

ADVOCACYDENVER

providing active voice and supporting civil rights
for people with disabilities

NAVIGATING STUDENT DISCIPLINE

Empowering Families to Advocate Effectively

the center for
SPECIAL
EDUCATION
LAW

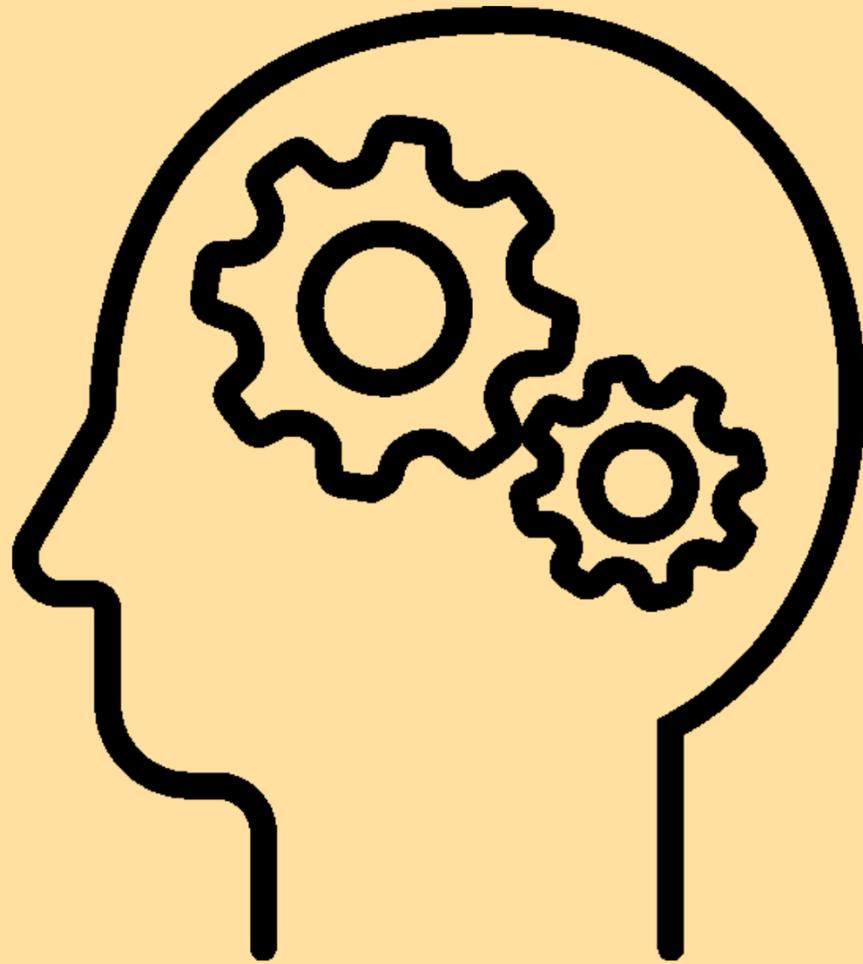
APPLICABLE LAWS

1. Section 504 of the Rehabilitation Act
2. Individuals with Disabilities Education Act



What's the Individuals with Disabilities Education Act?

A federal law that supports special education by...



- 1 Making sure students with disabilities have a right to a free appropriate public education (FAPE) to further opportunities in education, employment and independent living
- 2 Making sure students have the right to services that are designed to meet their unique needs

What is Section 504 of the Rehabilitation Act (Section 504) ?



1

A federal law ensuring children and adults have the right to equal access to education, employment, health care and community services

2

Applies to any entity/organization/agency that receives federal funding

SO... WHAT IS A SUSPENSION/REMOVAL?

Whenever a school removes a child based upon the child's violation of school policy



A suspension from the **bus** may be considered a suspension from **school** if transportation = a related service under the child's IEP and the District does not provide alternative transportation



If the student is removed from the classroom but NOT the school, it is NOT considered a suspension if the student has the opportunity to continue to...

1. appropriately participate in the general curriculum,
2. receive the services specified on the child's IEP, and
3. participate with nondisabled children to the same extent.



If the school asks the parent to pick their child up from school because of their child's behavior, this may be considered a suspension.

What if I believe the misconduct was a result of my child's disability?



- The Individualized Education Program (IEP) team should consider what they know about the child and their disability and ask if it seems like the misconduct is connected.
 - **FOR EXAMPLE** → a student with ADHD is said to have poor impulse control and may respond abruptly to a situation without consideration of consequences/alternatives.
- 

Can my child be suspended if they have a disability?

