teacher observations, and any relevant information provided by the parents to determine if:

(1) the conduct in question was caused by or had a direct and substantial relationship to the student's disability; or

(2) the conduct in question was the direct result of the school district's failure to implement the IEP.

(d) *Determination.* (1) The conduct must be determined to be a manifestation of the student's disability if the manifestation team determines that a condition in either paragraph (c)(1) or (2) of this section was met.

(2) If the manifestation team determines that the conduct was a manifestation of the student's disability, the CSE shall:

(i) conduct a functional behavioral assessment and implement a behavioral intervention plan for such student in accordance with section 201.3 of this Part; and

(ii) except as provided in section 201.7(e) of this Part, return the student to the placement from which the student was removed, unless the parent and the school district agree to a change of placement as part of the modification of the behavioral intervention plan.

(e) *Deficiencies in IEP.* If the manifestation team determines the conduct in question was the direct result of the school district's failure to implement the IEP, the school district must take immediate steps to remedy those deficiencies.

201.5 Students presumed to have a disability for discipline purposes.

(a) *General provision*. The parent of a student who has violated any rule or code of conduct of the school district and was not identified as a student with a disability at the time of such behavior may assert any of the protections set forth in this

Part, if the school district is deemed to have had knowledge as determined in accordance with subdivision (b) of this section, that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred. Where the school district is deemed to have had knowledge that the student was a student with a disability before such behavior occurred, such student is a "student presumed to have a disability for discipline purposes."

(b) *Basis of knowledge*. Except as otherwise provided in subdivision (c) of this section, a school district shall be deemed to have knowledge that such student had a disability if prior to the time the behavior occurred:

(1) the parent of such student has expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency or to a teacher of the student that the student is in need of special education, provided that such expression of concern may be oral if the parent does not know how to write or has a disability that prevents a written statement; or

(2) the parent of the student has requested an evaluation of the student pursuant to section 200.4 or 200.16 of this Title; or

(3) a teacher of the student, or other personnel of the school district, has expressed specific concerns about a pattern of behavior demonstrated by the student, directly to the director of special education of the school district or to other supervisory personnel of the school district.

(c) Exception. A student is not a student presumed to have a disability for discipline purposes if, as a result of receiving the information specified in subdivision (b) of this section:

(1) the parent of the student has not allowed an evaluation of the student pursuant to section 200.4 of this Title; or

(2) the parent of the student has refused services under this Part; or

(3) it was determined that the student is not a student with a disability pursuant to section 200.4 or 200.16 of this Title.

(d) *Responsibility for determining whether a student is a student presumed to have a disability.* If it is claimed by the parent of the student or by school district personnel that the school district had a basis for knowledge, in accordance with paragraph (b) of this section, that the student was a student with a disability prior to the time the behavior subject to disciplinary action occurred, it shall be the responsibility of the superintendent of schools, building principal or other school official imposing the suspension or removal to determine whether the student is a student presumed to have a disability.

(e) *Conditions that apply if there is no basis for knowledge*. If the superintendent of schools, building principal or other school official imposing the disciplinary removal determines that there is no basis for knowledge that the student is a student with a disability prior to taking disciplinary measures against the student, the student may be subjected to the same disciplinary measures as any other nondisabled student who engaged in comparable behaviors. However, if a request for an individual evaluation is made while such nondisabled student is subjected to a disciplinary removal, an expedited evaluation shall be conducted in accordance with 201.6 of this Part.

201.6 CSE responsibilities for expedited evaluations.

(a) If a request for an individual evaluation is made during the period that a nondisabled student, who is not a student presumed to have a disability for discipline purposes, is suspended pursuant to Education Law section 3214 or is subjected to a removal as defined in section 201.2(l) of this Part if imposed on a student with a disability, the evaluation must be conducted in an expedited manner in accordance with this section.

(b) An expedited evaluation shall be completed no later than 15 school days after receipt of parent consent for evaluation, and shall be conducted in accordance with the procedural requirements of sections 200.4 and 200.5 of this Title. The CSE shall make a determination of eligibility of such student in a meeting held no later than five school days after completion of the expedited evaluation.

(c) Until the expedited evaluation is completed, the nondisabled student shall remain in the educational placement determined by the school district, which can include suspension.

(d) If, as a result of an expedited evaluation, the student is determined to be a student with a disability, the school district shall provide special education to the student pursuant to Part 200 of this Title and the provisions of this Part relating to students with disabilities shall apply.

