

Special Education Students and Parents! Know Your Rights: School Discipline

Should I read this?

Special education students have all the procedural rights of non-special education students, plus extra rights. **The rights we discuss in this publication are for special education students only.**

◆ If you are **not** a special education student, the publication called [Parents' Guide to Public School Discipline in WA](#) has information about discipline for you.

◆ This information is not a substitute for legal advice about your case. If you have questions, please contact one of the legal organizations listed below.

Special education protections apply to

- students who are in special education programs

AND

- students the school district knows it should evaluate for special education

The school district knows it should evaluate a student for special education when:

- **the student's parents** have **written** supervisory or administrative personnel of the school district that **the student requires special education services** OR
- **the student's parents specifically requested** a special education evaluation OR
- **the student's teacher has discussed** specific concerns about the student's behavior with the district's special education director or other special education personnel

Do we have protection against discrimination?

Yes. The school cannot discipline you for behavior related to your disabilities. That is part of your right to be free from disability discrimination.

Some conditions apply to this right:

- Within ten days of imposing or proposing your exclusion **for more than ten days**, the Individualized Educational Program ("IEP") team must meet and determine whether your misconduct and your disability are related. This determination is a **"manifestation determination."**
- If the IEP team decides your misconduct and your disability are related, they may only discipline you if special circumstances exist AND they move you to an interim alternative educational setting for up to 45 days. (More info below.)
- If the misconduct was NOT a result of your disability, the school may discipline you the same way as it would a general education student, so long as you get educational services in an interim alternative educational setting (IAES) during the exclusion period. (More info below.)

Can they completely remove me from school?

Maybe. The school can discipline you for misconduct unrelated to your disabilities and, in some cases, for conduct related to your disability.

There are major restrictions:

- The school may not completely deny you educational services for more than ten school days in a school year.
- The school can send you to an interim alternative educational setting (**IAES**) only in special circumstances.

Even if the behavior was a result of your disability, the school can remove you to an IAES for up to 45 school days if

- you had a **weapon** at school or on school grounds OR
- you knowingly had or used **illegal drugs** at school or on the grounds OR
- you **seriously hurt someone** during school or on the grounds
- a **hearing officer** determines that maintaining your current placement is substantially likely to harm someone

If they determine your behavior is not a result of disability, the school can discipline you in the same manner as general education students. The school must provide you with services in an interim alternative educational setting during the period of exclusion.

◆ The IEP team must determine the interim alternative education setting (IAES). It must

allow you to take part in the general education curriculum and to progress towards meeting the IEP goals.

Does the school have any duty to prevent problems?

If they determine at the manifestation determination meeting that your misconduct resulted from your disability, the IEP team must address the behaviors. The team must **either**:

- conduct a functional behavior assessment (an evaluation of what your problematic behaviors are and what triggers them) and implement a behavior intervention plan
- OR
- if there is already a plan, review and change it to address the behavior

If the school does not develop or change a behavior plan and later tries to suspend or expel you, you may have a defense to the suspension/expulsion.

Do we have any appeal rights?

If a parent disagrees with the IEP team's decisions regarding whether the misconduct was a manifestation of the student's disability and/or placement in an interim alternative educational setting, you may request a due process hearing. **Talk to a lawyer.**

Do I have any protections regarding aversive therapy?

The school may not use physical restraints or time-out rooms to discipline you **unless**:

- The IEP team approves it

AND

- It is safe and reasonable

Monday through Friday from 8:00 am – 6:00 pm. You may also call (206) 461-3200, or the toll-free number, 1-877-211-WASH (9274).

If you have any questions about special education rights, call:

- **Outside King County:** CLEAR intake line is 1-888-201-1014 (weekdays 9:10 a.m. to 12:25 p.m.)
- **King County:** Call 211 for information and referral to an appropriate legal services provider

For more information about special education and general education, get the [Education Advocacy Manual](#) written by TeamChild (www.teamchild.org). Chapter Five of the manual has details about discipline and students with disabilities.

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice.

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