Under Colorado law, for students in early childhood education programs through third grade, suspension from school is reserved for only the most **severe** behaviors impacting ...

1. staff
2. student safety



FOR HOW LONG?

Under Colorado law, schools can suspend a student grades three → graduation for discipline infractions for 10 cumulative or consecutive school days or **less**.



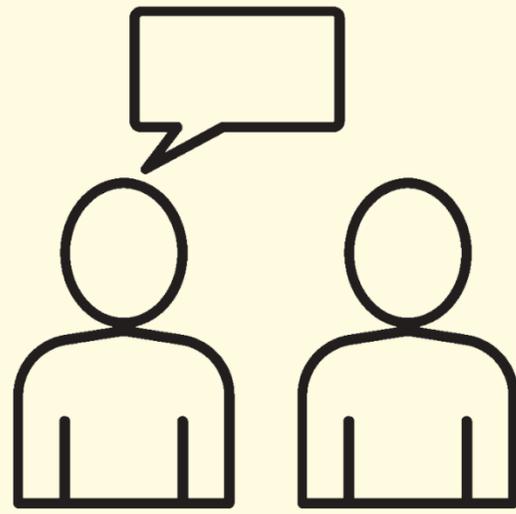
HOWEVER, the school must conduct a **manifestation determination meeting** within 10 days of a decision to change the student's placement. A suspension lasting longer than 10 days is a change in placement.

Once your child has reached the **11th day** of a suspension, the school must provide your child with appropriate special education services under the IDEA.



What kind of notice should I receive if my child is removed from school longer than 10 days?

- 1 If the school decides to remove your child for longer than 10 days, it is considered a change in placement. You should receive **prior written notice** regarding that decision in case you would like to dispute it.
- 2 After receiving notice, but not longer than 10 days after the decision to change the placement, a **manifestation determination review (MDR)** meeting must be set to determine if the disability was related to the violation.



Once a date for a manifestation determination review meeting is set, you should receive notice including:

1. Purpose of the meeting,
2. A mutually agreed upon time and date.
3. A list of who will attend the meeting, and
4. Notice that parents can invite others to the meeting

WHAT IS A MANIFESTATION DETERMINATION REVIEW MEETING?

Before a student is suspended/ expelled for **more than ten days** in a school year, the parent, student (if appropriate), and relevant members of the IEP team must meet to determine whether the misconduct was...

- a **manifestation** of the child's disability;
- or, a result of the school's failure to implement your IEP/ the 504 Plan.



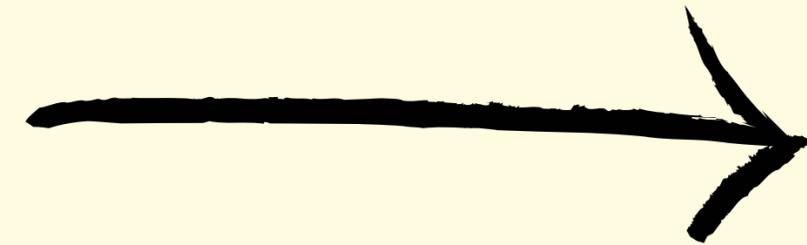
If behavior was a manifestation of their disability, then the child...

- May **not** be expelled
- Can return to school or whichever placement they were removed from
- May receive a functional behavioral assessment, behavioral intervention plan or the IEP team may review/modify the current behavioral intervention plan

If behavior was not a manifestation of the disability...

- Your child may be disciplined in the same manner as a student without a disability
- If your child is eligible under **IDEA** the school district must continue to provide appropriate educational services
- If your child is eligible under **Section 504** your child may be disciplined in the same manner as a student without a disability

**What if I disagree
with the outcome
of the
manifestation
determination?**





IF YOUR CHILD IS ELIGIBLE UNDER IDEA → YOU CAN REQUEST AN EXPEDITED DUE PROCESS HEARING.

Send this request to the Director of Special Education for the district in which you are enrolled and to

**Colorado Department of Education
201 E Colfax Avenue, Denver, Colorado 80203**



SECTION 504 COMPLAINT PROCESS

- Attempt to resolve the issue informally with the school by meeting with the school's Section 504 Coordinator.
- File a formal grievance with the school.
- Submit a written request for a due process hearing to the school's Section 504 Coordinator outlining the dispute and a proposed solution.
- You can also file a complaint with the Office of Civil Rights (OCR) if you believe the school has discriminated against your child based on their disability.

SPECIAL CIRCUMSTANCES – MORE THAN 10 DAYS

All students with disabilities that are out of school for longer than ten days have a right to a free appropriate public education arranged by the school. **HOWEVER**, there are special circumstances where a school district can remove a student for more than 10 days, such as...

