

Student Discipline Under the Illinois School Code

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How long can a student be expelled?

- The board may expel a student for a definite period of time **not to exceed 2 calendar years**, as determined on a case-by-case basis.
- Expulsion for **at least 1 (one) year is mandatory** for bringing a weapon (detailed in statute) to school, any school-sponsored activity or event, or any activity or event that bears a reasonable relationship to school.

How long can a student be suspended?

- General Rule: “for a period not to exceed 10 school days.”
 - School bus exception: “If a pupil is suspended due to gross disobedience or misconduct on a school bus, the board may suspend the pupil in excess of 10 school days for safety reasons.”

What behavior can a student be expelled for?

- When a student is found to be “guilty of *gross disobedience or misconduct, including gross disobedience or misconduct perpetrated by electronic means*, pursuant to subsection (b-20) of this Section[.]”

What are a school's obligations prior to expulsion?

- Schools must exhaust other interventions
 - “[O]nly if other appropriate and available behavioral and disciplinary interventions have been exhausted[.]”
 - Determination made by school officials.

What are a school's obligations prior to expulsion?

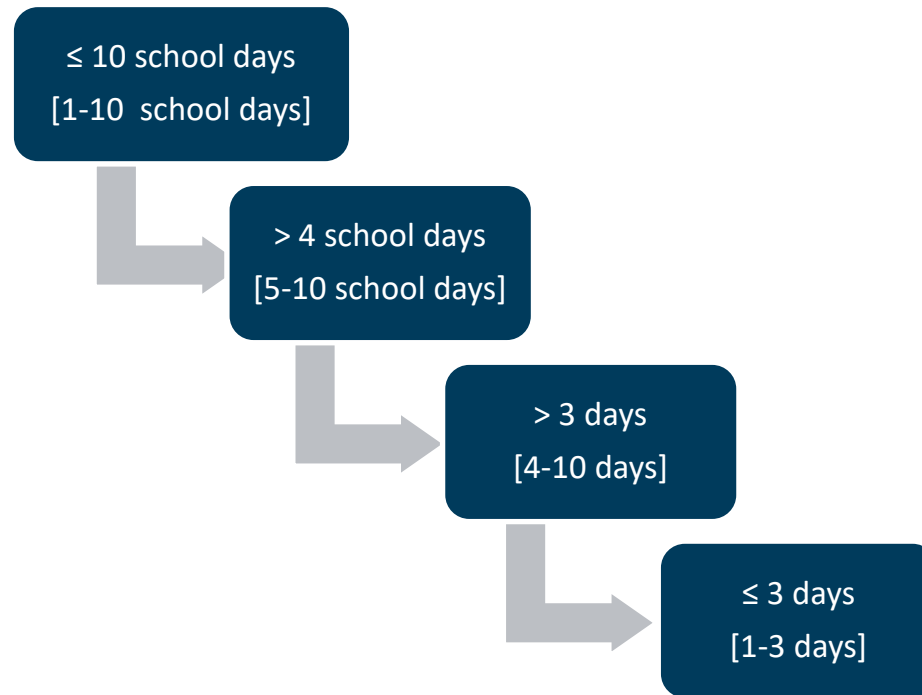
- Determination that student's continuing presence in school would either:
 - (i) pose a threat to the safety of other students, staff, or members of the school community, or
 - (ii) substantially disrupt, impede, or interfere with the operation of the school.
- Determined on a case-by-case basis by school officials.

What are a school's obligations prior to expulsion?

- School officials must make all reasonable efforts to:
 - Resolve threats;
 - Address disruptions; and
 - Minimize the length of student exclusions to the greatest extent practicable.

What behavior can a student be suspended for? School's obligations?

