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School Suspension and Expulsion

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Are you the parent of a child with a disability? Is your child on an Individualized Education Program (IEP) or a 504 Plan? Does your child sometimes struggle with behavior challenges? If so, there are special rules regarding behavior and discipline that may apply to your child, including providing the individualized help your child needs to manage his/her behavior in school.

If your child has complex social/behavioral challenges, they should receive individualized support. It is important that you are included in your child's evaluation, education, and behavior plan. Your knowledge about your child's development, medical history, strengths, interests, and needs is essential in creating an effective behavior plan.

A strong partnership between your family and the school helps to create consistency across home and school settings to improve results for your child.

When the right supports are in place your child will be more likely to succeed in school. If you are concerned about your child's behavior, request a meeting with your child's IEP or 504 team as soon as possible, to discuss what additional supports may be needed.

Many students with behavior challenges have an individualized behavior plan at school describing the support they need to behave at school. If your child has a behavior plan at school, it should be included in the accommodations and modifications in your child's IEP or 504 Plan. The child's IEP or 504 Plan should have a complete list of the child's needs to be successful at school.

Rules for children in general education:

All schools have rules for children to follow. If children do not follow the rules, they may be suspended or expelled from school.

You can find the school rules in the student handbook and/or on the school webpage. It is important to know that there are also special rules the school must follow when your child with a disability breaks rules.

A superintendent or principal may suspend your child for up to ten school days or, with the approval of the school board, expel your child for the remainder of the school year or up to 90 school days, whichever is longer, for misconduct on school property, on a school bus or at a school-sponsored activity. Principals, superintendents, and school boards are encouraged to provide alternative education services or programs to students during any period of suspension or expulsion.

Children younger than eight years of age in public, independent or private prekindergarten programs cannot be suspended or expelled unless the child poses a threat to others.

Suspensions for 10 school days or less

A principal or superintendent may suspend any child for up to 10 days in a school year. This is called a short-term suspension. Both in-school and out-of-school suspensions are counted. Before suspending your child, the school must tell you about the planned suspension and provide an explanation to you about why it is happening. The school must give you and your child a chance to respond to the charges. Then the administrator must decide whether to suspend your child and for how long. This decision must be in writing and given to you before the suspension begins. The school does not have to provide your child with any education services during a short-term suspension.

Rules for children on IEPs:

Change in educational placement

A child's educational placement is the place where they are taught. It could be the regular classroom, a special class, or a special school. A change occurs when your child with a disability is suspended for more than 10 school days in a row. It is also considered a change of

placement when there is a series of suspensions that create a pattern. The decision is made on a case-by-case basis. The team considers:

- Whether past suspensions were for similar behaviors.
- Whether the misbehavior is caused by or directly related to your child's disability.
- The length and closeness of past suspensions.

If there is a change of placement, a parent may request a due process hearing.

Manifestation Determination

If the principal or superintendent plans to suspend your child for more than 10 school days in the same school year, a meeting must occur. This meeting is called a Manifestation Determination meeting. This meeting must take place within 10 days from the date the suspension decision was made. Relevant members of the IEP team, which includes you as the parent, must decide whether your child's behavior was caused by or directly related to ("a manifestation of") their disability.

Behavior is determined to be a manifestation of your child's disability if your child's misbehavior is caused by or directly related to their disability, or the school did not follow your child's IEP.

If the behavior is not found to be caused by your child's disability or the school's failure to follow the IEP, the principal or superintendent with the approval of the school board may suspend your child as planned. Your child continues to receive the education services needed to make progress in general education work (the same work all students are assigned) and meet their IEP goals.

A plan to help your child

If the behavior is found to be related to your child's disability, the team needs to find out if your child has a "behavior plan." This is a written plan that describes how school personnel can help change or manage your child's negative behaviors. This plan can be a part of your child's IEP. Any child whose

placement has been changed because of a disciplinary action must have a plan focused on behavior. If there is already a plan in place, it should be reviewed and changed to meet your child's needs. Your child should be returned to their original placement.

Functional Behavioral Assessment

If your child does not have a behavior plan, the school must collect information that looks for the cause of the behavior. This is called a Functional Behavioral Assessment (FBA). The FBA brings together information from a variety of sources such as:

- Classroom observations
- Review of school records
- Interviews with parents and teachers
- Your child, where possible

The FBA is best done by school personnel, such as special educators, school social workers, school psychologists, or behavior analysts who work directly with your child, are proficient and have training and experience in developing FBAs. This information is used to create a behavior plan for your child. The plan must include positive strategies that teach your child ways to express their feelings, wants, and needs in acceptable ways.

