

The Law and Special Education: Reading Response

Chapter 13 Reading Response

1. Describe what is included in the Right to Fair Procedures (schoolwide discipline policies, due process protections to students, and nondiscriminatory discipline practices).

School districts can meet these requirements by taking actions such as schoolwide discipline policies, due process protections to students, and nondiscriminatory discipline practices.

Under schoolwide discipline policies, Schools must develop rules that regulate student conduct. Students should clearly know which behaviors are acceptable and which behaviors are prohibited. If students violate reasonable school rules by behaving in ways that are prohibited, they will be held accountable.

Under due process protection to students, the purpose of due process procedures is to ensure that official decisions are made in a fair manner. The procedures include basic protections such as notice, hearing, and impartiality. The due process procedures in school settings do not require the full range of protections given to people in a formal court, such as representation by counsel and cross-examination of witnesses. It is often not necessary for these measures anyways.

Under nondiscriminatory discipline practices, all students with mental or physical impairments that affect a major life function are protected from discrimination under Section 504 of the Rehabilitation Act of 1973, This includes students who are or are not covered by IDEA. Because of this, it must be ensured that our discipline practices do not discriminate against students with disabilities, but still condones inappropriate behavior in a school setting.

2. What is the right to reasonableness?

Although schools have been given great authority in making the rules for the school district, this does not mean these rules are absolute and they must never violate the constitutional principles. This requires that the rules on student behavior must be reasonable and have a rationale or school-related purpose. The school cannot prohibit or punish conduct that has no adverse effect on public education. Rules must be sufficiently clear and specific to allow students to distinguish permissible from prohibited behavior. Appropriate school rules are specific and definitive; they provide students with information regarding behavioral expectations.

3. What is the four-factor FAPE test (Used in the Lake Travis Independent School District v. M. L.).

- a. The consideration of the inclusion of positive behavior interventions and supports in response to student behavior.
- b. The scheduling of an IEP team meeting to review the IEP to address behavior concerns after a reasonable parental request.
- c. Discussion of the parent's concerns about the student's behavior and its effects on the student's learning during an IEP meeting.
- d. The implementation of the behavior supports in a student's IEP or where school personnel has implemented behavioral supports that were not included in the IEP that are not appropriate for the student.

4. Describe the following disciplinary procedures, including how they are covered under the IDEA:

a. Short-term disciplinary removals (Provided education services, what constitutes a change in placement, and the rules in place if a change in placement seems necessary).

A long-term suspension of more than 10 consecutive days is a change of placement under the IDEA. Because it is considered such, the school district must follow IDEA's change of placement procedures. This means that a school district must provide the parents of the suspended student with written notice prior to initiating the change. The written notice should include an explanation of the applicable procedural safeguards.

b. Long-term disciplinary removals

Long-term suspension or expulsion qualify as a change of placement. Which means the same procedures need to be put in place. If disputed the student can have the stay-put provision unless there is a question of other students' safety.

c. Removal for 45 school days

If school officials decide that a student with disabilities is dangerous to themselves or others even though the student has not committed a weapon or drug offense or injured another student or teacher, school officials may request that an impartial hearing officer remove the student to an interim setting for not more than 45 school days.

5. In the case of a manifestation determination, describe what the interim alternative educational settings and the stay-put provision.

Since IDEA requires that FAPE must be available to all eligible students with disabilities, even those expelled or suspended from school, this means these students must be offered an interim alternative educational setting or IAES. The IDEA describes three specific circumstances when an IAES may be used for disciplinary purposes. First, an IAES may be used for a short-term disciplinary removal from school for 10 days or less. Second, an IAES may be used in situations when a student with disabilities is removed from school for a longer term. And lastly, a hearing officer can order placement in an IAES.

When the parents disagree with a change in placement proposed, the IDEA's stay-put provision prohibits the district from changing the placement independently. Basically, until the two sides agree to the alternative placement, the child must stay in the placement they are in.

6. What are the discipline procedures, under IDEA, for students who may have disabilities but are not receiving special education services under an IEP?

The IDEA provides protections for students with disabilities who have not been determined to be eligible for services under the IDEA and who violated a code of student conduct. But in order for this to be the case, the school must have prior knowledge of the attempts for the student to be protected under IDEA, such as (a) the parent expressed a concern in writing to school administrative or supervisory personnel, (b) the parent requested an evaluation for special education, or (c) the student's teacher expressed concern to supervisory personnel that the student had a disability and needed special education services. In this circumstances the child can be protected under IDEA, with only the exception of parents refusal for evaluation.

7. What is the difference between permitted procedures and controlled procedures and prohibited procedures? Describe the types of controlled procedures and prohibited procedures.

Permitted disciplinary procedures include those practices that are part of a school district's disciplinary plan and are commonly used with all students. Controlled procedures are those interventions that the courts have held permissible as long as they are used appropriately. And Prohibited procedures are disciplinary procedures that are generally considered illegal if made without following the IDEA's procedural safeguards. Like corporal punishment. There are three types of controlled procedures;

First, there is Time-Out, which is an intervention that involves removing a student from all sources of reinforcement following an inappropriate behavior. There are two types of Time-Outs, nonexclusionary time-out and exclusionary time-out. In nonexclusionary time-out, all sources of reinforcement are removed from a student. In exclusionary time-out, a student is removed from the potentially reinforcing activity and required to sit in an area void of that reinforcement. Second, this is In-School Suspension or ISS, which is a program that requires the suspended student to serve the suspension period in the school, usually in a classroom isolated from schoolmates. During ISS, the student works on appropriate educational material provided by the teacher.

Third, there is Out-of-School Suspension, which generally refers to a short-term exclusion from school for a specified period of time, and a ceasing of all educational services offered in the school.

Prohibited procedures include long-term suspension or expulsion, corporal punishment, and restraint and seclusion. If the IEP team determines that a student's misbehavior and his or her disability are not related, long-term suspensions and expulsions are legal; however, if the long-term suspension or expulsion is a result of expected behavior from a disability, it is illegal. Corporal punishment, on the other hand, has some controversy and many states have outlawed its use, while other states still permit it. Lastly, Restraint and seclusion also have mixed results, as it is often misused and has brought many lawsuits. Seclusion is the placing of a student in a room or location where he or she is alone and prevented from leaving the room. Physical restraint is when one or more persons use their bodies to restrict the movement of the student. This is usually considered a last resort type deal and only to be used when there is an imminent danger of injury and only when used by appropriately trained staff. It is prohibited from IEP's

8. What is the policy for students with disabilities in regards to weapons, particularly in bringing a gun to school?

The Gun-Free Schools Act (GFSA), which was enacted as part of the Goals 2000: Educate America Act (20 U.S.C. § 5801 et seq.), essentially required school districts to expel any student who brings a gun to school. In regards to disabled students, Congress sought to alter this apparent discrepancy (between the IDEA stay-put requirements and the requirements of expelling in the GFSA) by allowing schools to immediately and independently remove students

with disabilities who bring guns to school to an interim alternative setting for up to 45 days. This just modified the stay-put requirement in order to protect the safety of the students.