201.7 General procedures for suspensions and removals of students with disabilities.

(a) *Parental notice of disciplinary removal*. No later than the date on which a decision is made to change the placement of a student with a disability to an IAES pursuant to subdivision (e) of this section or pursuant to section 201.8 of this Part, or a decision is to impose a suspension or removal pursuant to this Subpart that constitutes a disciplinary change in placement, the parent shall be notified of such decision and shall be provided the procedural safeguards notice in accordance with section 200.5(f) of this Title.

(b) *Five school day suspension or removal.* Except as otherwise provided in subdivision (d) of this section, the trustees or board of education of any school district, a district superintendent of schools or a building principal with authority to suspend students pursuant to Education Law section 3214(3)(b) and (g), shall have authority to order the placement of a student with a disability into an appropriate interim alternative educational setting, another setting or suspension for a period not to exceed five consecutive school days, and not to exceed the amount of time that a nondisabled student would be subject to suspension for the same behavior.

(c) *Ten school day suspension or removal.* Except as otherwise provided in subdivision (d) of this section, a superintendent of schools, either directly or upon recommendation of a hearing officer designated to conduct a superintendent's hearing pursuant to Education Law, section 3214(3)(c) and (g), may order the placement of a student with a disability into an interim alternative educational setting, another setting or suspension for up to 10 consecutive school days, inclusive of any period in which the student has been suspended or removed pursuant to subdivision (b) of this section for the same behavior, where the superintendent determines in accordance with the procedures set forth in Education Law section 3214(3)(c) that the student has engaged in behavior that warrants a suspension, provided that the duration of any such suspension or removal shall not exceed the amount of time that a nondisabled student would be subject to suspension for the same behavior. Except as otherwise provided in subdivision (d) of this section, a superintendent of schools may order additional suspensions of not more than 10 consecutive school days in the same school year for separate incidents of misconduct.

(d) *Exception for pattern of suspensions or removals*. A student with a disability may not be removed pursuant to subdivision (b) or (c) of this section if imposition of the 5 school day or 10 school day suspension or removal would result in a disciplinary change in placement based on a pattern of suspensions or removals as determined by school personnel in accordance with the criteria set forth in section 201.2(e)(2) of this Part, except where the manifestation team pursuant to section 201.4 of this Part has determined that the behavior was not a manifestation of such student's disability, or the student is placed in an IAES as authorized under subdivision (e) of this section.

(e) *Change in placement to an IAES for behavior involving serious bodily injury, weapons, illegal drugs or controlled substances.* (1) A superintendent of schools, either directly or upon recommendation of a hearing officer designated to conduct a superintendent's hearing pursuant to Education Law, section 3214(3)(c), may order the change in placement of a student with a disability to an appropriate IAES, to be determined by the CSE, for up to 45 school days, but not to exceed the period of suspension ordered by the superintendent in accordance with Education Law, section 3214(3), where the student:

(i) has inflicted serious bodily injury, as defined in section 201.2(m) of this Part, upon another person while at school, on school premises or at a school function under the jurisdiction of the educational agency;

(ii) carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of the educational agency; or

(iii) knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises or at a school function under the jurisdiction of the educational agency.

(2) The period of suspension or removal ordered by the superintendent may not exceed the amount of time that a nondisabled student would be suspended for the same behavior.

(f) School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement consistent with the other requirements of this Part is appropriate for a student with a disability who violates a school district's code of conduct.

201.8 Authority of impartial hearing officer to order a change in placement to an IAES in a dangerous situation.

(a) An impartial hearing officer appointed pursuant to Education Law section 4404(1), in an expedited due process hearing conducted pursuant to section 201.11 of this Part, may order a change in placement of a student with a disability to an appropriate interim alternative educational setting (IAES) for not more than 45 school days, if the hearing officer determines that maintaining the current placement of the student is substantially likely to result in injury to the student or others.

(b) The procedures established in this section may be repeated if the school district believes that returning the student to the original placement is substantially likely to result in injury to the student or others.

(c) A school district shall not be required to commence disciplinary action against a student with a disability as a prerequisite for initiating an expedited due process hearing to obtain an order of an impartial hearing officer pursuant to this section.

(d) A determination that the student's behavior is a manifestation of the student's disability shall not preclude an impartial hearing officer from ordering a change in placement to an IAES pursuant to this section.

201.9 Coordination with superintendent's hearing and other due process procedures applicable to all students.

(a) *Procedures for suspensions of five school days or less*. In the case of a suspension for five consecutive school days or less pursuant to paragraph b of subdivision 3 of section 3214 of the Education Law and section 201.7(b) of this Part, the parents or persons in parental relation to the student shall be provided an opportunity for an informal conference in accordance with paragraph d of subdivision 3 of section 3214 of the Education Law.

