

IEP Academy #3

Presented by:
Christina Sepiol
Judy Boyens

Legal Guidelines For Student Discipline

Statutory Authority

Maintenance of discipline – 105 ILCS 5/24-24

- All employees (in service to students)
- In loco parentis
- Reasonable force

General Concepts & Principles

Applicable Students

- Students with IEPs
- Students with 504 Plans
- Students who have been referred for an evaluation(pending or in process)
- Students who are recurrent concerns to the Special Education Department

Functional Behavioral Analysis ("FBA")

- Designed to assess a targeted behavior
- Data collection
- Data analysis

Behavior Intervention Plan (“BIP”)

- Utilizes FBA data
- Involves restructuring, reorganizing & reinforcement systems
- Can “trump” current Board policy or administrative procedures
- Needs to be referenced before invoking disciplinary consequences

Elements of a Behavior Plan

- Summarize the findings of the functional behavioral assessment
- Summarize prior interventions implemented
- Describe any behavioral interventions to be used, including those aimed at developing or strengthening alternative or more appropriate behaviors
- Identify the measurable behavioral changes expected and methods of evaluation
- Identify a schedule for a review of the interventions' effectiveness

- Identify provisions for communicating with the parents about their child's behavior and coordinating school-based and home-based interventions

23 Ill. Admin. Code

226.230

Manifestation Determination Review ("MDR")

- After a disciplinary event that warrants expulsion
or
- After suspension that totals 10 days in the aggregate
- MDR is a component of the IEP conference
- Purpose is to discuss whether the student's disability caused or had a direct and substantial relationship to the conduct
- Another purpose is to explore whether the behavior is related to a failure of the school to implement the IEP (remember – failure does not always equal fault)

Interim Alternative Educational Setting ("IAES")

- 45 day placement
- School days
- 3 offenses
 - Weapons
 - Drugs
 - Serious bodily injury upon another person
 - Substantial risk of death
 - Extreme physical pain
 - Protracted and obvious disfigurement
 - Protracted loss or impairment of the function of a bodily member, organ, or mental faculty

Suspension

- Exclusion from the educational process
- Directed by the District
- Absence of a Free, Appropriate Public Education

Students With Special Needs

The 10 Day Rule

- “FAPE free”
- Cumulative days during the school year
- Day 7 or 8 should warrant a call to the Special Education Department for FBA/BIP
- MDR after 10 days
- Services after 10 days of suspension and during any period of expulsion

Expulsion

- Directed by the District
- Exclusion from the District
- For special needs students, a denial of services that specifically address their disability is not permissible

Due Process in Student Discipline Cases

- Students have a right to be heard, but we are not required to employ the same due process procedures as when dealing with a fundamental right
 - No Miranda rights
 - No warrants
 - School consequences generally upheld unless there is a “shocking disparity” between the offense and the punishment

What Do Parents Have A Right To Do?

- Attend all IEP conferences and MDRs
- Participate (and be welcome to do so)
- Disagree with the IEP team findings
- File for a Due Process Hearing
- Request mediation
- File a complaint with the Illinois State Board of Education
- Invoke protections of “Stay Put”
- Inspect and challenge records

Scenario #1

A teacher is conducting a regular high school history class. She asks the students to take out their homework. As one of the students, a freshman named Michael, is taking out his homework, a three-inch knife falls out of his backpack. The teacher takes the knife from Michael and sends him to the principal's office, where Michael tearfully explains that he brought the knife to school to protect himself from students who have been "hassling" him for some time.

Michael is a learning disabled student who receives resource assistance. He has also been diagnosed as having ADD. His IEP calls for related services of social work and PT consultation. The IEP also contains numerous classroom-based accommodations, many of which are designed to address his inattention and distractibility caused by the ADD. The IEP does not call for a behavior management plan.

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Scenario#2

Tony is an academically bright student. However, he exercises poor decision making skills and has been the subject of several referrals to the Special Education Department because of his often volatile emotional outbursts. Currently, the school social worker is trying to convince the parent that consent for a case study evaluation is necessary. The parent is convinced that Tony is just “all boy” and that he will grow out of his behavior.

Tony is caught with pornographic material in school. The principal wants to move for the harshest disciplinary consequence that is available.

What are your options?

Scenario #3

- Homer and Bart are brothers who have engaged in a gang fight involving weapons. As a result of the fight, an ambulance was called to the scene to take several victims to the hospital. Homer is a general education student and Bart receives significant special education services. The parents of the victims go to the Board of Education and demand that they be informed of the punishment that was given to the boys. The local newspaper calls to get a statement from you on how you plan to address safety in the building.

What are the disciplinary options available to you?

What can you tell the parents?

What can you tell the media?

Scenario#4

- There has been a string of recent thefts in the building. In conducting a locker search for stolen items, you find drugs in the jacket pocket of one of the special education students. His IEP has goals related to decision-making, peer interactions and self-advocacy. The disability label is LD. The Board wants to expel the student.

Was the search justifiable?

Are you required to conduct a MDR?

If so, what will you discuss at the MDR?

Scenario #5

- You are very familiar with Bob, a special education student who often has behavioral difficulties. One morning, Bob shares with you that he should not have come to school because he is in a particularly foul mood. In fact, Bob says that he would not be surprised if he got in a fight before the day is done.

What are your options as an administrator?