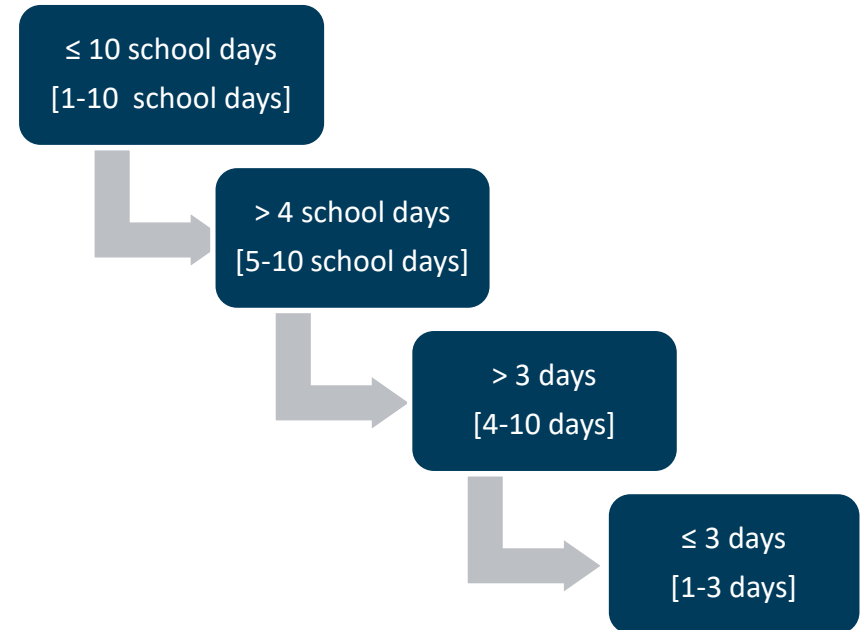
- Within general 10 school day maximum rule, School Code attaches required standards and obligations for suspensions of specified lengths.



What behavior can a student be suspended for? School's obligations?

Suspensions not exceeding 10 school days [1-10 school days]

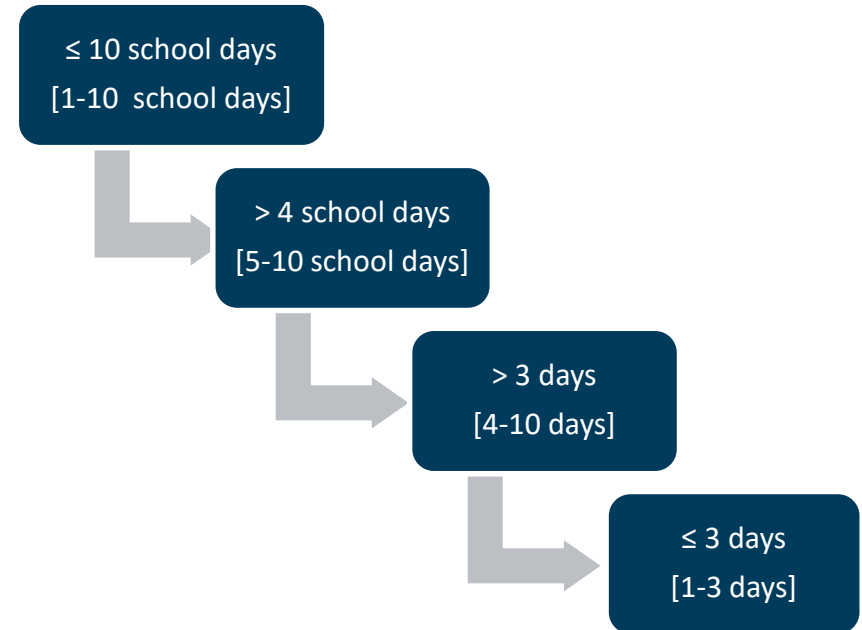
- Standard: student is “guilty of gross disobedience or misconduct” or “guilty of gross disobedience or misconduct on the school bus.”



What behavior can a student be suspended for? School's obligations?

