



SPECIAL EDUCATION RIGHTS: ILLINOIS EDITION



Helping Students with Behavior Problems

This fact sheet answers:

- How Can I Get a Behavioral Intervention Plan?
- Can the School Use Restraint or Seclusion?
- Can the School Suspend or Expel My Child?
- What is a Manifestation Determination Review?
- And More

Does the School Have to Help My Child?

Yes. If your child gets in trouble a lot, has a hard time making friends, or is taken out of the classroom, she should be tested to see if she needs an Individualized Education Program (IEP) or 504 Plan to help her behave and learn in school.

What Can This Plan Give My Child?

An IEP/504 Plan can give your child:

- Time with a social worker or an aide.
- A Behavior Intervention Plan (BIP) that tells the school how to help your child.
- Time in a special classroom.
- Special rights to make it harder for the school to expel your child.

What If the School Says I Have to Pick My Child up Early?

Schools cannot ask you to keep your child home from school unless your child has been suspended or expelled.

If your child's school asks you to pick her up early, ask for paperwork to show she has been suspended. If the school does not have this paperwork, it probably means your child has not been suspended and you don't have to pick your child up unless you want to. Keep track of how often this happens. It can be proof that your child needs an IEP/504 Plan or that her plan needs to be changed.

How Can I Get a Plan for My Child?

Email or write the school and ask for a Full Individual Evaluation, including a Functional Behavior Assessment (FBA). An FBA helps the team know when and why your child is acting out. The school has **14 school days** to tell you if it agrees to test your child.

See Equip for Equality's "How to Help Your Child Be Successful in School - Getting a 504 Plan or IEP" fact sheet for more information about getting a plan for your child.

Can the School Hold My Child Down?

The school can restrain or hold down your child only if:

- Your child is a physical risk to herself or others.
- A doctor has **not** written a letter saying that it is medically unsafe for your child to be restrained.

Can the School Put My Child in Time Out?

A school can put your child in time out only if:

- It is used to keep your child or other students safe and not as punishment.
- An adult can see your child and is within two feet of the room at all times.
- It lasts no more than 30 minutes after the behavior stops.



Does the School Have to Tell Me When They Do These Things?

Yes. When restraints or time outs are used, the school must write down what happened, the ways the school tried to help, how long your child was restrained or put in time out, the school staff who were with your child, any injuries or property damage, and what the school will do to keep this from happening again. You should get a paper saying all of this within **24 hours** of the event.

What Do I Do If the School Hurt My Child?

Contact DCFS at 800-252-2873 or the police if you think the school is hurting your child. You can also write a letter to the principal, superintendent, or school board member.

See Equip for Equality's "**Bullying & Leaving Out Students with Disabilities**" fact sheet to learn more.

Can My Child Be Suspended?

Yes. Even when your child has a 504 Plan or an IEP, the school can suspend her for up to ten days in a row or ten total days during a school year for similar types of behaviors.

In-school suspensions do not count unless your child is not being taught during the suspension.

If your child is suspended for more than three days, ask the school to meet with you to talk about changing the IEP/504 Plan to stop the behavior from happening again.

What Is an MDR?

If your child has a IEP/504 Plan and the school wants to expel her, the school must have a meeting called a Manifestation Determination Review (MDR). During an MDR, the team finds out if your child's disability is what caused her to get in trouble.

If the behavior was caused by your child's disability, she cannot be expelled and must go back to school, unless her behavior falls within one of the three exceptions (see next page). The school should change your child's IEP/BIP to keep this from happening again.

If the event was not caused by your child's disability, she can be expelled but must get the services listed in her IEP.

How Can I Stop the School from Expelling My Child?

Go to the MDR meeting and say the behavior was caused by her disability or by the school not following her IEP/504 Plan. To do this:

- Look over your child's records to find out if the school knew that your child's disability made her act this way.
- Ask your child's doctors and therapists to write a letter saying how her disability caused the event.
- Ask your child why she acted out.

Example of how an event can be related to a disability:

Your child with ADHD yells at a student and hits her. Your child has ADHD, which can cause children to make quick, bad choices without thinking things through. You could say that your child's ADHD caused her to yell at the student and hit her.

Example of how an event could be caused by the school not doing what's in the IEP:

Your child has an IEP for her ADHD. The IEP says she needs an aide in the hallway because of her history of making bad choices. The aide is gone for days. Your child then yells at another student and hits her in the hallway. You could say that the school did not do what it promised it would do in the IEP when it did not give your child an aide.

Can the School Transfer My Child?

The school can transfer your child to an Interim Alternative Education Setting for up to 45 school days if your child:

- Brings, uses, or sells illegal drugs at school.
- Brings a weapon to school.
- Seriously injures someone at school (a broken nose is not a serious injury).

Schools are not supposed to transfer students with 504 Plans without first evaluating the student.

What Do I Do If the School Is Expelling/Transferring My Child?

If your child has an IEP:

- File for due process. You have **two years** from the time of the problem to file.
- File a state complaint with the Illinois State Board of Education. You have **one year** to file your complaint.
- If your child has been expelled, you can appeal the expulsion in state court.
- File for expedited due process. This type of hearing moves faster than a normal due processing hearing. See our “**Due Process Hearings**” fact sheet to learn more.

If your child has a 504 Plan, you can:

- Ask for a 504 Hearing with the school.
- Ask for your child to be re-evaluated for an IEP.
- File a complaint with the Office of Civil Rights.

See Equip for Equality’s “**Special Education Timelines**” fact sheet to learn when to ask for a hearing or file a complaint with the Office of Civil Rights.

For more information, visit Equip for Equality’s online discipline training area at www.equipforequality.org/discipline ■



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Have More Questions?

Call our Special Education Rights Parent Helpline.

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