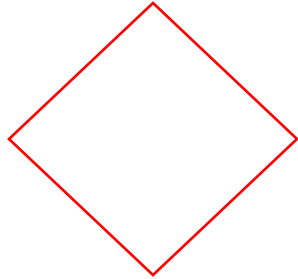


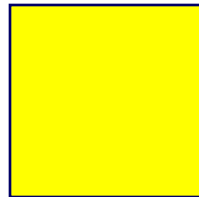
Discipline Flowchart



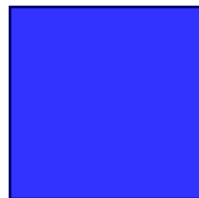
Key



Decision Point

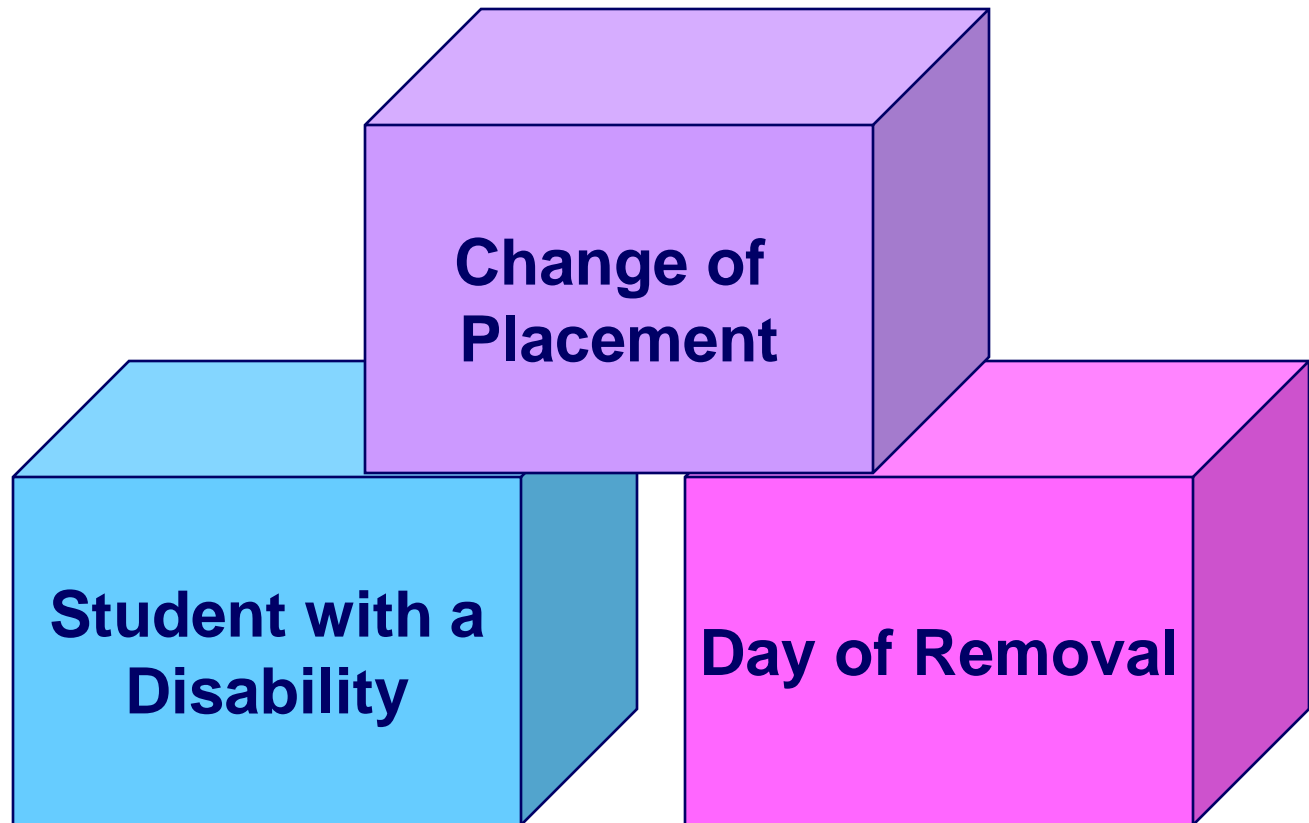


Clarification



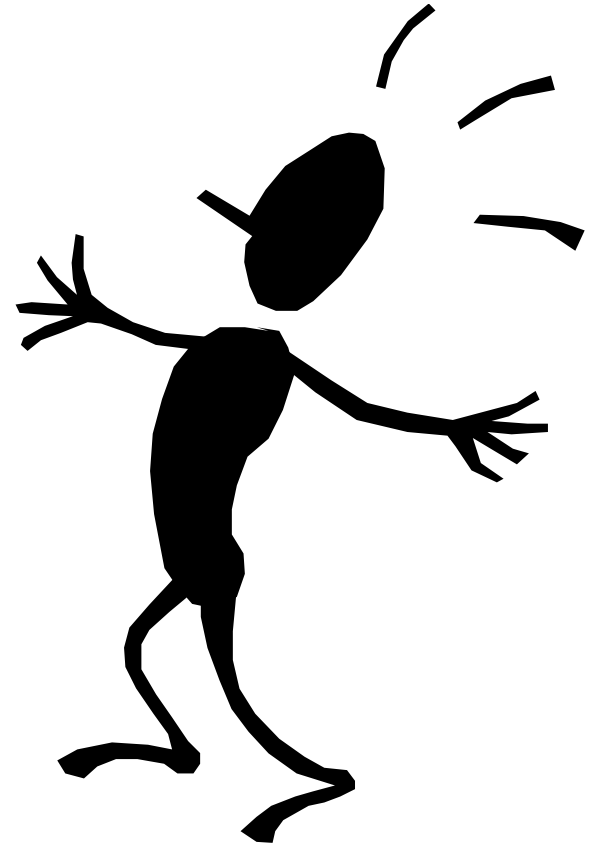
Action

Definitions

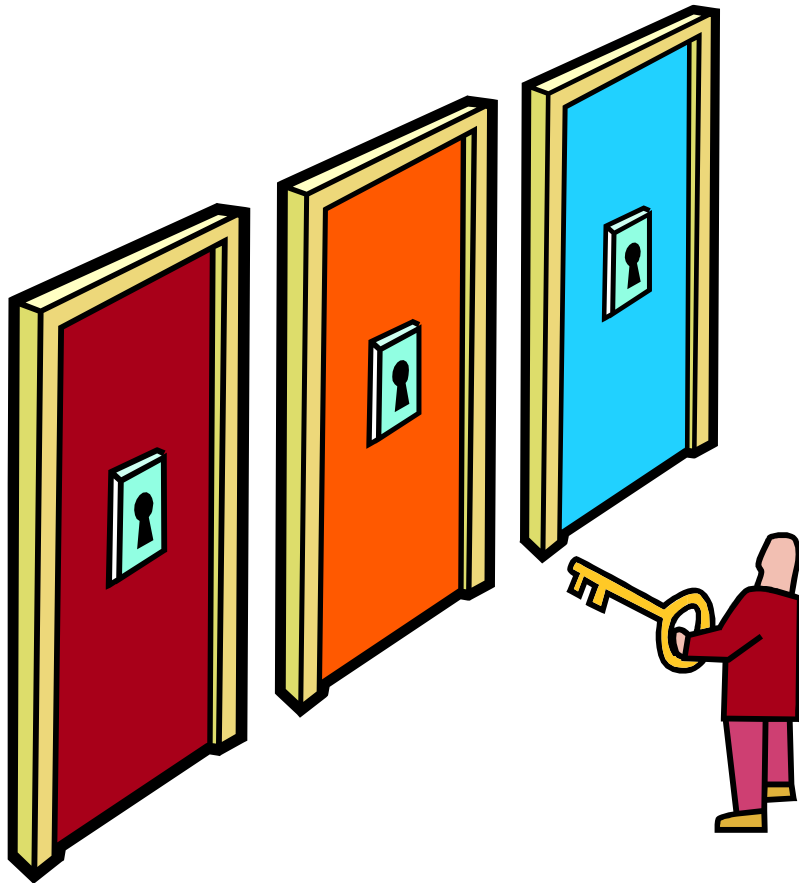


Offense

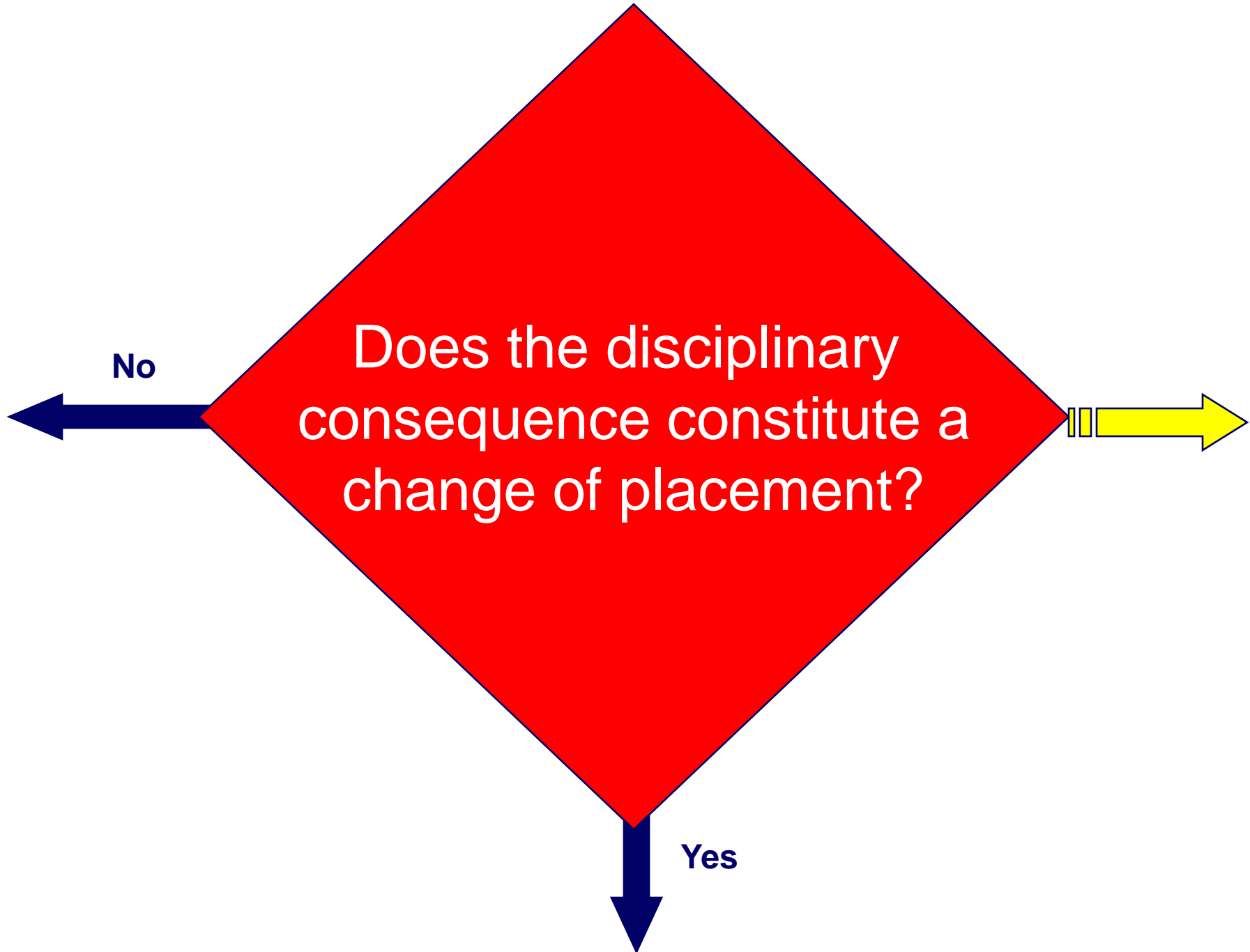
**Student with a disability
violates Code of Conduct where
consequence involves day
of removal from current
educational setting**



Case-by-Case Determination



School personnel, in making the disciplinary decision, may consider any unique circumstances on a case-by-case basis when determining the disciplinary consequence.