(b) *Procedures for removals other than suspensions*. A removal of a student with a disability, as defined in Section 201.2(l) of this Part, to which the provisions of paragraphs (a) through (d) of subdivision 3 of section 3214 of the Education Law do not apply, other than a change in placement to an IAES, shall be conducted in accordance with the due process procedures applicable to such removals of nondisabled students, except that school personnel may not impose such removal for more than 10 consecutive days or for a period that would result in a disciplinary change in placement, unless there has been a determination that the behavior is not a manifestation of the student's disability. The removal of a student with a disability to an IAES shall be conducted in accordance with the applicable provisions of section 201.7(e) of this Part and paragraph (c)(3) of this section, or of section 201.8 of this Part.

(c) Pr*ocedures for suspensions of more than five school days (superintendent's hearings).* Superintendent's hearings on disciplinary charges against students with disabilities and students presumed to have a disability for discipline purposes shall be bifurcated into a guilt phase and a penalty phase and conducted in accordance with the following procedures:

(1) The superintendent of schools or hearing officer in the superintendent's hearing shall proceed with the guilt phase and determine whether the student is guilty of the alleged misconduct. If it is determined that the student is guilty of the alleged misconduct, the superintendent of schools or hearing officer in the superintendent's hearing shall make a threshold determination of whether a suspension or removal in excess of 10 consecutive school days or that would otherwise constitute a disciplinary change in placement should be considered. If the threshold determination is that such a suspension or removal should be considered, before the superintendent of schools orders or the hearing officer in the superintendent's hearing recommends any such removal, the superintendent's hearing shall be adjourned until a manifestation determination is made by the manifestation team, except as otherwise provided in paragraph (3) of this subdivision. If the superintendent of schools or hearing officer in the superintendent's hearing determines that a suspension or removal that would constitute a disciplinary change in

placement should not be considered, the hearing shall proceed to the penalty phase.

(2) Upon a determination by the manifestation team that the behavior of a student with a disability was not a manifestation of the student's disability, such student may be disciplined in the same manner as a nondisabled student, except that such student shall continue to receive services in accordance with section 201.10 of this Part. Upon receipt of notice of such determination, the superintendent or hearing officer in the superintendent’s hearing shall proceed with the penalty phase of the hearing. If the manifestation team determines that the behavior was a manifestation of the student's disability, the superintendent or hearing officer in the superintendent’s hearing shall dismiss the superintendent's hearing, except as otherwise provided in paragraph (3) of this subdivision.

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this subdivision, if the superintendent or hearing officer in the superintendent's hearing is considering the change in placement of a student with a disability to an IAES pursuant to section 201.7(e) of this Part, upon a determination that the student is guilty of the alleged misconduct relating to serious bodily injury, weapons, illegal drugs or controlled substances, the superintendent of schools may order, or the hearing officer in the superintendent's hearing may recommend, such change in placement to an IAES, to be determined by the CSE, for up to 45 school days, but not to exceed the length of time that a nondisabled student would be suspended for the same misconduct under the school district's student discipline policy. The superintendent of schools may order such change in placement of a student with a disability to an IAES, directly or upon recommendation of a hearing officer in the superintendent's hearing, even where the manifestation team determines that the student's behavior is a manifestation of the student's disability.

(4) The penalty phase of a superintendent's hearing for a student with a disability or a student presumed to have a disability for discipline purposes shall be conducted in the same manner as the penalty phase of a hearing involving a nondisabled student, including the admission of anecdotal evidence of past instances of misconduct. The school district shall assure that copies of the special education and disciplinary records of the student are transmitted to the superintendent of schools or hearing officer in the superintendent's hearing for consideration. Such records shall be transmitted whether or not the manifestation team has determined that the student's behavior is a manifestation of the student's disability.

(5) Nothing in this section shall be construed to authorize the suspension or removal of a student with a disability from his or her current educational placement for violation of school rules following a determination by the manifestation team that the behavior is a manifestation of the student's

disability, except where the student is placed in an IAES for behavior involving serious bodily injury, weapons, illegal drugs or controlled substances pursuant to section 201.7(e) of this Part or the student is placed in an IAES by an impartial hearing officer pursuant to section 201.8 of this Part.

201.10 Provision of services during suspensions.

(a) During any period of suspension, a student with a disability shall be provided services to the extent required under this section and paragraph (e) of subdivision 3 of section 3214 of the Education Law. Nothing in this section shall be construed to confer a greater right to services than is required under Education Law, section 3214(3)(e) and Federal law and regulations.