Suspensions of 3 days or less [1-3 days]

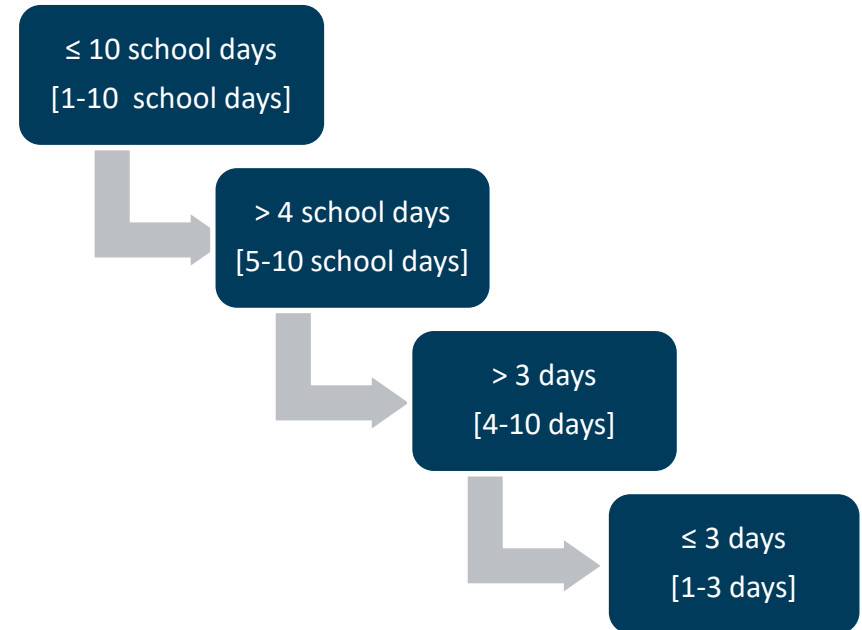
- Standard: “only if the student's continuing presence in school would pose a threat to school safety or a disruption to other students' learning opportunities.”
- School Obligation: “School officials shall make all reasonable efforts to resolve such threats, address such disruptions, and minimize the length of suspensions to the greatest extent practicable.”



What behavior can a student be suspended for? School's obligations?

Suspensions of longer than 3 days
[4-10 days]

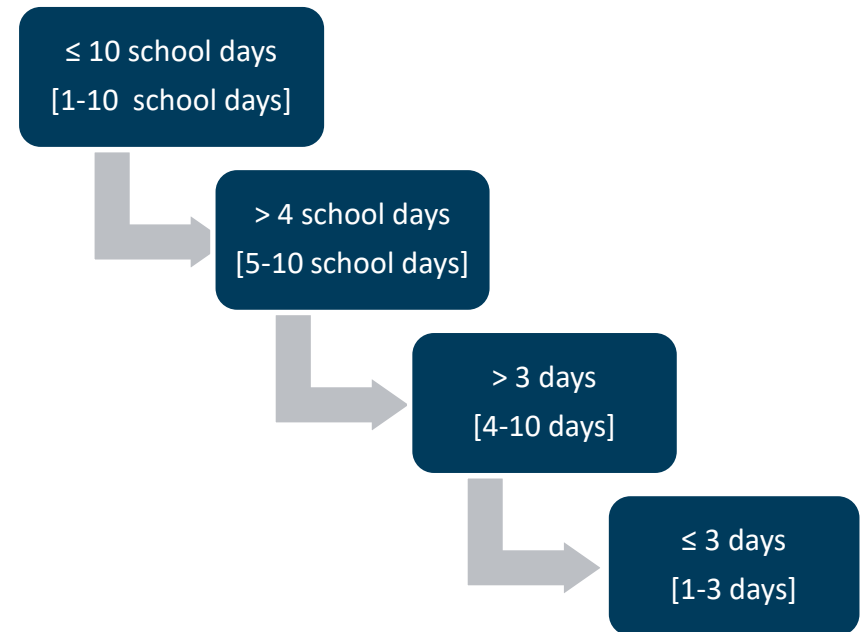
- Standard: “only if other appropriate and available behavioral and disciplinary interventions have been exhausted **and** the student's continuing presence in school would either:
 - (i) pose a threat to the safety of other students, staff, or members of the school community or
 - (ii) substantially disrupt, impede, or interfere with the operation of the school.”