Change of Placement

- The removal is for more than 10 consecutive school days; **or**

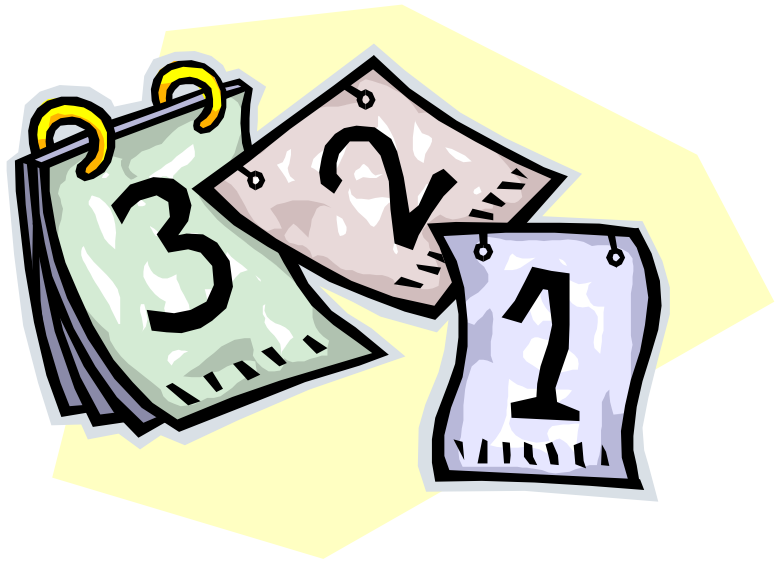


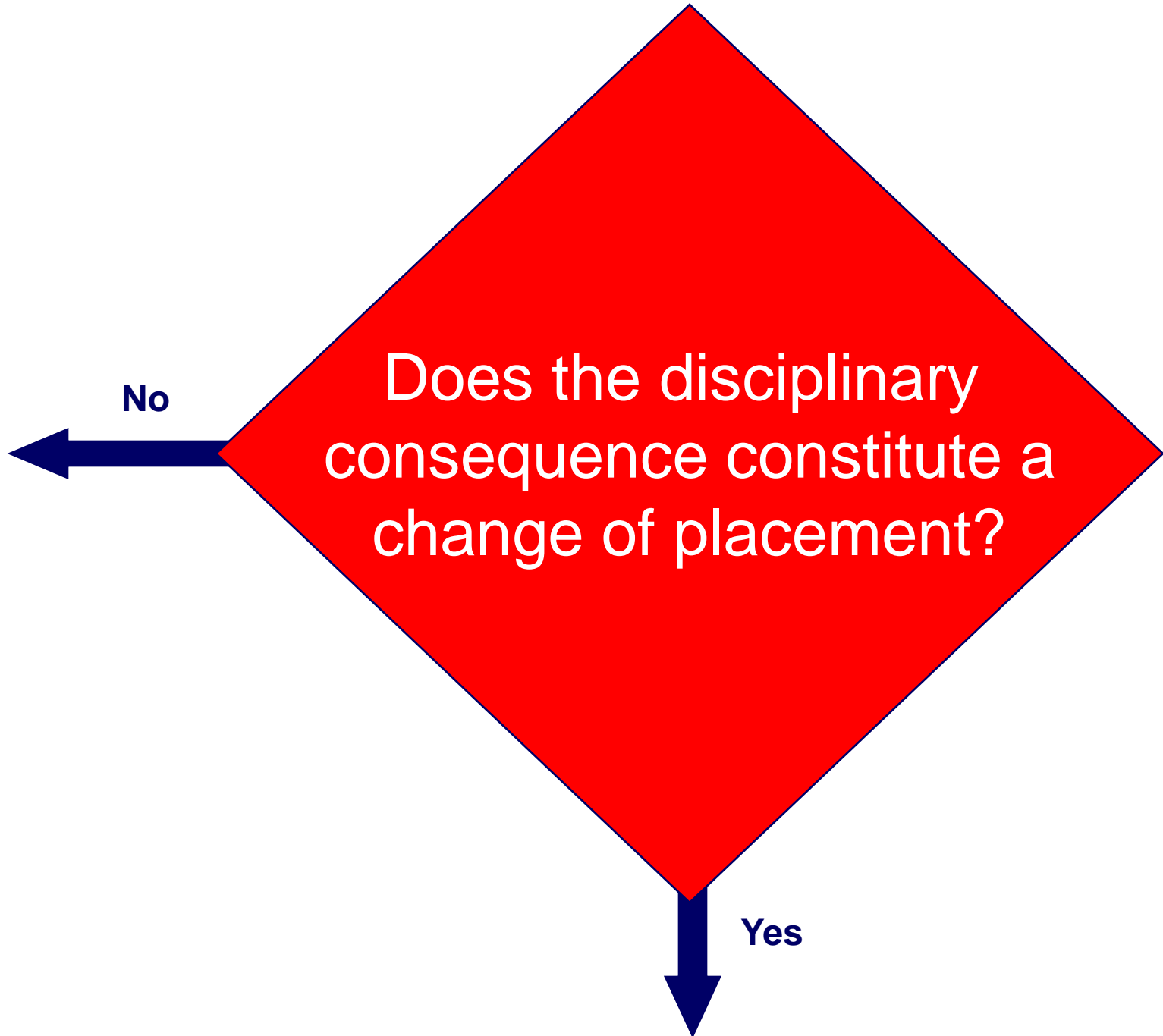
Change of Placement

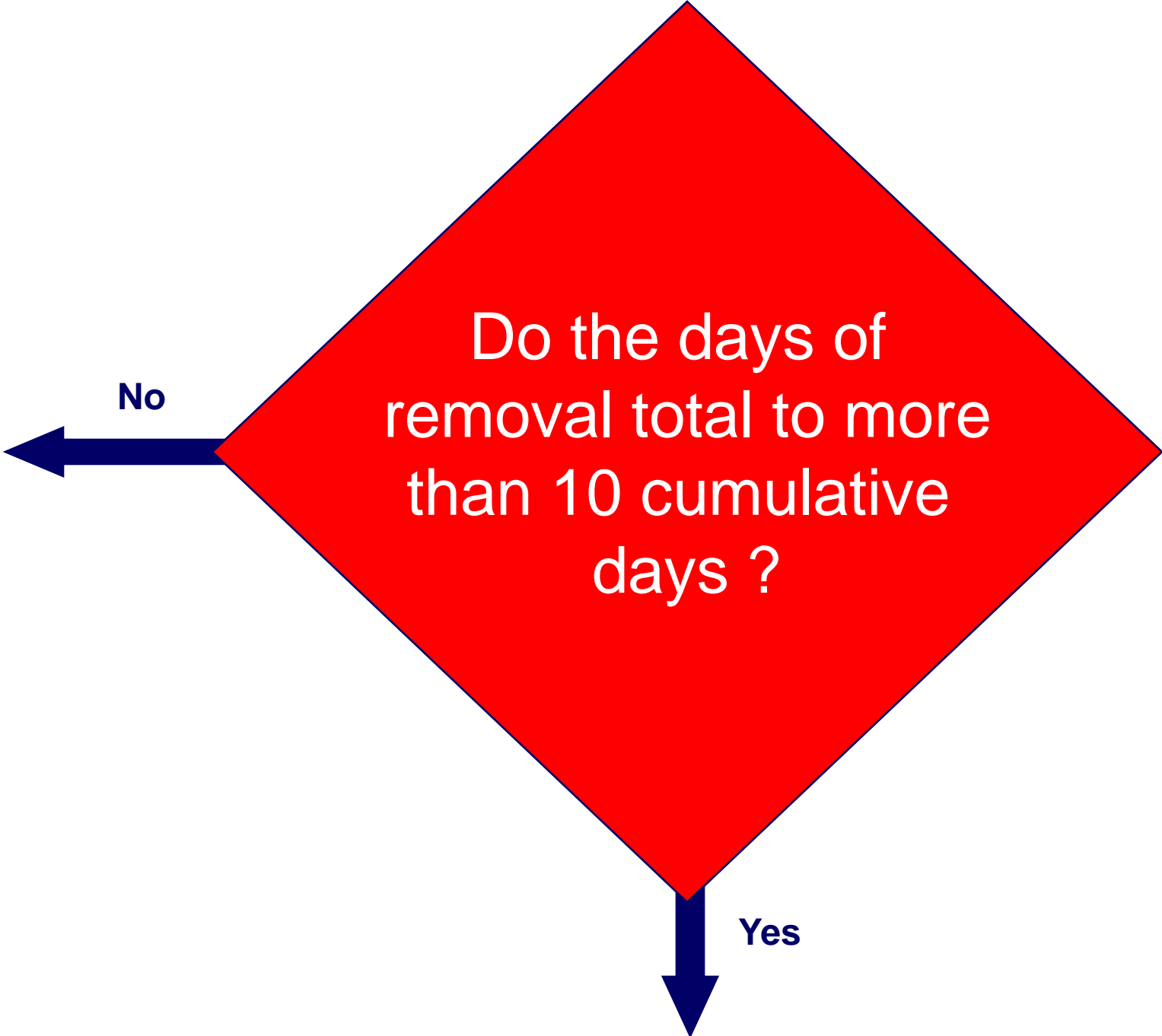
- The child is subjected to a series of removals that constitute a *pattern* because:
 - The *series of removals* total more than 10 school days in a school year;
 - The child's behavior is substantially *similar* to the child's behavior in previous incidents that resulted in the series of removal; AND
 - Of such additional factors such as the *length of each removal*, the *total amount of time* the child is removed, and the *proximity of the removals* to one another.

Texas Clarification

**Under Texas
statute
suspensions
may not
exceed three
school days.**





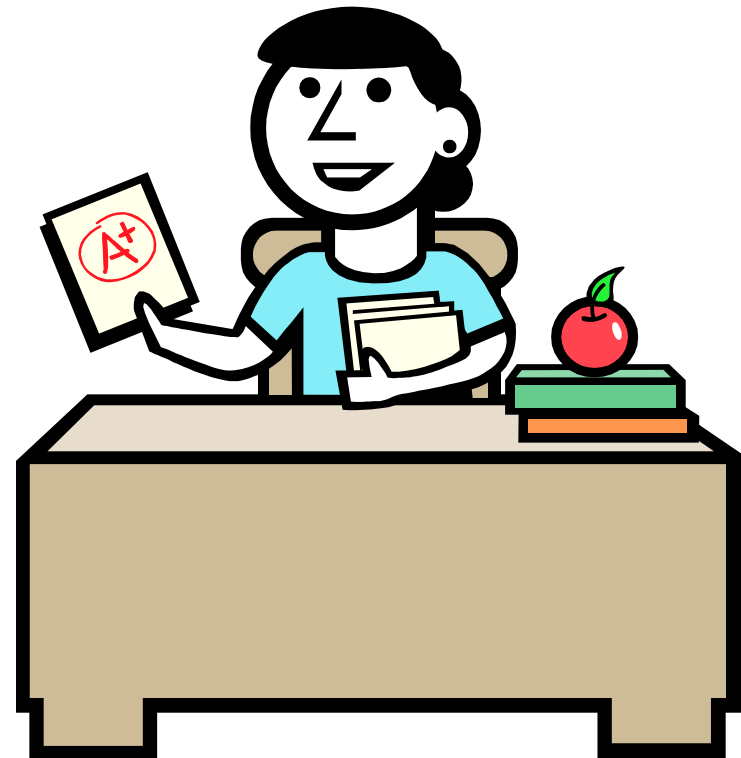


Disciplinary Consequence

School personnel may remove a student from his/her current placement to an appropriate interim alternative educational setting (IAES), another setting or suspension for not more than 10 consecutive school days (to the extent such alternative applies to children without disabilities) and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement).