Weapons, illegal drugs, or serious bodily harm

If your child's misbehavior involves weapons, illegal drugs or serious bodily injury, the principal or superintendent can order a placement within a setting outside of the school. This is called an Interim Alternative Educational Setting (IAES). The IEP team will decide the location of the placement. The school may keep your child in the IAES for up to 45 school days unless a Hearing Officer orders otherwise. This is true even if the team decided that the child's misbehavior is a manifestation of their disability. During the 45 days, your child's IEP team must:

- Continue to provide your child with the education services they need.
- Do a Functional Behavioral Assessment, if appropriate.
- Develop a behavior plan for your child.

Notification

If the principal or superintendent plans to suspend your child for more than 10 school days in a row, the school must tell you about the planned suspension and the reasons for it. The principal or superintendent must also give you and your child a chance to respond to the charges. The same rule applies when your child has received a series of suspensions that total more than 10 days in the same school year. If you are the parent of a child on an IEP, you must also receive a copy of your parental rights. This includes information about what you can do to challenge the decision.

Appeal process

You may appeal any decision made under the discipline rules. You must request an expedited due process hearing. The hearing is held within 20 school days of the date the hearing is requested. The hearing decision is issued within 10 school days after the hearing. This includes decisions about:

- Whether your child's behavior was caused by or directly related to their disability.
- Placement of your child in an Interim Alternative Educational Setting.
- Proposed changes of placement for behavior not involving weapons, illegal drugs, or serious bodily injury.
- The nature or length of the discipline imposed.

Placement and services during the appeal

Usually, your child is returned to the education placement from which they were removed from until the appeals process is complete. Upon your request for a due process hearing your child must be returned to the previous placement until the Hearing Officer orders otherwise. This is called your child's "stay put" placement. But, if your child is in an IAES, they must stay in that setting for up to 45 school days. In either situation you and the school can agree to a different placement. During this time, your child must receive the services and supports they need to make progress toward meeting IEP goals.



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802-876-5315

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Rules for children on Section 504 Plans:

Suspension and expulsion for students on Section 504 plans

It is Vermont's intent to discipline children on IEPs and 504 Plans in the same way, but there are some notable differences. If your child has a 504 Plan, the school must evaluate your child before deciding to suspend or expel them.

Suspensions for more than 10 school days

If a principal or superintendent plans to suspend your child on a 504 Plan for more than 10 days, the school must follow all the procedures already listed in this document with the following differences. It must:

- Decide if the suspension results in a change of education placement for your child.
- Conduct a reevaluation of your child to see if the child still has a disability as defined under Section 504.
- Decide if your child's misbehavior is caused by or directly related to their disability.

If your child's misbehavior is not caused by or directly related to their disability, the school may suspend your child for more than 10 days. The school does not have to provide educational services. If the school decides that your child's misbehavior is caused by or related to their disability, the 504 team may make no changes in your child's program or placement, change your child's program or education placement; or design, change, or enforce a behavior plan.

Weapons, illegal drugs, or serious bodily injury

The discipline rules for children on 504 Plans and IEPs are essentially the same. There is one important exception. If your child is actively using illegal drugs or alcohol, your child will not be considered a child with a disability under Section 504.

In the case where illegal drugs or alcohol are involved, the school must follow the discipline rules for children without disabilities.

Appeals process

If, you disagree with any decision made under these rules, you can appeal that decision. You can also request an expedited due process hearing or you can file a complaint with the U.S. Office for Civil Rights.

Resources

Office of Civil Rights

Ensures equal access to education and promotes educational excellence through vigorous enforcement of civil rights.

617-289-0100

Vermont Agency of Education

Special Education Technical Assistance.
802-828-1256

Vermont Educational Surrogate Parent Program

Addresses educational needs of children in custody or children whose parents cannot be located.
802-828-6430

Vermont Federation of Families for Children's Mental Health

Support families and children where a child or youth, age 0-22, is experiencing or at risk to experience emotional, behavioral, or mental health challenges.
800-639-6071

Vermont Legal Aid: Disability Law Project

Provides counsel and advice, brief service, and full representation to eligible clients and their family members.
800-889-2047

Wrightslaw

Information on education law and advocacy for children with disabilities.
877-529-4332