

SCHOOL DISCIPLINE AND SPECIAL EDUCATION

Youth with special education needs (Individualized Education Program (“IEP”) or Section 504 plan, or suspected special needs that have not been identified) have protections when it comes to school discipline. The district **must** follow special disciplinary procedures.

Your youth is facing school discipline.
Do they have an IEP or 504 Plan?

Yes

A student with disabilities **cannot** be kept out of school for **more than 10** total days in a school year without the district having a “manifestation determination review (MDR).” An MDR is a meeting of the IEP team to decide whether the student’s misconduct is a result of their special needs or the school’s failure to implement their IEP.

To prepare for a MDR, consider whether the district has been implementing your child’s IEP. Look at a copy of the current IEP, and determine whether the services written into the plan were actually being provided at the time of your child’s behavior. It is especially important to ask whether any behavior plans in your child’s IEP were being fully implemented. If not, your child’s behavior could be connected to the school’s failure to follow the IEP.

If your child’s behavior **has** a direct and substantial connection to their disability, or if it is the result of the district’s failure to implement their IEP, **they cannot be expelled** or kept out of school any longer. The student must go back to their original placement (unless the IEP team agrees otherwise).

OR

If it was determined that the behavior was **NOT** a manifestation of disability, the student may be recommended for expulsion. If you disagree with the team recommendation, you can file a “due process complaint” to dispute the outcome of the MDR.

No

No, but you believe that they have a disability that caused their misconduct.

The district is obligated to identify students with special needs. If they “had knowledge” that your child had a disability, but did not evaluate them for special education, a district may still have to treat them as if they have an IEP during disciplinary proceedings.

The law says that a district has knowledge of a child’s disability if:

1. A parent had expressed concern that the child had special education needs in writing before the disciplinary action;
2. A parent requested that their child be evaluated for special education before the misconduct, and the district did not do so;
3. A teacher or other school official had expressed concern about the student’s pattern of behavior to the special education director or other supervisors before the misconduct.

