QUICK GUIDE: SCHOOL DISCIPLINE FOR SPECIAL EDUCATION STUDENTS

If a child has an <u>Individualized Education Program (IEP)</u> in place or <u>has been referred for testing</u> to determine if the student qualifies for special education services, the student has added protections from suspension or expulsion from school. The chart below summarizes those rights.

SCHOOL IMPOSES SUSPENSION ON STUDENT

Suspension for 10 days or less

Suspension for more than 10 days

Student is treated like regular education student; no extra protections exist.

Exception: When suspensions add up to more than 10 days total and form a "pattern" (e.g., same type of conduct led to suspension), school must treat it like a suspension of more than 10 days.

Student can be treated like regular education student for first 10 days of suspension.

But, school must hold **Manifestation Determination Review** (MDR), which is a specialized IEP team meeting, before student can be excluded for more than 10 days.

What Happens at the MDR?

IEP team, including parent, answers the following questions:

- Was the conduct caused by, or directly and substantially related to, the disability?
 - Example: If student gets in a fight and has only a learning disability in math, the conduct is probably not caused by the disability. But if that student has a conduct disorder, the conduct probably was caused by the disability.
- Was the conduct a direct result of the school's failure to implement the student's IEP?

If the team determines that the answer to either question is "yes," then the conduct was a "manifestation."

(See following page for suggestions on how to prepare for an MDR)

If conduct is not a "manifestation":

- School can impose suspension.
- Student can appeal finding that conduct was not a manifestation, but suspension stands pending appeal.
- School must still provide "a free appropriate public education" to student during period of suspension.
- School must establish "behavior intervention plan."
- School should perform "functional behavioral assessment."

If conduct is a "manifestation":

- Suspension cannot be imposed beyond 10 days.
- IEP team can change services provided to student.
- IEP team can change student's placement.
- School must establish "behavior intervention plan."
- School must perform "functional behavioral assessment."

Note: "Free appropriate public education," "behavior intervention plan," and "functional behavioral assessment" are explained on the next page.

Note: Regardless of whether conduct was a "manifestation," a student can be removed from school for 45 days if the student brought drugs or a weapon to school or caused serious bodily injury by their conduct. The student, however, must still be provided a "free appropriate public education" during the 45 days.

Key Terms in the Discipline Process for Special Education Students

Free, appropriate public education (FAPE)

Includes special education and related services, which allow the student to benefit from instruction provided under their IEP and make reasonable academic progress. (This term is explained in greater detail in the **QuickGuide: Special Education Rights**, which can be found in Section II of this packet.)

When a special education student has been suspended, the school will usually provide a FAPE in the form of home bound instruction, where a special education teacher provides one-on-one services to the child, either at home or somewhere else off school grounds (often the public library), for several hours a week.

Functional behavioral assessment (FBA)

An FBA is an evaluation tool designed to figure out the causes of behavior problems and to identify ways to prevent problem behaviors. By studying how the student responds to situations, what causes behavior issues, and what calms down behavioral episodes, the FBA informs strategies to reduce behavioral problems that are associated with a disability.

A good FBA would include observations of the student in the normal educational setting over a period of several days to two weeks by a trained professional who takes data on how the student responds or acts in different situations and with different stimulations and then analyzes trends or what seems to cause or reduce behavior problems in order to develop interventions to help the child behave better. More information on FBAs can be found online at http://cecp.air.org/fba/problembehavior/main.htm.

Behavior intervention plan (BIP)

A plan designed to reduce the likelihood of misconduct; identify supports or strategies that will improve behavior; establish steps to be taken when misconduct occurs (examples: redirection, changing child's environment); and identify consequences for misconduct. The BIP seeks to determine what legitimate goal (examples: seek attention; convey that they do not understand the materials) the student is trying to achieve through the misbehavior and how that goal can be achieved instead through appropriate behavior.

A BIP should be developed when an MDR has been held, regardless of whether the conduct was found to be a manifestation or not. A parent can request that a BIP be developed if they think their child's disability may lead to misconduct that could result in suspension.