

Special Education Students and School Discipline

Should I read this?

The rights we discuss here are for special education students only.

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- ❖ If you are **not** a special education student, read [Parents' Guide to Public School Discipline in WA](#).
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Special education protections apply to both of these:

- students in special education programs
- students the school district knows it should evaluate for special education

When does the school district know it should evaluate a student for special education?

When any of these is true:

- **the student's parents** have **written** the district's supervisory or administrative personnel that **the student requires special education services**
- **the student's parents requested** a special education evaluation
- **the student's teacher has discussed** specific concerns about the student's behavior with the special education director or other special education personnel

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- ❖ This info is not a substitute for legal advice about your case. If you have questions, contact one of the legal organizations listed below.
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Words and expressions you should know

- **Exclusion** – here this word means a student's suspension or expulsion from school
- **IAES** – interim alternative educational setting
- **Interim** - temporary

Do we have protection against discrimination?

Yes. You have the right to be free from disability discrimination. Some conditions apply to this right:

- Within ten days of imposing or proposing the student's exclusion **for more than ten days**, the Individualized Educational Program ("IEP") team must meet and decide if your misconduct and disability are related. This is a **"manifestation determination."**
- If the IEP team decides your misconduct and disability are related, they may only discipline you IF special circumstances exist AND they move you to an interim alternative educational setting (IAES) for up to 45 days. (More info below.)

- If the misconduct was NOT a result of your disability, the school may discipline you the same way it would a general education student, so long as you get educational services in an IAES during the exclusion period. (More info below.)

Can they expel or suspend me?

Maybe. There are major restrictions:

- The school may not completely deny you educational services for more than ten school days in a school year.
- The school can send you to an interim alternative educational setting (**IAES**) only in special circumstances.

Even if the behavior was a result of your disability, the school can remove you to an IAES for up to 45 school days if any of these is true:

- you had a **weapon** at school or on school grounds
- you knowingly had or used **illegal drugs** at school or on the grounds
- you **seriously hurt someone** during school or on the grounds
- a **hearing officer** decides keeping you at your current school will probably harm someone

If they decide your behavior is not a result of disability, the school can discipline you the same as general education students. The school must provide you with services in an IAES during the period of exclusion.

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- ❖ The IEP team must choose the IAES. It must allow you to take part in the general education curriculum and progress towards meeting the IEP goals.
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Does the school have any duty to prevent problems?

If they decide at the manifestation determination meeting that your misconduct resulted from your disability, the IEP team must do **one of these**:

- Conduct a **functional behavior assessment** (an evaluation of your problematic behaviors and triggers) and come up with and follow a behavior intervention plan
- if there is already a plan, review and change it

If the school does not develop or change a behavior plan and later tries to suspend or expel you, you may have a defense to the suspension/expulsion.

Do we have any appeal rights?

A parent who disagrees with the IEP team's decision and/or the student's placement in an IAES can ask for a due process hearing. **Talk to a lawyer.**

Can the school use physical restraints or time-out rooms?

Only if **both of these are true**:

- The IEP team approves it
- It is safe and reasonable

What if I still have questions?

Call:

- **Outside King County:** CLEAR intake line is 1-888-201-1014 (weekdays 9:15 a.m. to 12:15 p.m.)
- **King County:** Call 211 for info and referral to an appropriate legal services provider Monday through Friday from

8:00 am – 6:00 pm. You may also call (206) 461-3200, or the toll-free number, 1-877-211-WASH (9274).

For more info about special education and general education, get [TeamChild's Education Advocacy Manual](#). Chapter Five of the manual has details about discipline and students with disabilities.

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice. This information is current as of June 2017.

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