- when the student is in possession of a weapon
- uses, possesses, or solicits the sale of drugs
- or causes a serious bodily injury

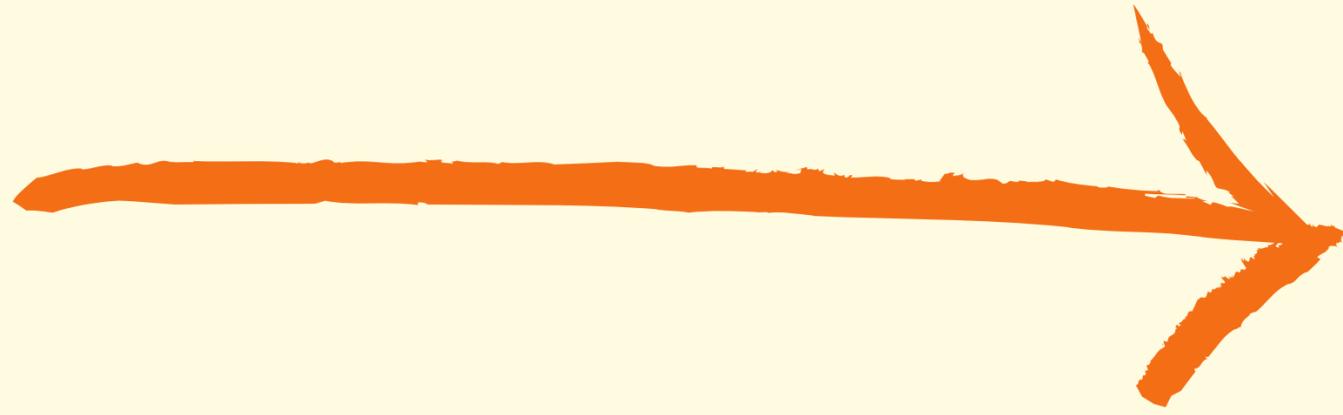
→ then your child can be placed in an **Interim Alternative Educational Setting (IAES)** for 45 school days.



Things to watch out for if you feel like your child's rights are being violated...

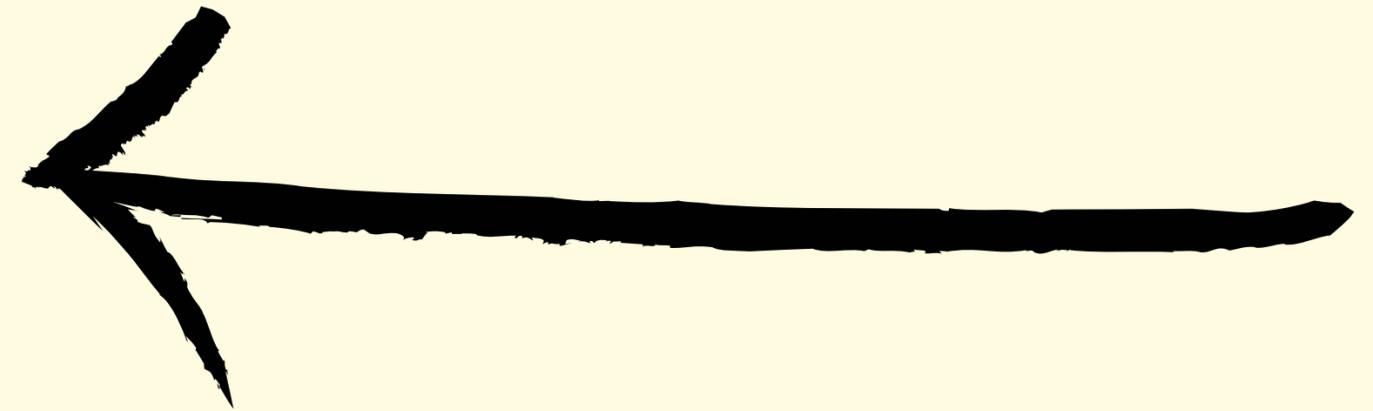
- Track suspensions! A suspension is any time your child is sent home due to behavior.
- Make sure the school is conducting a Functional Behavioral Assessment and developing and implementing a **Behavior Intervention Plan (BIP)** to address problem behaviors.

A BIP should be designed to be able to identify the problem behavior and replace it with a positive behavior so the problem behavior doesn't happen again.



Students with disabilities are at a much higher risk to be disciplined for an action that may be a part of their disability.

Access the student record every time your child gets in trouble.





Learn more at

ADVOCACYDENVER.ORG



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