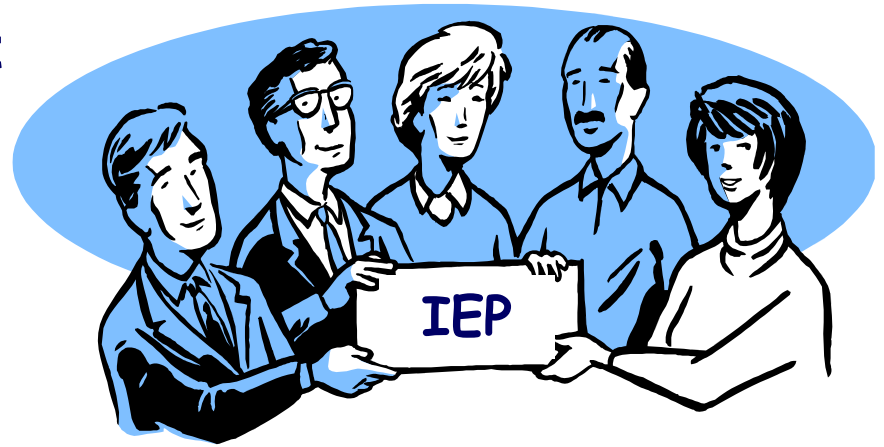
Services

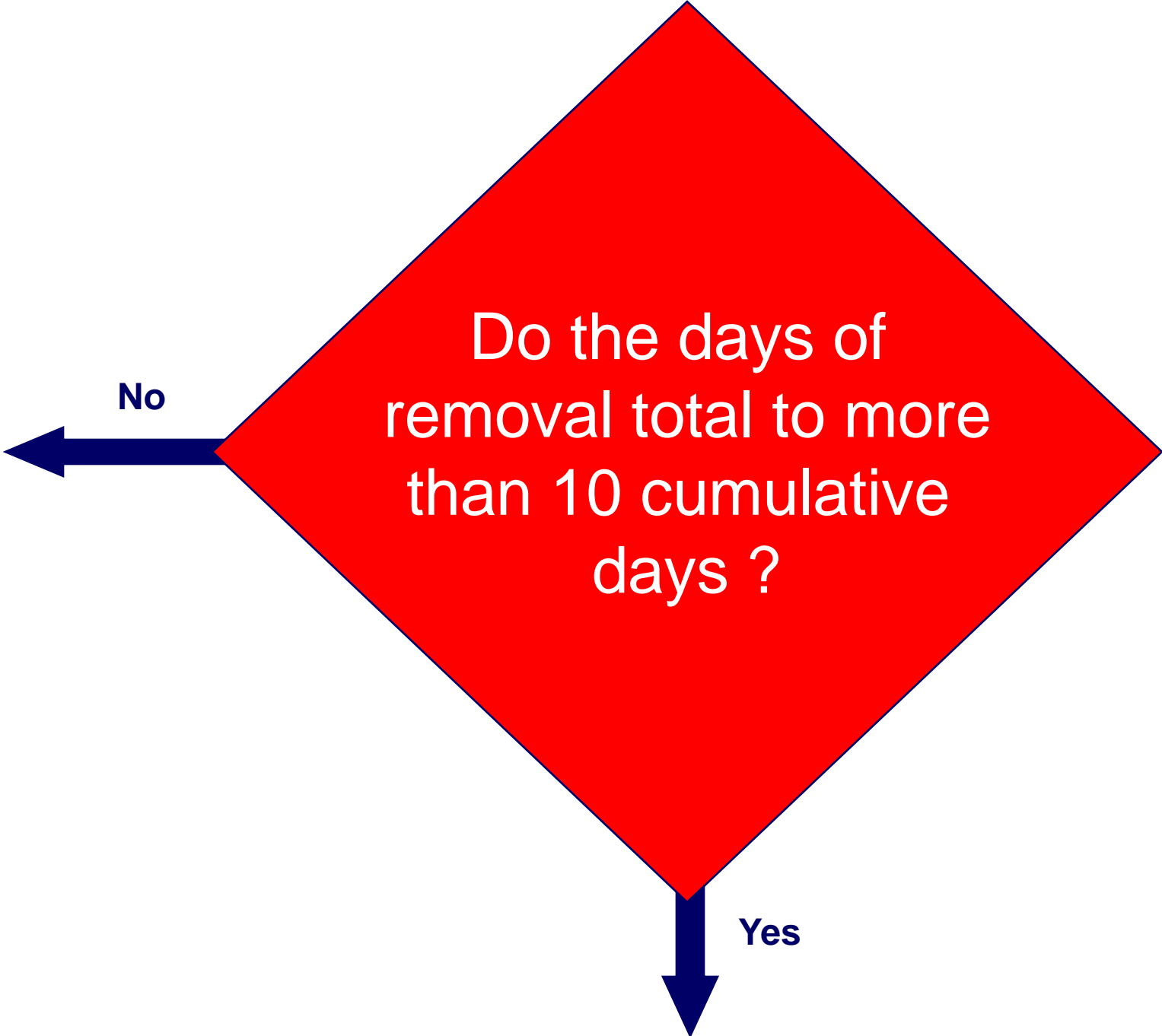
The LEA is not required to provide services to the student during removals of 10 or less school days unless services are provided to students without disabilities who are similarly removed



Intervention

If the student's behavior impedes the child's learning or that of others, the IEP Team must consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior.

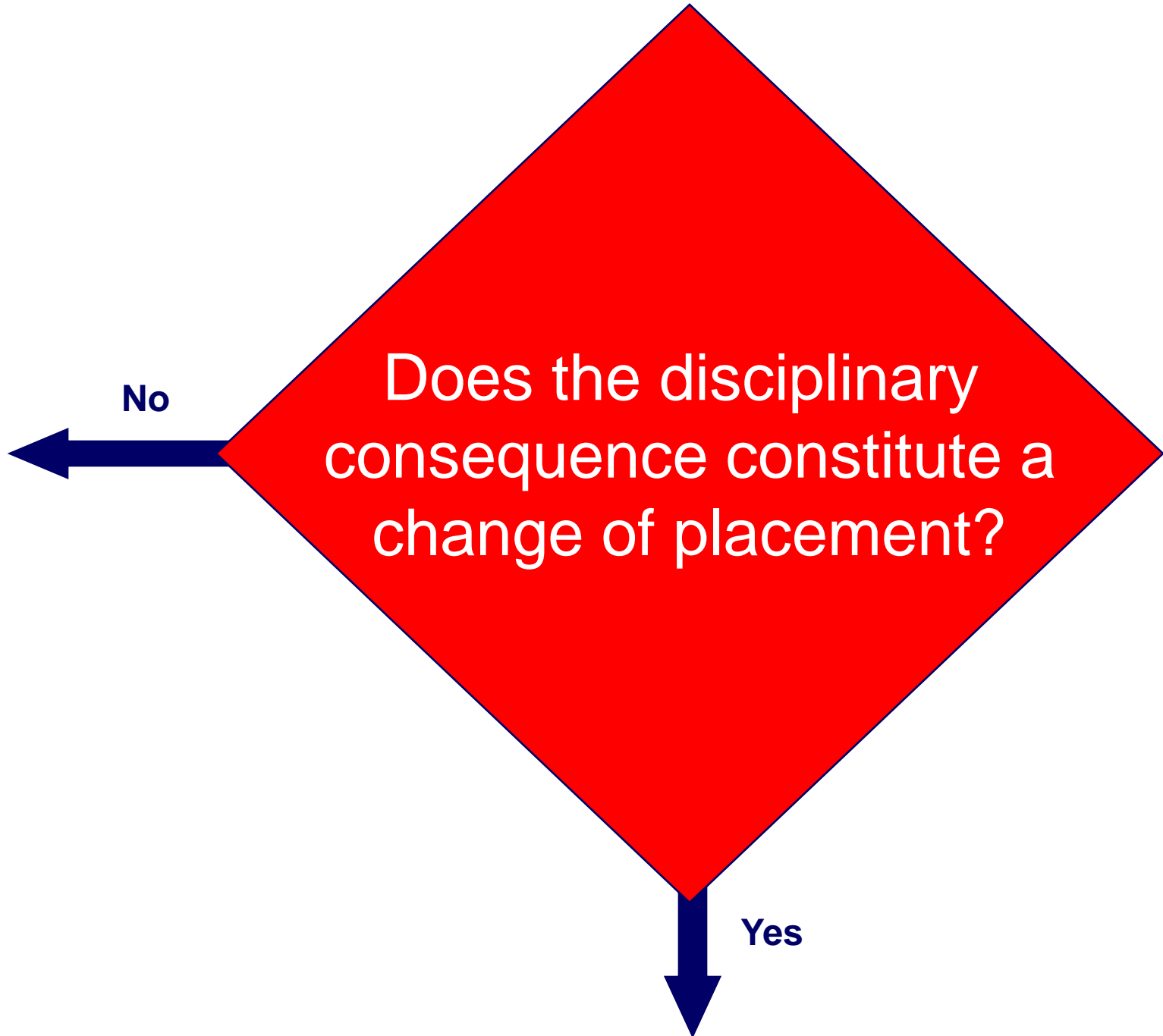




Service Obligations: Non COP >10 School Days

Provide services that enable the student to continue to participate in the general education curriculum, although in another setting and to progress toward meeting the goals in IEP.

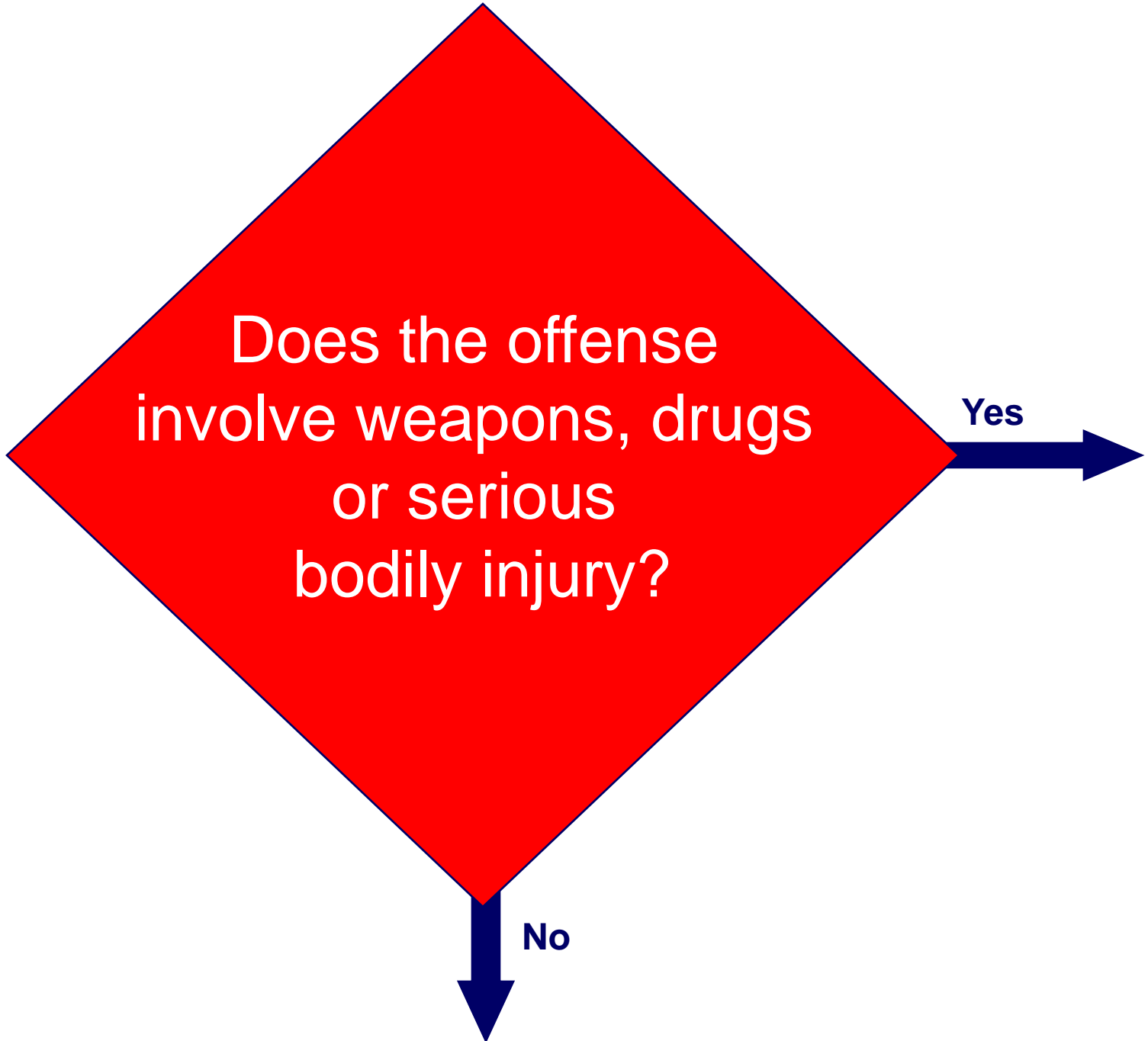
Determination made by school personnel in consultation with one of student's teachers.



