

WG | WALSH GALLEGOS
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INTRO TO THE TOOLBOX

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What's This About?

- Federal law requires you to serve all students with disabilities in the LRE. If the student is seriously disruptive, or even violent, your duty is the same. Serve the student effectively.
- You also are required to maintain a healthy, safe, orderly campus for the benefit of all.
- The Toolbox contains a set of “tools” designed to help you do both of these.

Tool #1: A Behavior Plan

- Your most important tool is #1—creation and implementation of a BIP.
- It's the only tool designed to improve student behavior. The others aim to manage the behavior.
- It's proactive; positive; aimed at specific behaviors.
- What you do FOR the student. Not what you do TO the student.

Tools # 2 and 3: Educational Change of Placement

- Both of these are educational changes of placement. To be used when the behavior is a manifestation of disability.
- They both result in a change of placement—thus more than 10 consecutive days.
- Tool #2 is done with parental agreement; Tool #3 is without.
- Tool #2 is the result of an IEPT Meeting.
- Tool #3 not so much.

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More on Tool #3

- Tool #3 is an Educational Change of Placement Without Parental Agreement.
- You need to be able to prove three things: 1) the current situation is not working; 2) we have really tried to make it work; and 3) this move will benefit the student.
- You need to ask yourself three questions: 1) is this worth fighting over? 2) are we legally defensible? 3) is our staff united about this?
- Ask them in reverse order.

Tool #4: Expedited Hearing

- You can request an expedited hearing if 1) you believe that leaving the student in the current placement is very likely to lead to injury to someone; 2) student's behavior is a manifestation of disability; and 3) parent will not agree to a change of placement.
- This one is used very rarely. You would have to have a situation involving behavior that is a manifestation of disability, no parental agreement, and no "special circumstances." Rare.

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Tool #5: Special Circumstances Removal

- Principal can order removal of the student for a period of time consistent with your Code of Conduct, but never to exceed 45 school days.
- But only for “special circumstances” offenses—drugs, weapons, infliction of serious bodily injury.
- IEP Team determines where the student will be served.

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Tool #6 Disciplinary Change of Placement

- Can only be done when IEP Team determines the behavior is not a manifestation of disability.
- Student receives the same “consequence” as the general education student who did the same thing—can be more than 45 days.
- Student must continue to participate in the general curriculum, and to progress toward meeting the goals in the IEP.

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Tool #7: FAPE-Free Zone

- 10 days during the year when students can be suspended without services.
- We call it The FAPE-Free Zone.
- Once it's gone, it's gone.
- What days count?

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Tool #8: Short Term Removal Beyond FFZ

- Does the principal get another 10 days?
- Yes—but they are not FAPE free. Students must be served.
- Also—cumulative use of this tool cannot be allowed to create a “change of placement.”
- And remember, just because you can use another 10 days does not mean it’s a good idea. Maybe it’s time for an IEP Team meeting to discuss a BIP!

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Tool #9: Leadership at the IEP Team Meeting

- Leadership at the IEP Team meeting is always needed, but especially when the Team does not come to consensus.
- Ask yourself the three questions:
 1. Is this worth fighting over?
 2. Are we legally defensible?
 3. Are we united on this?

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Tool # 10: Call the Cops

- You can do this, but should do so evenhandedly.
- Don’t release confidential information to police unless it is done in conformity with FERPA.

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Toolbox Training

- That's a very brief overview of an all-day training program that describes the "tools" in detail.
- Participants work on hypotheticals to practice use of the tools.
- It's not new information. It's designed to make it more understandable.
- Ideal participants: campus administrators along with special education staff.

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The information in this handout was prepared by Walsh Gallegos Treviño Russo & Kyle P.C. It is intended to be used for general information only and is not to be considered specific legal advice. If specific legal advice is sought, consult an attorney.



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