

The Law Regarding Special Education Students And Discipline



What about Special Education Students?



- Discipline of Students Receiving Special Education Services



continued

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The law regarding special education students and discipline is a complex interplay of federal laws, state regulations, and educational policies designed to ensure that students with disabilities are treated fairly and equitably in school settings. The Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973 are two pivotal pieces of legislation that specifically address the rights of special education students, particularly concerning discipline. This article explores the legal frameworks governing discipline for students with disabilities, the implications for school personnel, and the procedures that must be followed to protect the rights of these students.

Overview of Relevant Legislation

Individuals with Disabilities Education Act (IDEA)

The IDEA is a federal law that mandates special education services for students with disabilities. It ensures that eligible children receive a free appropriate public education (FAPE) tailored to their individual needs. Under IDEA, special provisions are in place regarding disciplinary actions against students with disabilities. Key aspects include:

1. **Manifestation Determination:** If a student with a disability is subjected to disciplinary action that results in a change of placement (such as suspension or expulsion for more than 10 consecutive school days), a manifestation determination must be conducted. This process assesses whether the

behavior that led to the disciplinary action was a manifestation of the student's disability.

2. Protection from Exclusion: If the behavior is determined to be a manifestation of the student's disability, the school cannot expel or suspend the student in a way that deprives them of FAPE. Instead, the school must review and potentially revise the student's Individualized Education Program (IEP) to address the behavior.

3. Behavior Intervention Plans (BIPs): If a student's behavior is problematic, the IEP team may develop a BIP tailored to the student's needs. This plan outlines strategies and interventions to help manage the student's behavior in a constructive manner.

Section 504 of the Rehabilitation Act

Section 504 provides a broader definition of disability compared to IDEA, covering students with a wide range of physical and mental impairments that substantially limit one or more major life activities. Under this law, students with disabilities are entitled to:

1. Equal Rights: Students with disabilities cannot be discriminated against in school settings, including in disciplinary actions. Schools must ensure that disciplinary policies are applied equally to all students.

2. Appropriate Accommodations: Schools must provide reasonable accommodations for students with disabilities. This may include modifications in disciplinary procedures to ensure that students are treated fairly and equitably.

3. Due Process: Section 504 requires that schools provide due process protections, including notice and an opportunity for a hearing if a student is subjected to disciplinary action that may result in removal from school.

Disciplinary Procedures for Special Education Students

Short-Term Suspensions

For short-term suspensions (10 days or fewer), schools can impose disciplinary actions similar to those for general education students. However, there are specific considerations for special education students:

- Behavioral Considerations: Schools must consider whether the behavior that led to the suspension was a result of the student's disability.
- Continued Access to Education: Even during a short-term suspension, the school must ensure that the student continues to receive educational services as specified in their IEP.

Long-Term Suspensions and Expulsions

When a disciplinary action results in a change of placement that exceeds 10 consecutive days, the following steps must be followed:

1. **Manifestation Determination Review:** The school must conduct a review to determine if the behavior was a manifestation of the student's disability.
2. **FAPE Requirement:** If the behavior is a manifestation, the student must continue to receive educational services, and the school must address the behavior through the IEP or BIP.
3. **Interim Alternative Educational Settings (IAES):** In certain situations, schools may place students in an IAES for up to 45 days, even if the behavior was a manifestation of the disability. This is applicable for specific circumstances, such as carrying weapons or drugs to school.

Key Case Law Affecting Discipline of Special Education Students

Several court cases have shaped the legal landscape regarding the discipline of students with disabilities:

Ferguson v. City of New York (1999)

In this case, the court ruled that the school must provide a meaningful educational opportunity to students with disabilities, even during disciplinary actions. This case emphasized the importance of maintaining educational access for students with disabilities.

Schaffer v. Weast (2005)

This case clarified the burden of proof in disputes over the provision of services under IDEA. It determined that the party seeking to change the status quo (typically the school or the parent) bears the burden of proof in disputes regarding the educational program, including disciplinary actions.

Implications for School Personnel

Educators and school administrators must be well-versed in the laws governing special education and discipline to ensure compliance and protect the rights of students. Key implications include:

1. **Training and Awareness:** School staff should receive ongoing training about IDEA and Section 504 to understand the legal obligations and best practices in handling disciplinary situations involving special education students.
2. **Collaboration:** It is crucial for educators, special education teachers, and school psychologists to

work collaboratively to develop effective behavioral intervention plans and address disciplinary issues proactively.

3. Documentation: Accurate documentation of incidents, disciplinary actions, and communications with parents is vital to protect the school and ensure compliance with legal requirements.

Conclusion

The law regarding special education students and discipline is designed to protect the rights of students with disabilities while maintaining a safe and conducive learning environment. Understanding the intricacies of IDEA and Section 504, along with the associated legal precedents, is essential for educators and school administrators. By implementing appropriate disciplinary measures and ensuring that students continue to receive a free appropriate public education, schools can foster an inclusive environment that supports the academic and social development of all students, including those with disabilities. As schools navigate these complex legal obligations, they must remain committed to providing equitable treatment and fostering an educational climate that prioritizes learning and growth for every student.

Frequently Asked Questions

What are the key federal laws that govern discipline for special education students?

The key federal laws include the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act, which provide protections for students with disabilities against discrimination and ensure they receive appropriate educational services.

Can a school suspend a special education student for behavior related to their disability?

No, if the behavior that led to the suspension is a manifestation of the student's disability, the school must conduct a manifestation determination review and cannot impose the same disciplinary actions as they would for a non-disabled student.

What is a manifestation determination review?

A manifestation determination review is a process required by IDEA that evaluates whether a student's behavior that led to disciplinary action was directly related to their disability, determining if the school can proceed with standard disciplinary measures.

How are special education students protected from expulsion?

Special education students are protected from expulsion under IDEA, which mandates that schools must consider the relationship between the student's behavior and their disability before proceeding with expulsion.

What are the requirements for implementing a behavioral intervention plan (BIP) for special education students?

A behavioral intervention plan must be developed for students whose behaviors impede their learning or that of others. It should include specific strategies and interventions tailored to the student's needs, and it must be reviewed regularly.

How do schools ensure due process for special education students facing disciplinary actions?

Schools must provide due process by notifying parents of the disciplinary actions, providing an opportunity for a hearing, and ensuring that the student's rights are upheld throughout the process, including the right to appeal decisions.

What role do parents play in the discipline process for special education students?

Parents have the right to be involved in the discipline process for their special education students, including participating in manifestation determination reviews, being informed of any disciplinary actions, and advocating for appropriate educational services.

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