

Educational Advocacy: Discipline and Special Education FAQ

Q: IS THE DISCIPLINE OF A STUDENT RECEIVING SPECIAL ED SERVICES DIFFERENT THAT A STUDENT IN GENERAL ED? WHAT IS THE PROTOCOL?

A: Yes, students receiving SE services have unique protections, especially in relationship to their disability. Therefore, schools need to follow different protocols. The school must a) give a written notice and describe the Procedural Protections available the day the decision to remove the student is made b) have a Manifestation Determination Meeting and c) examine the behavior and develop a Functional Behavior Plan

Q. WHAT IS A MANIFESTATION DETERMINATION MEETING (MDT)?

A: When a Special Education student faces suspension or expulsion of more than 10 days, the school must convene the district, the parent and relevant members of IEP team in a Manifestation Determination Meeting. The meeting must take place as soon as possible, but no later than 10 school days after the date of removal. To find out if the behavior was a result of the disability, the team must answer the questions:

- Was the conduct caused by or related to his/her disability?
- Was the conduct caused by the school's failure to implement the IEP?

If either of the questions are answered "YES", the behavior is considered a manifestation of the student's disability and the student cannot be punished. In the case of inappropriate placement of implementation of the IEP, corrections must be made.

Q: WHAT IS A FUNCTIONAL BEHAVIOR ASSESSMENT (FBA) AND BEHAVIOR INTERVENTION PLAN (BIP)?

A: Functional Behavior Assessment (FBA)

- The WHO, WHAT, WHEN, WHERE and WHY of behaviors.
- The IEP team convenes to examine the student's behaviors that get him/her into trouble, and tries to map them.
- The FBA provides the information and the clues which enable the team to create the Behavior Intervention Plan.

Behavior Intervention Plan (BIP)

- A plan to prevent and address the student's behavior.
- Involves strategies, key people involved in supporting the youth, places the youth can go when they need space, strategies the teacher might use with the student, tools for the youth in controlling their own behavior, etc.
- Make sure it is worded in the positive!

Q: WHAT ARE SPECIAL RIGHTS FOR A SPED STUDENT AND DISCIPLINE?

A: A Special Ed student cannot be removed for small suspensions here and there if they constitute a pattern of removals. If there is a pattern, convene the IEP team to address this – it means something is not right with the IEP or the placement. Rule of thumb: 10 days total is too much (RCW. 392-172A-05140) However, in the following situations a Special Ed Student can be removed for up to 45 days regardless of the outcome of the MD meeting if they: possess a weapon on school premises or at a school function; knowingly possess or uses illegal drugs, or sells or solicits the sale of a controlled substance, on school premises or at a school function; presents dangerous behavior; or has inflicted serious bodily injury upon another person while at a school, on school premises or at a school function*.

Q: DO EDUCATIONAL SERVICES STOP WHEN A SPED CHILD IS REMOVED FROM SCHOOL?

A: A special ed student can be removed for 10 days without any educational services. However, a special ed student cannot be out of school for more than 10 days without educational services being provided on the 11th day. The IEP services must be upheld in accordance with FAPE. No matter how or why a youth is removed, educational services must be provided in an Interim Alternative setting (IAES), such as tutoring at home or enrollment in an alternative school.

Q: IS THERE A GRIEVANCE PROCESS IF I DON'T AGREE WITH THE DISCIPLINE?

A: If a student is being wrongly disciplined, the student can assert the rights of both a Special Ed student and a General Ed student. Request a Special Ed Due Process Hearing AND a regular education discipline hearing. (Usually, the Special Ed Due Process Hearing will happen first and the General Ed hearing will not be necessary.) If a student requests a SE Due Process Hearing, that student is allowed to “stay put”: stay in student’s current educational placement until a decision is made (some exceptions).