



## Treehouse Tips: School Discipline

### Part 2 – Students with Disabilities

Students with disabilities are protected from discriminatory disciplinary practices in schools. Many youth experiencing foster care have either a suspected or diagnosed disability, such as PTSD, ADHD, autism, anxiety, or developmental delays. Overall, these students face disproportionately higher rates of exclusionary discipline compared to their peers without disabilities. This heightened rate of discipline increases the educational instability already faced by students experiencing foster care. Moreover, frequent school disciplinary actions can destabilize living situations, contributing to further placement and educational disruptions. Therefore, it is crucial for those supporting these youth to be well-versed in the disciplinary laws and policies designed to protect students with disabilities. This tip sheet will provide an overview of such laws and policies; for additional information, refer to “Treehouse Tips: School Discipline Part 1” to learn about more general discipline practices.

**District Policies:** Each school district’s discipline policies must comply with state laws, such as those in the Washington Administrative Code (WAC), which is referenced throughout this tip sheet. For specific district policies, refer to the district website or contact the school directly for a copy.

<https://app.leg.wa.gov/WAC/default.aspx?cite=392-400-435> **Discipline Process for Students with Disabilities:** Students receiving specially designed instruction as outlined in their Individualized Education Program (IEP), are protected from discrimination by the Individuals with Disabilities Education Improvement Act (IDEIA). Likewise, students with a 504 Plan are protected under federal law – Section 504 of the Rehabilitation Act. To be in compliance with these laws, schools are required to follow the discipline protocols explained below:

1. Either the IEP or 504 team must hold a Manifestation Determination meeting.
  - a. For students with IEPs, this must occur within 10 days of any change in education placement as a result of a student’s behavior. A change of placement is explained in [WAC 392-172A-05155](#).
  - b. For students with 504 Plans, this must occur before the student is suspended or expelled for more than 10 consecutive school days or more than a total of 10 school days during a school year.
2. If the team determines the student’s conduct is a manifestation of their disability, the team must review the IEP or 504 Plan to make sure it has the appropriate supports in place and make any necessary changes. In the case of a 504 Plan, the team might conclude that the student needs additional services, in which case, they can request a special education evaluation.
3. The school must examine the behavior, conduct a Functional Behavioral Assessment (FBA), and develop a Behavior Interventional Plan (BIP), as explained in [WAC 392-172A-05147](#). If a BIP already exists, the team must review and update it as necessary.

**Manifestation Determination Meeting:** The purpose of a Manifestation Determination meeting, as described in [WAC 392-172A-05146](#), is to determine whether the youth’s behavior that led to disciplinary action is related to the student’s disability. The meeting should be attended by the parent/caregiver, a representative from the district, and members of the student’s IEP or 504 team. This

meeting must take place as soon as possible, but no later than 10 school days after the date of removal. To determine whether the behavior was a result of the disability, the team must answer the following two questions.

- 1) Was the conduct caused by or related to the student's disability?
  - 2) Was the conduct caused by the school's failure to implement the student's IEP or 504 Plan?
- **Yes:** If the answer to either of the above questions is "yes," then the student's behavior is considered a manifestation of the student's disability. In this case, the team should develop a re-entry plan for the student's immediate return to their usual educational setting. The team must also make any necessary corrections if it is found that the IEP or 504 Plan was inappropriately implemented, or that the student's educational setting or level of support is not appropriate for the student's needs and development.

**Special Circumstances:** There are certain circumstances, listed below and outlined in [WAC 392-172A-05149](#), when the school can remove a student to an interim educational setting for up to 45 school days even if the behavior is determined to be a manifestation of the student's disability. However, in any of the circumstances listed below, the student must continue to receive general and special education services.

- If the student carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of a school district.
  - If the student 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 a school district.
  - If the student has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of a school district.
- **No:** If the answer to the first question is "no," then the behavior is not determined to be a manifestation of the student's disability and the student is subject to the same discipline policies as a student who does not have a disability. However, [WAC 392-172A-05148](#) provides the protection that even when the student is excluded from the school building, they still have the right to a free and appropriate public education (FAPE), so the school must provide the following:
    - A student with an IEP must continue to receive general and special education services in an interim alternative setting.
    - A student with a 504 plan must still be given access to the general education curriculum and the accommodations on their 504 Plan still apply.

### Frequently Asked Question (FAQ):

***If a student with a disability does not have an IEP or 504 Plan in place at the time of the disciplinary action, can they still be protected by the laws and policies for students with disabilities?*** Yes, according to [WAC 392-172A-05170](#), students without a 504 Plan or an IEP at the time of the incident, are still protected if the school had the knowledge that they were eligible for such services prior to the incident.

## **Make a referral for Educational Advocacy!**



For assistance navigating a school discipline concern, make a referral to Treehouse's advocacy program! To qualify for Educational Advocacy, youth must have an open dependency or have shelter care status. Scan the QR code or click the link below to complete the referral process:

<https://referrals.treehouseforkids.org/>