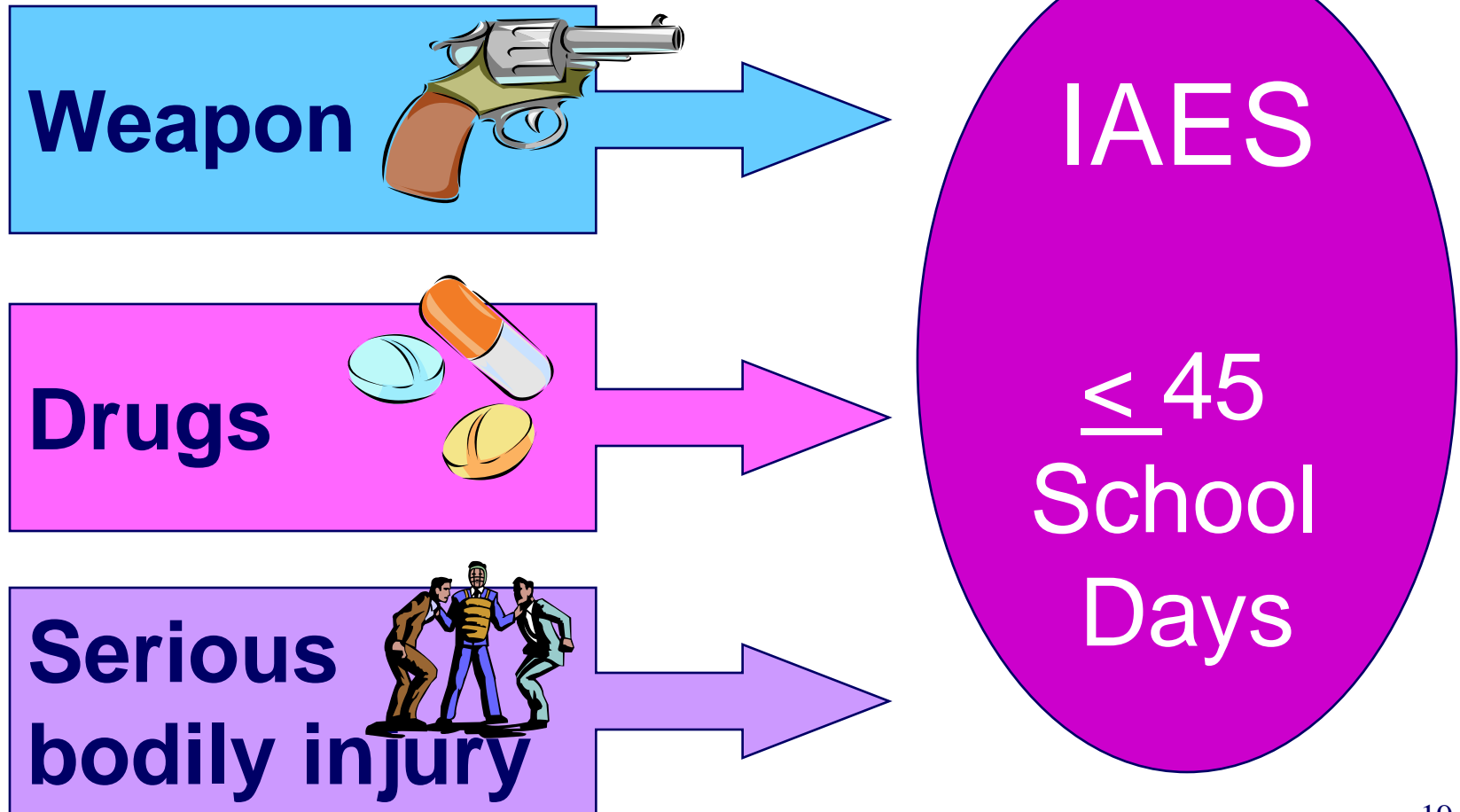
Does the offense
involve weapons, drugs
or serious
bodily injury?

Yes

No



Special Circumstances

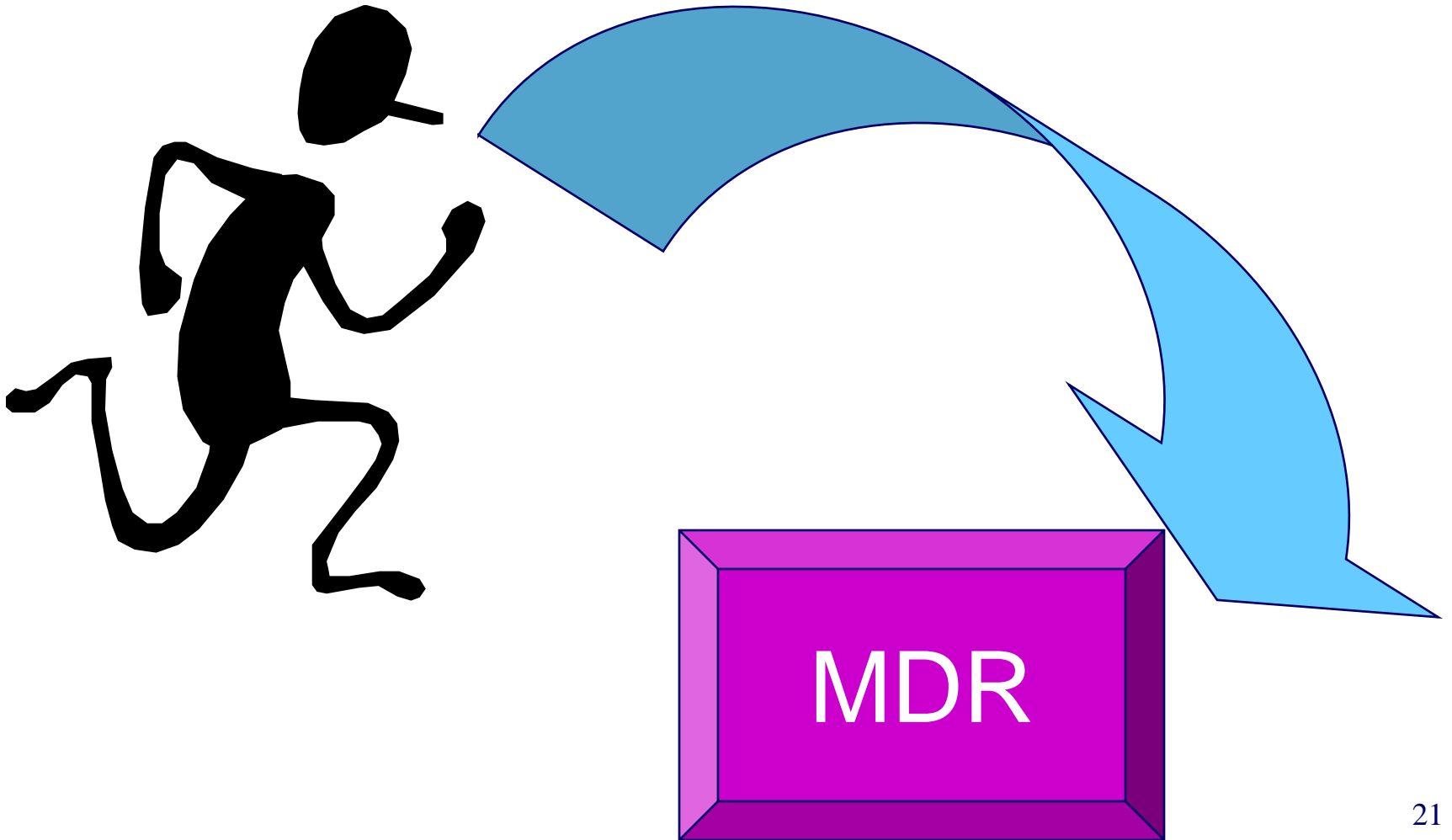


Serious Bodily Injury

- **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



Length of Removal



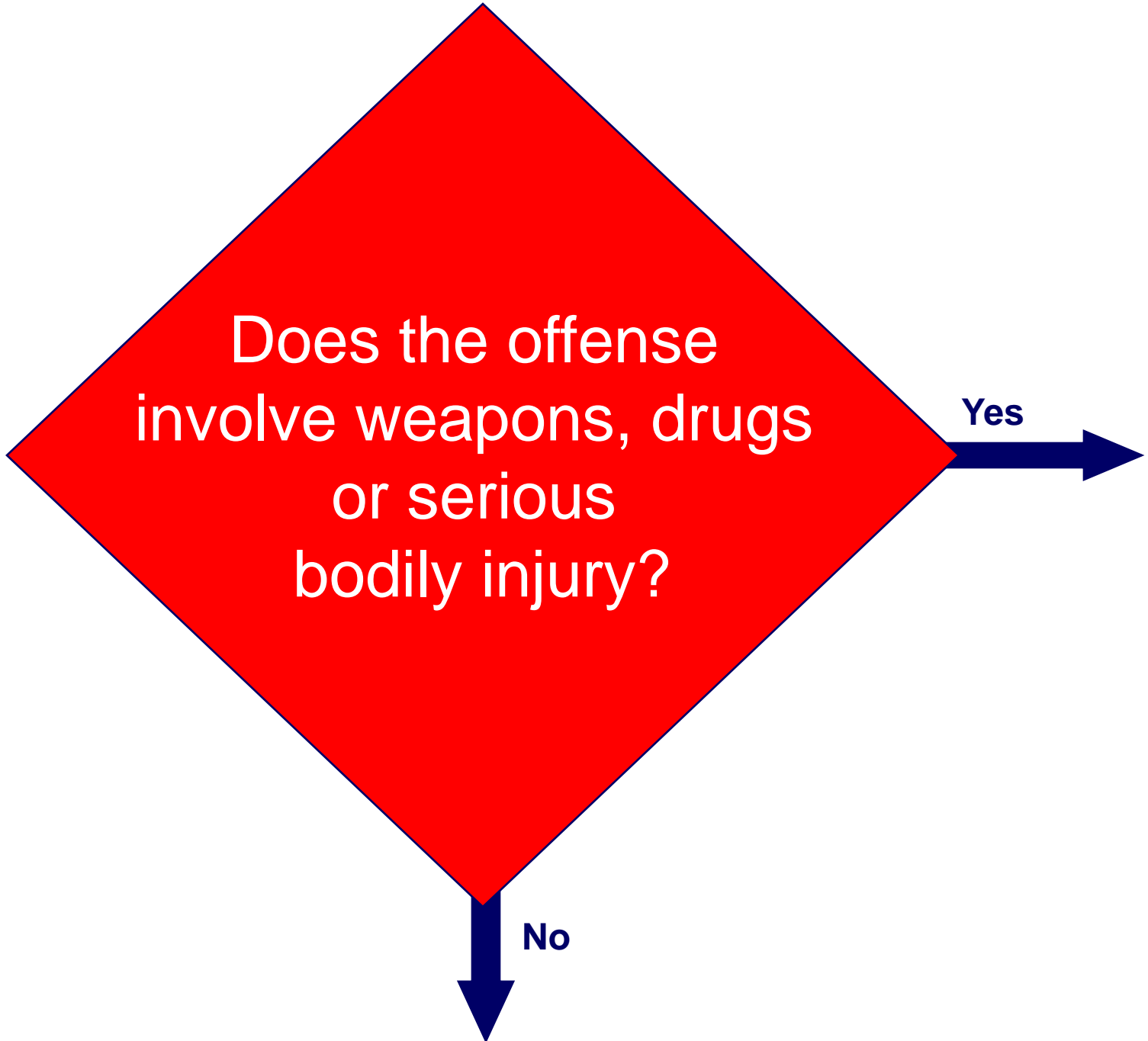
IAES Services

- **Educational services**
 - Participate in general curriculum
 - Progress toward IEP
- **FBA, as appropriate**
- **Behavioral intervention services/modifications to address the behavior violation**
- **IEP Team determines IAES**

Does the offense
involve weapons, drugs
or serious
bodily injury?