What behavior can a student be suspended for? School's obligations?

Suspensions of longer than 3 days [4-10 days]

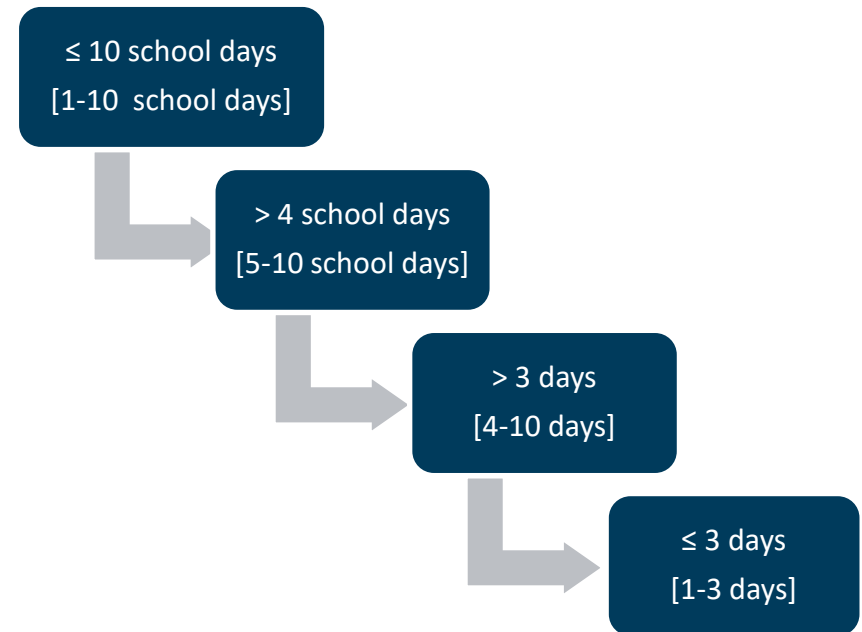
- School Obligation: School officials shall make all reasonable efforts to:
 - resolve such threats,
 - address such disruptions, and
 - minimize the length of student exclusions to the greatest extent practicable.



What behavior can a student be suspended for? School's obligations?

Suspensions of longer than 4 school days [5-10 school days]

- School Obligation: Such students "shall be provided appropriate and available support services during the period of their suspension."
 - "appropriate and available support services" shall be determined by school authorities.



Procedural Protections for Students Facing Expulsion

Request [“Notice”] of Expulsion Hearing

- “Expulsion shall take place only after the *parents or guardians have been requested to appear at a meeting of the board, or with a hearing officer* appointed by it, to discuss their child's behavior.”
- Request [“notice”] must: (1) be made by registered or certified mail, and (2) state the time, place and purpose of the meeting.

Procedural Protections for Students Facing Expulsion

Expulsion Hearing

- At the meeting/hearing, Board or hearing officer must “state the reasons for dismissal and the date on which the expulsion is to become effective.”
- If hearing officer conducts meeting/hearing, hearing officer must “report to the board a written summary of the evidence heard at the meeting and the board may take such action thereon as it finds appropriate.”

Procedural Protections for Students Facing Suspension

Parental/Guardian Notification

- Suspensions must be reported immediately to parents/guardians with:
 - Full statement of reasons for suspension, and
 - Notice of their right to a review.

School Board Notification

- School board must be given summary of the notice, including the reasons for the suspension and suspension length.

