



## Behavior Challenges & School Discipline Of Students with Disabilities



### Is Your Child Having Behavioral Challenges?

- When a student has behaviors that interfere with that student's or another student's learning, the school **MUST** provide appropriate behavior related services and supports, including a detailed **functional behavioral assessment (FBA) and positive behavioral intervention plan (BIP)** when needed.
- Measurable **behavior goals** and **behavior related services** and supports must be included in the IEP.
- If the **behavior intervention plan, services and supports are not effective** in addressing your child's challenging behavior, possible reasons include lack of consistent implementation, inadequate staff training, or an incomplete or inaccurate assessment/plan. If the school does not address this, you may consider filing a due process hearing request.
- If your child's **IEP contains no services, supports or strategies to address the behavior**, or no goals related to your child's behavioral needs, consider filing a compliance complaint with the California Department of Education ([www.cde.ca.gov/sp/se/qa/cmplntproc.asp](http://www.cde.ca.gov/sp/se/qa/cmplntproc.asp)).

### Suspensions

- Suspension shall be imposed only when other means of correction fail to bring about proper conduct (CA Education Code §48900.5)
- **Students with disabilities are subject to the same suspension rules** as nondisabled students, except that suspensions of students with disabilities **cannot exceed 10 consecutive days** without a Manifestation Determination Meeting (see reverse) 20 USC §1415(k)
- Are a result of **offenses committed** by the student that violates California Education Code and occurs **on school grounds, going to or coming from school, on or off campus lunch period or any part of a school sponsored activity** (CA Education Code §48900(s))
- If suspensions seem to be a **pattern** (i.e. similar behavior or circumstance) even though they may not be consecutive days, then the series of suspensions **may also constitute a change of placement** (note: a **change of placement is an IEP team decision**)
- The school is **not required to provide special education services during a suspension** (up to 10 days)
- A special education student **may be suspended from just the school bus**; however, the student is entitled to be **provided with an alternative form of transportation as specified in their IEP**
- Prior to suspension (unless there is an emergency situation), the **student has the right to an informal conference with the principal** so they have the opportunity to be heard
- School must send a **written notice of decision to suspend to the student's parent**



## Manifestation Determination Meeting 20 USC §1415(k)(1)(E) and 34 CFR § 300.530(e)



- A meeting to determine **whether the behavior** that led to the decision to expel the student was caused by or was directly and substantially **related to the student's disability OR** was a **direct result of the school's failure to implement the IEP**
- Must be **held within 10 school** days of ANY decision to change the placement of a student with a disability because of a violation of a code of student conduct (regardless whether the school calls the change in placement either a suspension or an expulsion). Any suspension more than 10 consecutive days is considered a change of placement, which is an IEP team decision
- **Prepare** for this meeting! Read this article to learn how:  
<https://www.wrightslaw.com/info/discipl.mdr.strategy.htm>
- **If you disagree** with the manifestation determination, you can request a due process hearing. Your student will stay in his current educational placement (stay put). Ask for an expedited special education due process hearing from the Office of Administrative Hearings (OAH). File this ASAP and PRIOR to any expulsion hearing (this way parent can ask hearing officer to order District not to proceed with the expulsion hearing until after the expedited hearing is over).

### Did You Know?

- ⇒ Suspensions are not to be used in response to truancy, tardiness or absence
- ⇒ The school cannot suspend a K-3 student for willful defiance (Cal Ed Code §48900(k)(2))
- ⇒ Suspensions can only be used after a less restrictive means of discipline and intervention, such as counseling or community service, has been attempted (unless offense is Cal Ed Code § 48900 or the student's presence causes a danger to others)
- ⇒ It is within the superintendent's discretion to use alternative methods, such as anger-management classes, instead of suspension or expulsion
- ⇒ African American students, boys, and students with disabilities are disproportionately disciplined in K-12 public schools
- ⇒ Students who are suspended from school lose important instructional time, are less likely to graduate on time, and are more likely to repeat a grade, drop out of school, and become involved in the juvenile justice system?