Yes

No



Parent Notification



- **Not later than the date on which the decision to take disciplinary action is made, the LEA shall notify the parents of:**
 - **that decision**
 - **all procedural safeguards**

Manifestation Determination



- **When?** Within 10 school days of decision to change placement
- **Conducted by?**
 - LEA
 - Parent
 - Relevant members of IEP Team

Required Information to Review

- **All relevant information in the student's file, including:**
 - **IEP**
 - **Teacher observations**
 - **Relevant information provided by parent**



Considering existing data, does the IEP Team conclude that additional data are needed?

No



Yes



Address standards

Plan data collection

Set timeline

Obtain consent

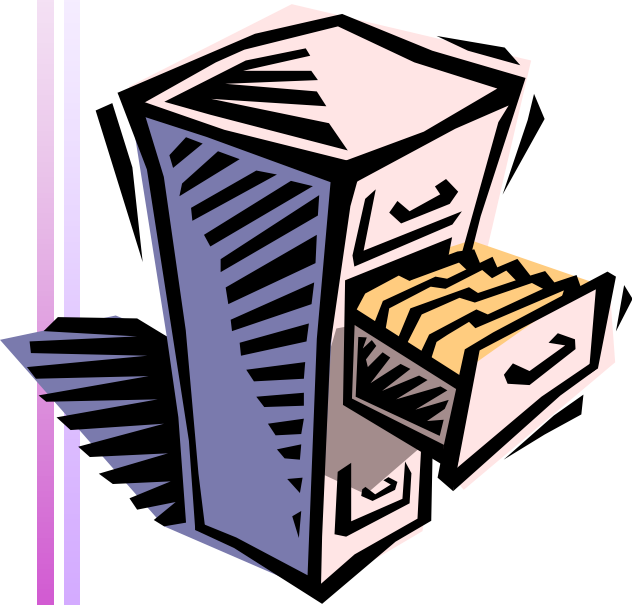
Collect data

Reconvene meeting

IDEA '97 MDR Standards (Old Law)



Standard #1



- In relationship to the behavior subject to disciplinary action, the child's **IEP and placement** were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were **provided consistent** with the child's **IEP and placement**

– 34 CFR 300.523(c)(2)(i)

Standard #2

- The child's disability did not impair the ability of the child to **understand the impact and consequences** of the behavior subject to disciplinary action



– 34 CFR 300.523(c)(2)(ii)

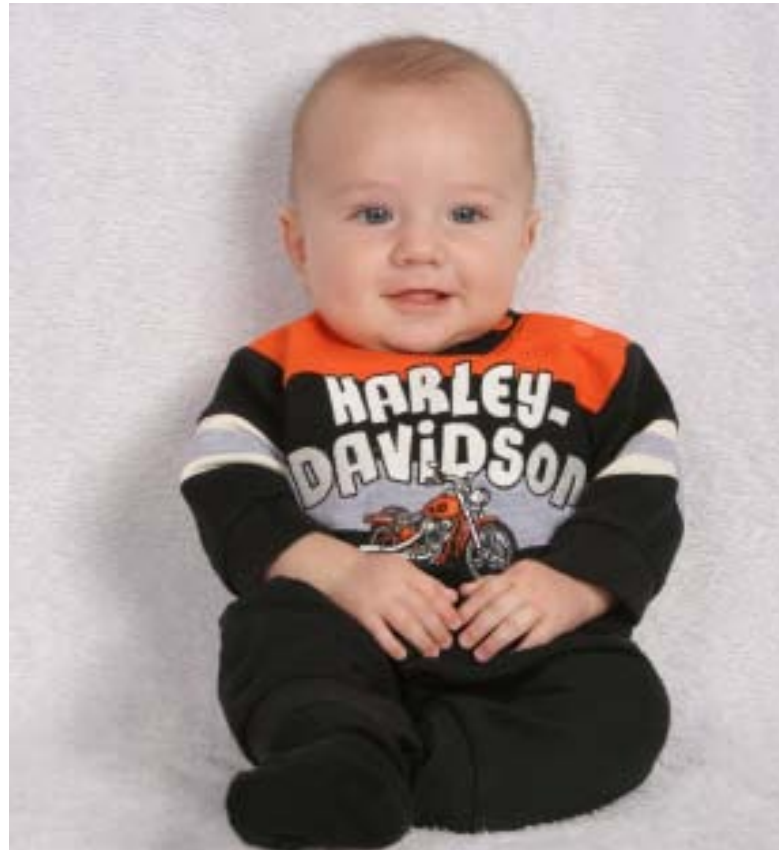
Standard #3



- The child's disability did not impair the ability of the child to **control the behavior** subject to disciplinary action

– 34 CFR 300.523(c)(2)(iii)

IDEA 2004 MDR Standards (New Law)



Standard #1



- Was the conduct in question **caused by**, or have a **direct and substantial relationship to**, the child's disability?

Standard #2

- Was the conduct in question a direct result of the LEA's failure to implement the IEP?



Questions to Consider...

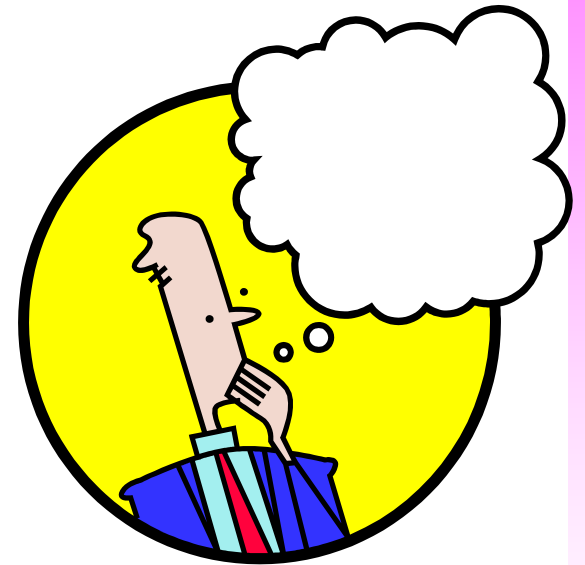
Standard #1:

- ✓ Has the student followed school rules in the past?
- ✓ What features of disability has the student exhibited in the past?
- ✓ In what situations can student control behavior?
- ✓ Are there other factors to explain the misconduct?
- ✓ Is this an isolated instance of this behavior or is it recurrent?
- ✓ Was the behavior premeditated?
- ✓ Are there any new data available to shed doubt on the accuracy of the disability condition(s)?
- ✓ Would similarly situated students without disabilities in a like circumstance react in a similar manner?

Questions to Consider...

Standard #2:

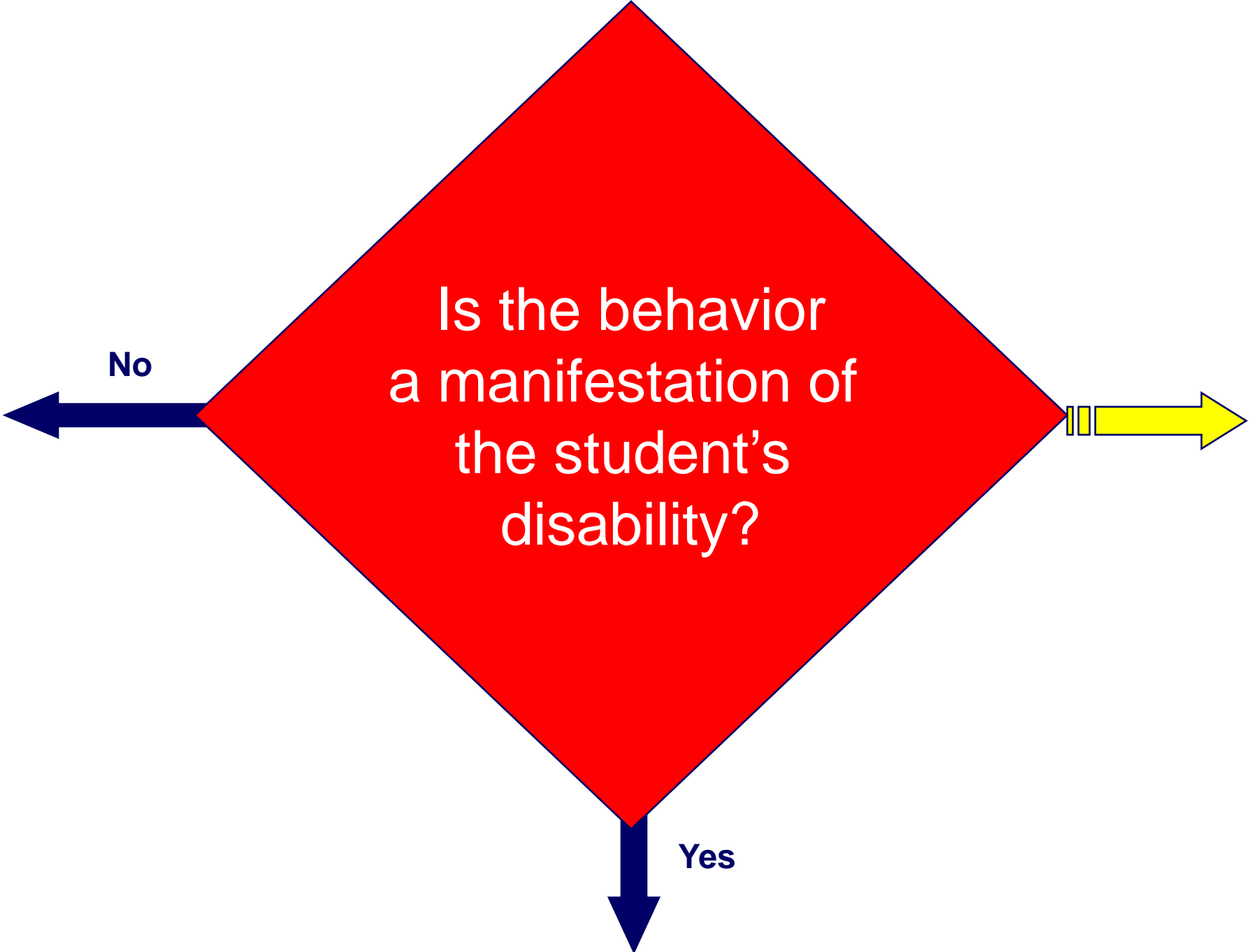
- ✓ Is the student making educational progress?
- ✓ Have the services been provided consistent with the IEP?
- ✓ Did all service providers have access to the IEP?
- ✓ Were the services implemented within a reasonable time?
- ✓ If there were inconsistencies in the implementation of the IEP, did they have a direct impact on the behavior in question?