Procedural Protections for Students Facing Suspension

Suspension Review Hearing

- ***Only upon request of parents/guardians.***
- Conducted by school board or appointed hearing officer.
 - Review “such action of the superintendent or principal, assistant principal, or dean of students.”
- Provides opportunity for “the parents or guardians of the pupil [to] appear and discuss the suspension with the board or its hearing officer.”

Procedural Protections for Students Facing Suspension or Expulsion

P.A. 102-0539 (eff. 8/20/2021)

- Representative from local mental health agency when evidence of mental illness causing expulsion.
 - “A school board must invite a representative from a local mental health agency to consult with the board at the meeting whenever there is evidence that mental illness may be the cause of a student's expulsion or suspension.”

Procedural Protections for Students Facing Suspension or Expulsion

Brown v. Plainfield Cmty. Consol. Dist. 202, 522 F. Supp. 2d 1068 (N.D. Ill. 2007)

- “a student facing an expulsion has a due process right to ‘notice of the charges against him, notice of the time of the hearing and a full opportunity to be heard.’ A student must be given a meaningful opportunity to be heard, but expulsion hearings need not ‘take the form of a judicial or quasi-judicial trial.’”

Maldonado v. Ill. State Bd. of Educ., No. 01 C 7757, 2003 U.S. Dist. LEXIS 4923 (N.D. Ill. Mar. 27, 2003)

- “In the context of suspensions of ten days or less, this means that a student must be given oral or written notice of the charges against him and, if he denies them, an explanation of the evidence the authorities have and an opportunity to present his side of the story.”

Procedural Protections for Students Facing Suspension or Expulsion

P.A. 102-0466 (*eff. 7/1/25*)

- Present mitigating factors
 - “a student may disclose any factor to be considered in mitigation, including his or her status as a parent, expectant parent, or victim of domestic or sexual violence, as defined in Article 26A.”

Procedural Protections for Students Facing Suspension or Expulsion

P.A. 102-0466 (*eff. 7/1/25*)

- Representation
 - “A representative of the parent's or guardian's choice, or of the student's choice if emancipated, must be permitted to represent the student throughout the proceedings and to address the school board or its appointed hearing officer.”

Procedural Protections for Students Facing Suspension or Expulsion

P.A. 102-0466 (*eff. 7/1/25*)

- Support Person
 - “With the approval of the student's parent or guardian, or of the student if emancipated, a support person must be permitted to accompany the student to any disciplinary hearings or proceedings.”

Procedural Protections for Students Facing Suspension or Expulsion

P.A. 102-0466 (*eff. 7/1/25*)

- Independent of any ongoing criminal investigation or proceeding
 - “A suspension or expulsion proceeding under this subsection (b-35) must be conducted independently from any ongoing criminal investigation or proceeding, and an absence of pending or possible criminal charges, criminal investigations, or proceedings may not be a factor in school disciplinary decisions.”

Procedural Protections for Students Facing Suspension or Expulsion

P.A. 102-0466 (*eff. 7/1/25*)

- No direct questioning of victims alleging sexual violence
 - “During a suspension review hearing [] or an expulsion hearing [] that involves allegations of sexual violence by the student who is subject to discipline, neither the student nor his or her representative shall directly question nor have direct contact with the alleged victim. The student who is subject to discipline or his or her representative may, at the discretion and direction of the school board or its appointed hearing officer, suggest questions to be posed by the school board or its appointed hearing officer to the alleged victim.”

What must a student receive if they are expelled?

- Written expulsion decision from the Board which must contain:
 - “the specific reasons why removing the pupil from the learning environment is in the best interest of the school.”
 - “a rationale as to the specific duration of the expulsion.”
 - “whether other interventions were attempted or whether it was determined that there were no other appropriate and available interventions.”

What may a student receive if they are expelled?

- Support Services
 - A school district may refer students who are expelled to appropriate and available support services.
- Transfer to Alternative Program
 - Transfer may occur immediately in the manner provided in Article 13A or 13B of this Code.
 - A pupil must not be denied transfer because of the expulsion, except in cases in which such transfer is deemed to cause a threat to the safety of students or staff in the alternative program.