(b) During suspensions or removals for periods of up to 10 school days in a school year that do not constitute a disciplinary change in placement, students with disabilities of compulsory attendance age shall be provided with alternative instruction pursuant to Education Law, section 3214(3)(e) on the same basis as nondisabled students. Students with disabilities who are not of compulsory attendance age shall be entitled to receive services during such suspensions only to the extent that services are provided to nondisabled students of the same age who have been similarly suspended.

(c) During subsequent suspensions or removals for periods of 10 consecutive school days or less that in the aggregate total more than 10 school days in a school year but do not constitute a disciplinary change in placement, regardless of the manifestation determination, students with disabilities shall be provided with services necessary to enable the student to continue to participate in the general education curriculum and to progress toward meeting the goals set out in the student's IEP and to receive, as appropriate, a functional behavioral assessment, behavioral intervention services and modifications that are designed to address the behavior violation so it does not recur. School personnel, in consultation with at least one of the student’s teachers, shall determine the extent to which services are needed, so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress in meeting the goals set out in the student’s IEP.

(d) During suspensions or other disciplinary removals, including suspensions or removals pursuant to section 201.7(e) of this Part, for periods in excess of 10 school days in a school year which constitute a disciplinary change in placement, regardless of the manifestation determination, students with disabilities shall be provided with services necessary to enable the student to continue to participate in the general education curriculum, to progress toward meeting the goals set out in the student's IEP, and to receive, as appropriate pursuant to section 201.3 of this Part, a functional behavioral assessment, behavioral intervention services

and modifications that are designed to address the behavior violation so it does not recur. The IAES and services shall be determined by the CSE.

201.11 Expedited due process hearings.

(a) An expedited due process hearing shall be conducted pursuant to this Part under the following circumstances:

(1) the school district requests an expedited due process hearing to obtain an order of an impartial hearing officer placing a student with a disability in an IAES pursuant to section 201.8 of this Part where school personnel maintain that it is dangerous for the student to be in his or her current educational placement;

(2) the school district requests an expedited due process hearing to obtain an order of an impartial hearing officer placing a student with a disability in an IAES during the pendency of due process hearings where school personnel maintain that it is dangerous for the student to be in his or her current educational placement during such proceedings;

(3) the parent requests a hearing from a determination that the student's behavior was not a manifestation of the student's disability; or

(4) the parent requests a hearing relating to any decision regarding placement under section 201.7 of this Part, including but not limited to any decision to place the student in an IAES.

(b) An expedited due process hearing shall be conducted in accordance with the procedures specified in section 200.5(j) of this Title, except as follows:

(1) Upon receipt of or filing of a due process complaint notice for an expedited hearing, the board of education shall arrange for an impartial hearing and the appointment of an impartial hearing officer using the list in accordance with the rotational selection process established in section 200.2(e)(l) of this Title and the administrative procedures established by the board of education pursuant to section 200.2(b)(9) of this Title.

(2) The impartial officer may not accept appointment unless available to hold the hearing and render the decision within the time period for expedited hearings pursuant to paragraph (3) of this subdivision.

(3) The school district shall arrange the expedited due process hearing according to the following time period, unless the parent and school district agree in writing to waive the resolution meeting or agree to use mediation:

(i) A resolution meeting shall occur within seven days of receiving notice of the due process complaint.

(ii) The expedited due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of receipt of the due process complaint.

(iii) The expedited due process hearing shall occur within 20 school days of the date the complaint requesting the hearing is filed.

(iv) The impartial hearing officer shall make a determination within 10 school days after the hearing.

(4) No extension to an expedited impartial hearing timeline may be granted.

(5) The impartial hearing officer shall mail a copy of the written, or at the option of the parents, electronic findings of fact and the decision to the parents, to the board of education and to the Office of Vocational and Educational Services for Individuals with Disabilities (VESID) of the New York State Education Department within 10 school days after the hearing.

(c) If a parent requests a hearing or an appeal regarding the change in placement of a student to an IAES by a superintendent of schools, or regarding a change in placement by an impartial hearing officer pursuant to section 201.8 of this Part where the school district maintains that it is dangerous for the student to remain in his or her current educational placement, or regarding a determination that the behavior is not a manifestation of the student's disability for a student who has been placed in an IAES, the student shall remain in the IAES pending the decision of the impartial hearing office or until expiration of the time period determined in accordance with section 201.7 or 201.8 of this Part, as applicable, whichever occurs first, unless the parents and the school district otherwise agree.

(d) When an expedited due process hearing has been requested because of a disciplinary change in placement, the manifestation determination or because the school district believes that maintaining the student in the current placement is likely to result in injury to the student or others, the student shall remain in the IAES pending the decision of the impartial hearing officer or until the expiration of the period of removal, whichever occurs first, unless the parent and the school district agree otherwise.