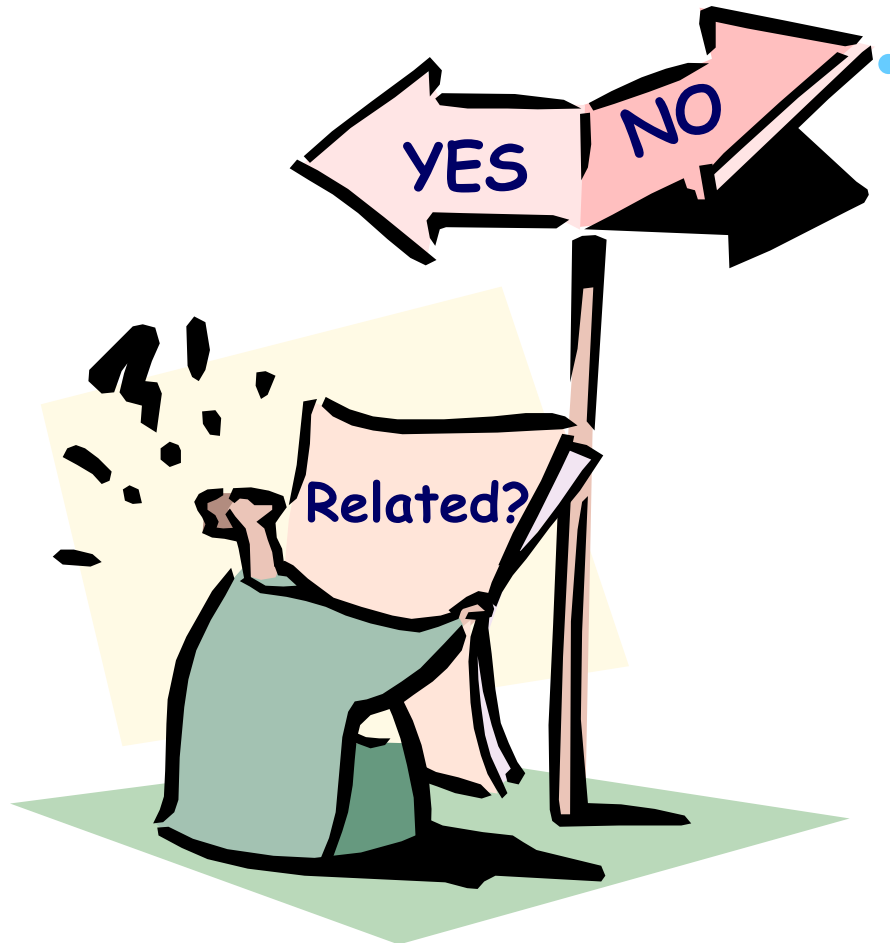
“Assuming that all of the student’s unacceptable behavior is related to the disability is no more logical or reasonable than assuming that everything that a student does that is acceptable is related to the disability. In short, the broad range of behaviors manifested by a particular student may or may not be attributable to the disability.”



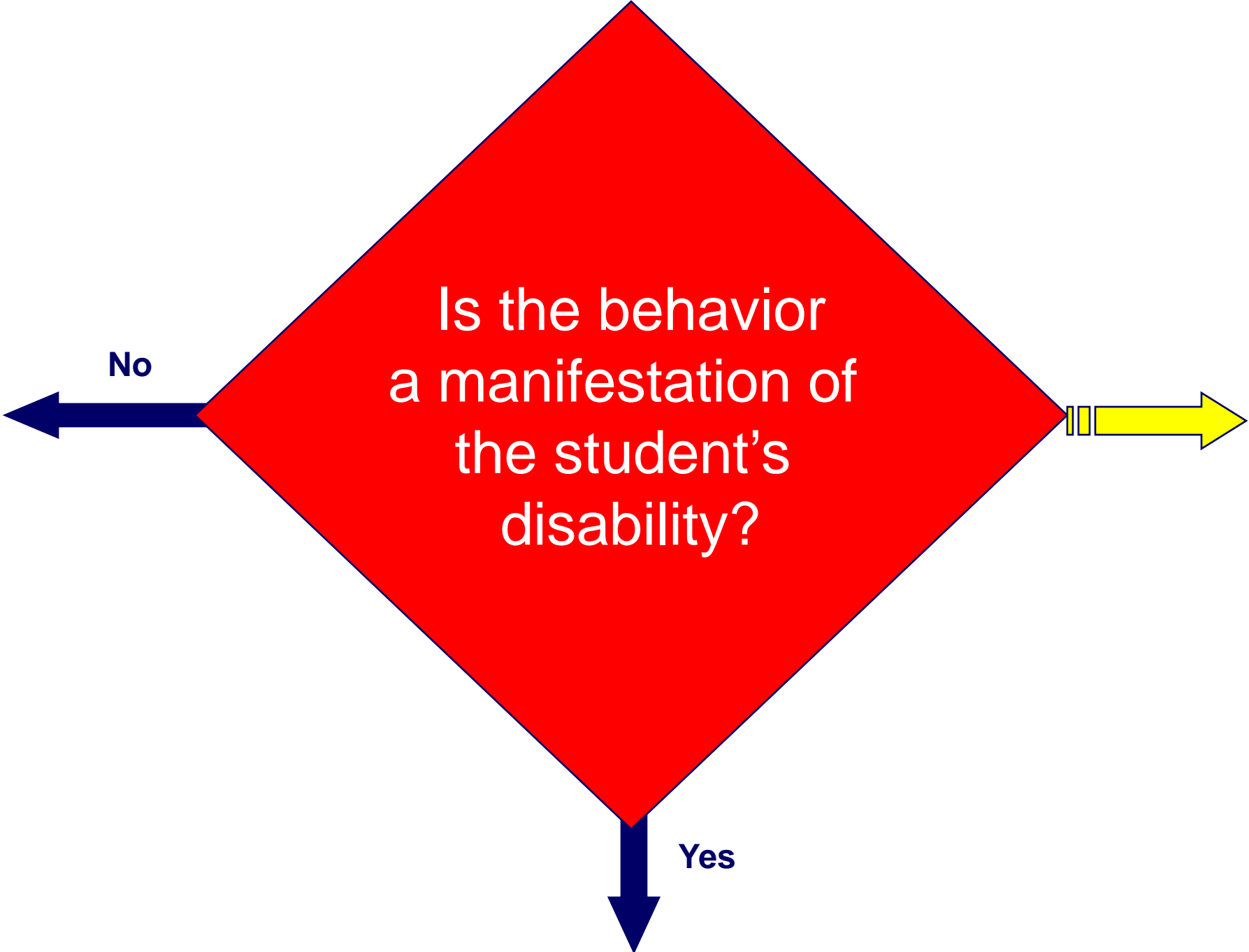
Hartwig & Ruesch
Discipline in the Schools, 1994



Manifestation Decision

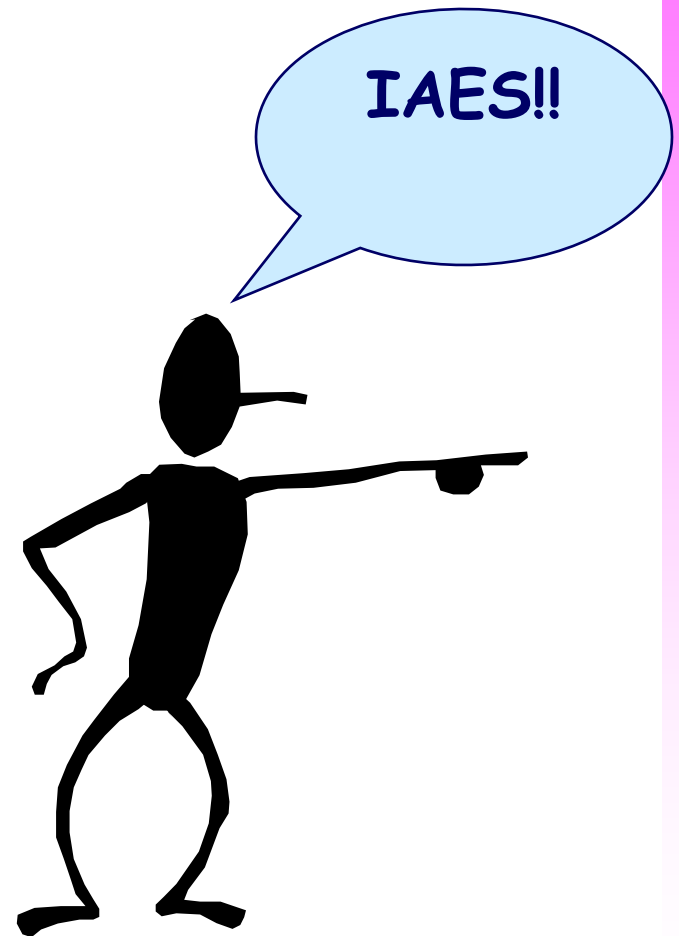


- If the LEA, parent and relevant members of the IEP Team determine that either standard is applicable for the child, the conduct shall be determined to be a manifestation of the child's disability



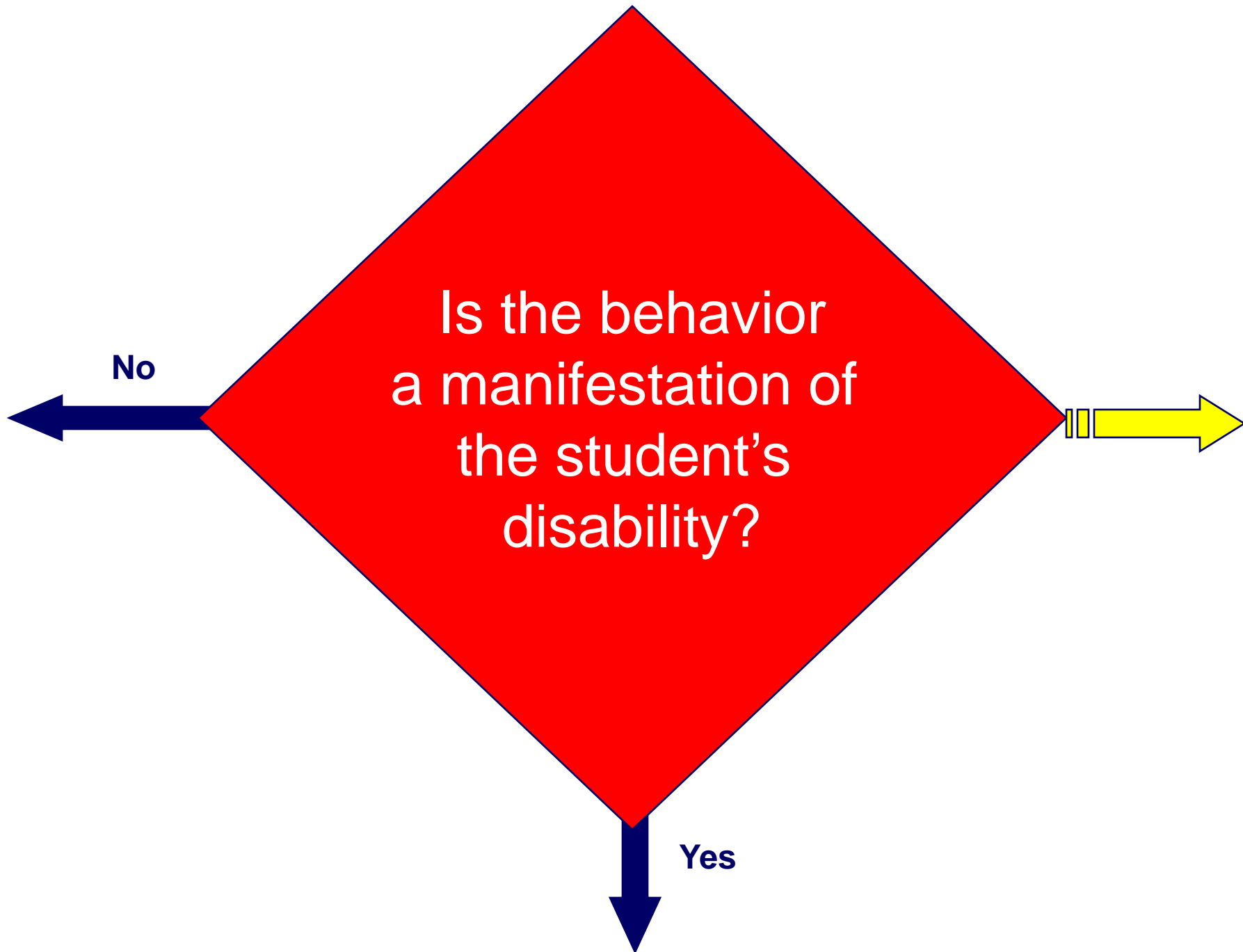
Discipline: **NOT** Manifestation

- Relevant disciplinary procedures applicable to children without disabilities may be applied to the child in the same manner for the same duration in which the procedures would be applied to children without disabilities (except FAPE) although it may be provided in an IAES