What must a student receive if they are suspended?

- Written suspension decision which must:
 - Detail “the specific act of gross disobedience or misconduct resulting in the decision to suspend.”
 - Include “a rationale as to the specific duration of the suspension.”
 - Document “whether other interventions were attempted or whether it was determined that there were no other appropriate and available interventions.”
 - Document “whether [appropriate and available support services] are to be provided or whether it was determined that there are no such appropriate and available services.” [suspensions > 4 school days]

What must a student receive if they are suspended?

- Opportunity to Make Up Work
 - “A school district shall create a policy by which suspended pupils, including those pupils suspended from the school bus who do not have alternate transportation to school, shall have the opportunity to make up work for equivalent academic credit.”
 - “It shall be the responsibility of a pupil's parents or guardians to notify school officials that a pupil suspended from the school bus does not have alternate transportation to school.”

Legislative Update Re. Administrative Transfers

- P.A. 103-0473 (eff. Jan. 1, 2024)
 - Before the effective date of the transfer, parents/guardians shall receive information about the alternative school program (e.g., specific nature of curriculum, typical daily schedule, etc.).
 - At the earliest time following the effective date of the transfer, sending school district and alternative school program must meet (and invite student & parents/guardians) to develop an alternative educational plan.

Legislative Update Re. Administrative Transfers

- P.A. 103-0473 (eff. Jan. 1, 2024) (cont'd)
 - Return date to regular educational program shall not be extended over objection of parent/guardian, but may be extended upon written agreement between transferring school district, alternative school program, and parent/guardian.
 - If transferred student has an IEP developed under Article 14, IEP continues to apply to student after transfer (unless modified).

Special Education Student Discipline

A Note on Discipline and Behavior

- Addressing student behavior
- 20 USC § 1414(d)(3)(b)
 - “If a child’s behavior impedes the child’s learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior.”
- 34 CFR § 300.304
 - “Districts are mandated to complete functional behavioral assessments and behavior intervention plans to provide appropriate supports.”

Student Discipline Generally

- Exclusionary Discipline
- Suspension
 - Temporary removal from school
 - Less than 10 days in length
 - [ISBE Position Statement on Informal Removals](#)
- Expulsion
 - Extended removal from school
 - More than 10 days, up to 2 years in IL

Student Discipline Generally

ISBE Position Statement on Informal Removals of Illinois Students

The Illinois State Board of Education (ISBE) has been alerted to instances in districts across the state whereby students are sent home by the school during the school day and/or told by the school to remain at home, **without** the school documenting such action as a suspension. This has been reported in situations where the student has engaged in behavior that does not rise to the level of gross disobedience or misconduct (including, but not limited to, work refusal, tantrums, and various disability-based behaviors) and also in some instances where there is insufficient staff to cover a classroom due to teacher absences. ISBE takes the position that such exclusions are tantamount to a suspension pursuant to Section 10-22.6 of the Illinois School Code (105 ILCS 5/10-22.6) – even if the parent or guardian agrees to the exclusion – and all rights and responsibilities therein apply. Please see this [link](#) to an ISBE resource that fully explains what students must be provided per Section 10-22.6 of the School Code.

Further, exclusions for students with specialized education needs must also meet the requirements of a removal under the Individuals with Disabilities Education Act (IDEA) (20 USC § 1400 et seq.) and Section 226.400 of ISBE's administrative rules, which provides, in part, the following:

“[U]pon the occurrence of any act that may subject the student either to expulsion from school or suspension resulting in ***more than ten cumulative days of suspension*** during any one school year, the district shall be ***required to convene a meeting of the IEP Team*** to review the student's behavioral intervention plan or, if a behavioral intervention plan has not yet been developed, to develop one.” 23 Ill. Admin. Code 226.400 (emphasis added).