IAES Services

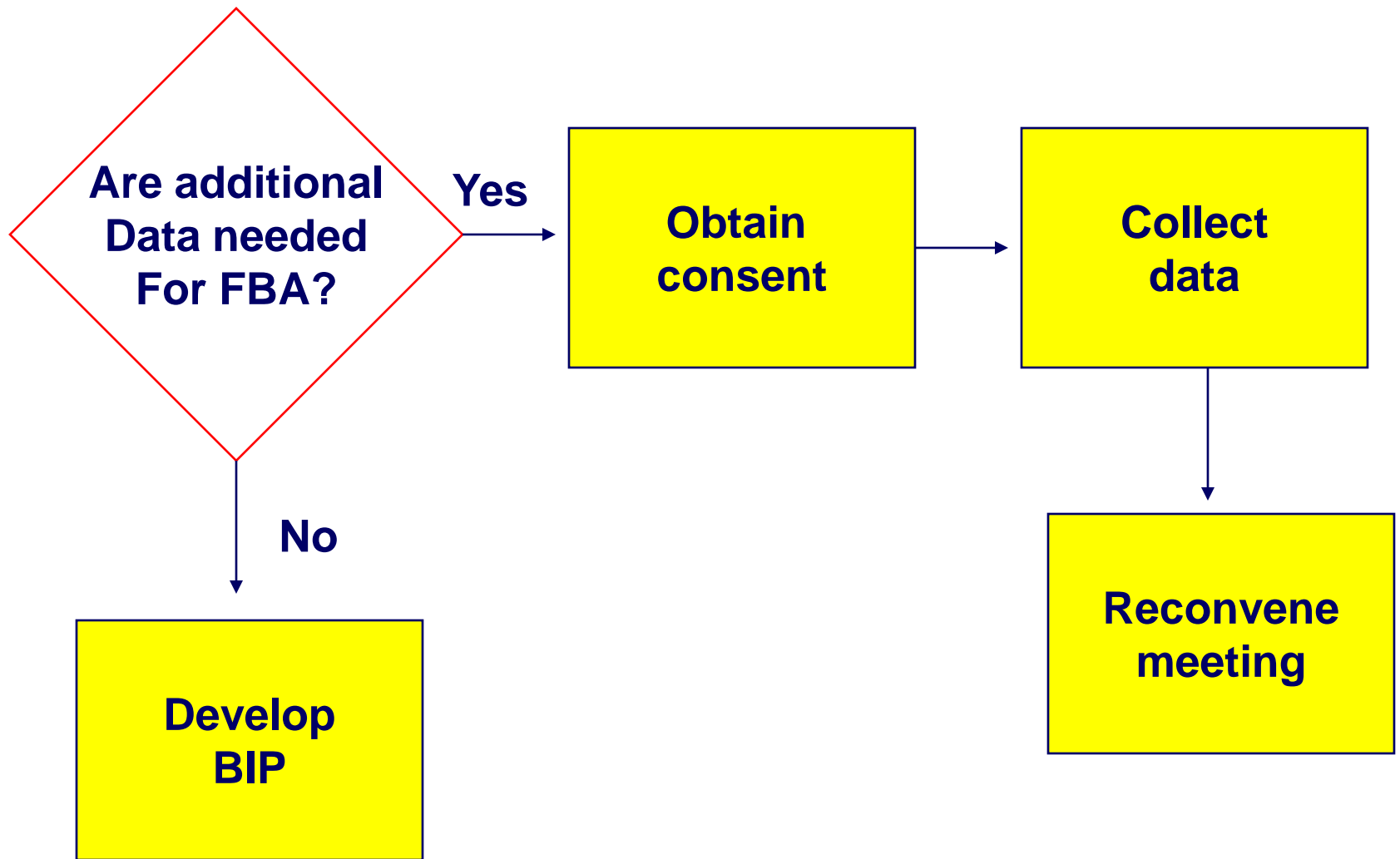
- **Educational services**
 - Participate in general curriculum
 - Progress toward IEP
- **FBA, as appropriate**
- **Behavioral intervention services/modifications to address the behavior violation**
- **IEP Team determines IAES**



Discipline: **IS** Manifestation



- **IEP Team shall...**
 - 1. Return to placement unless parent and LEA agree to change of placement (unless Special Circumstance)**
 - 2. If no FBA...Conduct FBA and implement BIP for behavior that resulted in change of placement**
 - 3. If BIP...Review BIP and modify as necessary to address the behavior**



If conduct found to be direct result of LEA's failure to implement the IEP, immediate steps must be taken to remedy deficiencies

If conduct involved drugs, weapons, or serious bodily injury, the student may be removed for a period of up to 45 school days


Additional Issues



**Behavior
IS a
manifestation**

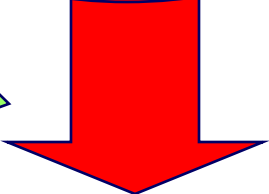


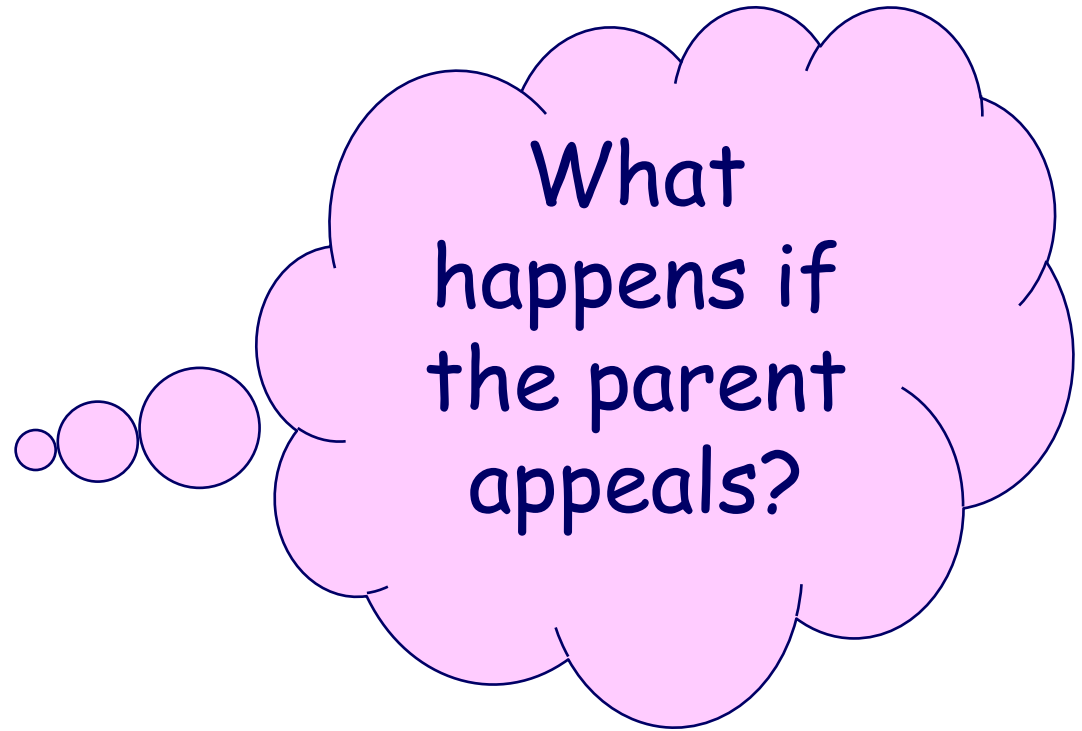
**Change
educational
placement
for
disciplinary
purposes**



- Consequences
- Restitution
- ISS (3 criteria)?
- School/Community Service
- Lose privileges
- After school/Saturday detention
- Pay back

**What CAN we
do???**

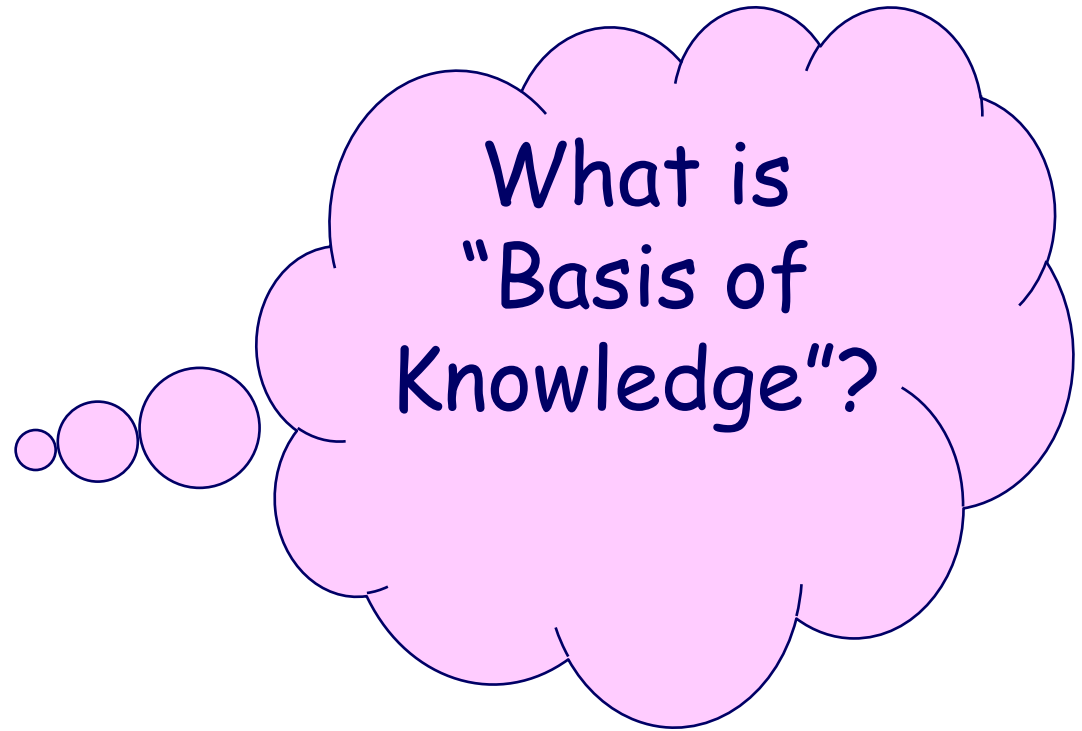
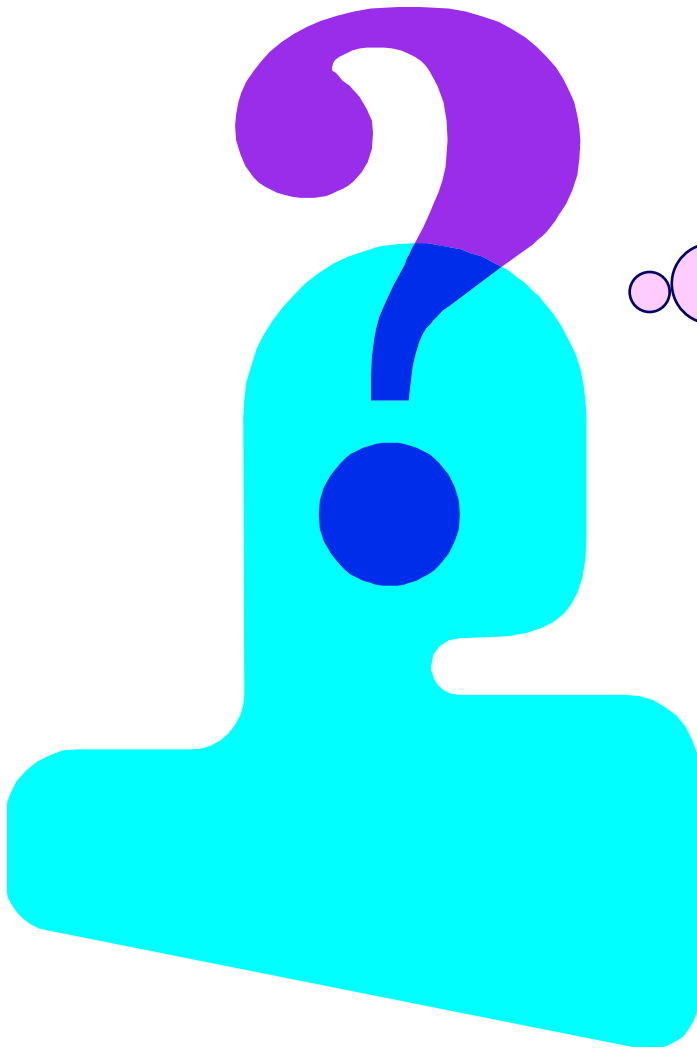




Placement During Appeals



- **The child shall remain in the IAES pending the decision of the hearing officer or until the expiration of the time period, whichever occurs first, unless parent and LEA Agree otherwise**



Basis of Knowledge



- 1. The parent of the child has expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the child, that the child is in need of special education and related services**

Basis of Knowledge



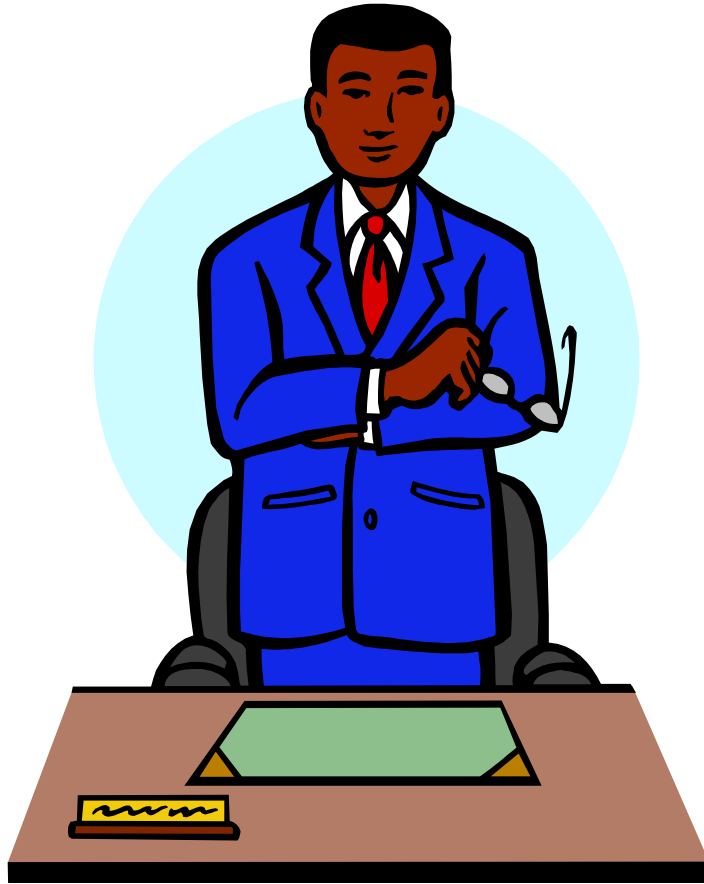
2. The parent of the child has requested an evaluation of the child, or
3. The teacher of the child, or other personnel of the LEA, has expressed specific concerns about a pattern of behavior demonstrated by the child, directly to the director of special education of such agency or to other supervisory personnel of the agency

Exceptions

- Parent did not allow an evaluation
- Parent refused services
- It was determined child not a child with disability



Conditions that Apply if No Basis of Knowledge

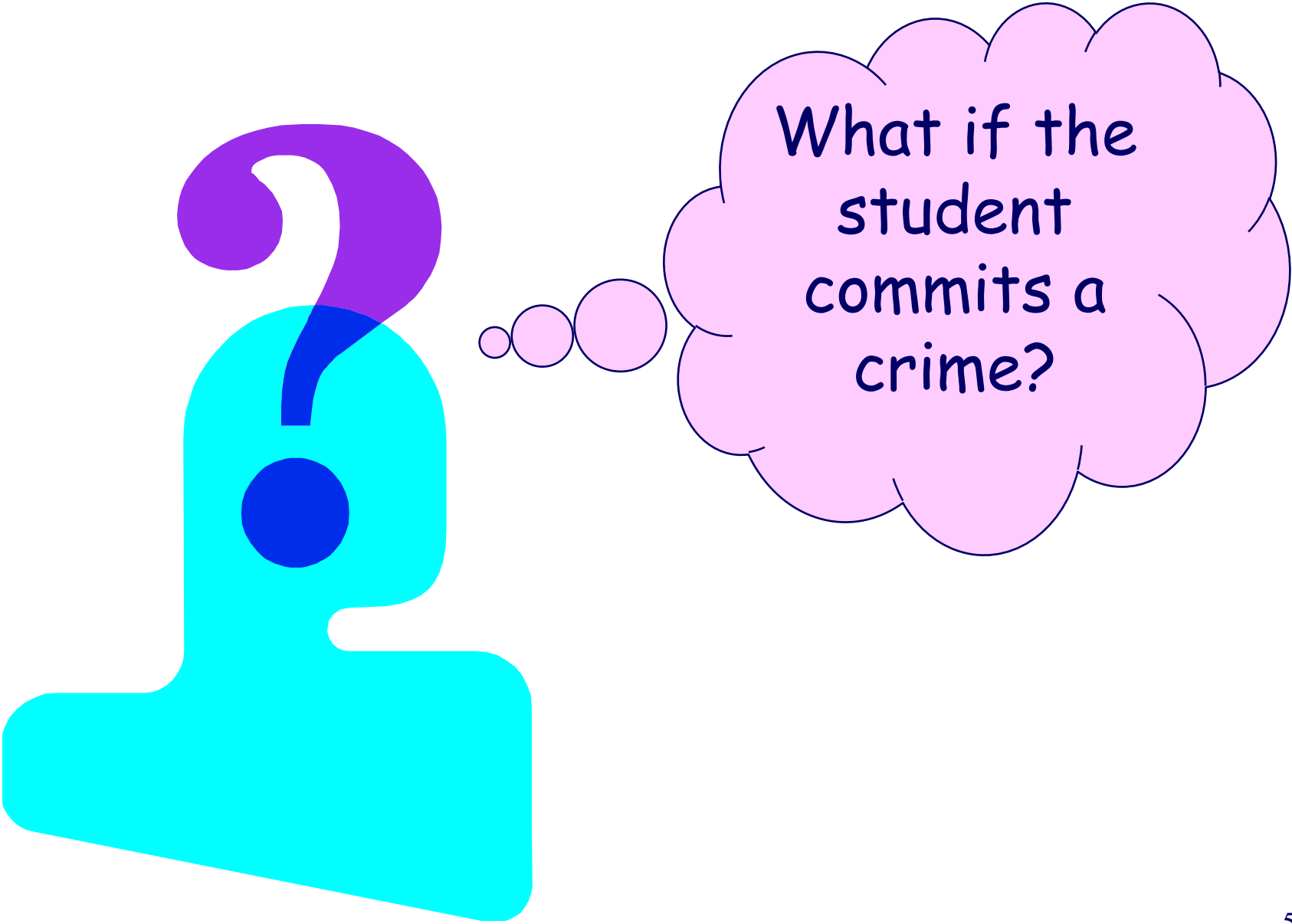


- **Child may be subjected to disciplinary measures applied to children without disabilities who engaged in comparable behaviors**

Request for Evaluation

- **Evaluation conducted in expedited manner**
- **Child shall stay in educational placement determined by school authorities pending evaluation**





What if the
student
commits a
crime?

Referral to Law Enforcement

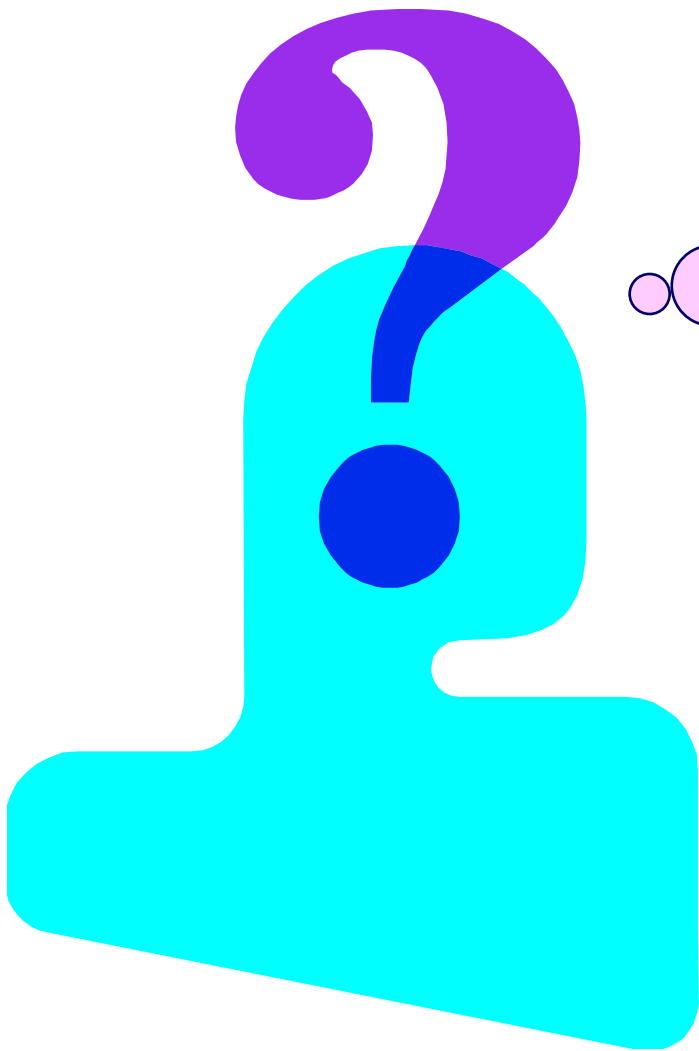


- **Nothing prohibits LEA from reporting crime committed by a child with a disability to appropriate authorities or to prevent state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability**

Transmittal of Records

- **An agency reporting a crime committed by a child with a disability shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime**





How is
Section 504
different
than IDEA
in MDR?

What about Section 504?