Student Discipline Generally

- “SB 100” (P.A. 99-456)
 - 2016 legislation to reduce overreliance on exclusionary discipline
 - Eliminated “zero-tolerance” policies
 - Students may not be automatically expelled or suspended for certain violations, unless required by federal or State law (105 ILCS 5/10-22.6(b-10))
 - Established standards for when schools may use out-of-school suspensions or expulsions

Special Education Student Discipline

- Exclusionary Discipline and Students with Disabilities
 - Students with disabilities may be suspended and/or expelled, although additional protections apply
 - If a student is having behavioral concerns that may require the use of exclusionary discipline, important to determine if the behavior is related to a disability
 - District may need to conduct an evaluation, complete a Functional Behavioral Analysis, and/or create a Behavior Intervention Plan

Special Education Student Discipline

- Continuation of Educational Services
- 34 CFR § 300.530(b)(2)
 - “After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, during any subsequent days of removal the public agency must provide services to the extent required under paragraph (d) of this section.”
- This is cumulative – once a student is removed for 10 school days in the same year, services should be provided for future removals
- At this point, also need to consider whether the removal(s) constitute a change of placement.

Special Education Student Discipline

- 34 CFR § 300.536(a)
 - A change of placement occurs if –
 - (1) The removal is more than 10 consecutive school days;
 - (2) The child has been subjected to a series of removals that constitute a pattern –
 - (i) The series of removals totals more than 10 school days;
 - (ii) The child's behavior is substantially similar to the behavior in previous incidents that resulted in the series of removals;
 - (iii) Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.

Manifestation Determination

- Manifestation Determination Review (MDR)
- 34 CFR § 300.530(e)(1)
 - Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, parent, and relevant members of the IEP team must determine:
 - (i) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability;
 - (ii) If the conduct in question was the direct result of the LEA's failure to implement the IEP.

Manifestation Determination

- 34 CFR § 300.530(f)
 - Determination that behavior was a manifestation
 - If it is determined that the conduct was a manifestation of the child's disability, the IEP Team must (i) conduct an FBA and implement a BIP, or (ii) review and modify the BIP to address the behavior.
 - Except for special circumstances (removal to an IAES), the child must be returned to the placement from which the child was removed, unless the parent and the LEA agree to a change of placement as part of the modification of the BIP

Manifestation Determination

- In short:
 - If yes, manifestation:
 - Student cannot be expelled
 - You should hold an IEP meeting to create a BIP (or improve the existing BIP)
 - If no, not a manifestation:
 - Student can be disciplined similar to a student without a disability (i.e., can be expelled)
- However, there is an exception...

Interim Alternative Educational Settings

- 34 CFR § 300.530(g) – Special circumstances.
 - School may remove a student to an IAES for up to 45 school days regardless of manifestation if the child
 - (1) Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of an SEA or an LEA;
 - Knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school...
 - Has inflicted serious bodily injury upon another person while at school...
 - School can also request an expedited due process hearing to prove a student is dangerous to self or other, get an order to place student in an IAES.

Students Not Yet Found Eligible

- Protections for children not determined eligible for special education and related services
 - 34 CFR § 300.534
 - (a) A child who has not been determined eligible for special education and who has engaged in behavior that violated a code of student conduct may assert any of the protections provided for in this part if the public agency had knowledge that the child was a child with a disability **before** the behavior that precipitated the disciplinary action occurred.

Students Not Yet Found Eligible

- 34 CFR § 300.534(b). Basis of knowledge.
 - A public agency must be deemed to have knowledge that a child is a child with a disability if –
 - (1) The parent expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the child, that the child is in need of special education and related services;
 - (2) The parent of the child requested an evaluation of the child;
 - (3) The teacher of the child, or other personnel of the LEA, expressed specific concerns about a pattern of behavior demonstrated by the child directly to the director of special education of the agency or to other supervisory personnel of the agency.

That's YOU!

Thank you