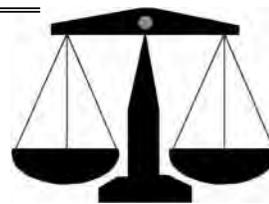


DISCIPLINE IN SCHOOLS: WHAT YOU NEED TO KNOW



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How schools discipline students with disabilities is a subject that continues to receive a great deal of attention and discussion. Student codes of conduct do not excuse children with disabilities. All students are expected to behave according to rules set forth to maintain school environments that are safe, free from disruption and conducive to learning. All students are subject to the same disciplinary measures designed to address violations, from mild to severe, of each school district's conduct code.

The subject that garners the most attention revolves around the use of the more severe measures, specifically suspension and expulsion. In the Virginia Department of Education's Annual Report on Discipline, Crime and Violence in Virginia public schools from 2003 - 2004, 133 school districts reported 346,836 violations of student codes of conduct that required discipline. The reported violations ranged from minor non-criminal infractions to felonies.

The disciplinary measures included the following:

- 218,900 short-term suspensions (removal for less than 10 days)
- 4,782 long-term suspensions (removal for more than 10 days and less than 365 days)
- 1,209 expulsions - permanent removal for more than 365 days
- 78 Special Education Interim Placements (change of placement)

Virginia law authorizes suspension or expulsion for sufficient cause. School principals are responsible for maintaining a safe and secure environment. The law gives teachers the authority to remove students from the classroom for any behavior

they determine to be disruptive. However, Virginia law also requires schools to consider special circumstances in cases that may justify an alternate disciplinary measure or action.

Virginia law also recommends that school student codes of conduct contain a range of corrective disciplinary actions including provisions for initiation of a child study process in instances where a student's behavior is believed to be related to a suspected disability.

Of particular note is the fact that in Virginia, the decision to expel a student may not be reversed on the grounds that special education or mental health assessment were or were not considered, but that same information can be used to determine if an alternative educational placement is appropriate.

Expulsions for some violations are mandatory, and are used to address serious violations such as assault, the illegal possession or distribution of drugs, the possession or use of weapons or firearms, or the conviction of certain felony crimes. Students can also be suspended or expelled for serious incidents that occur at school-sponsored events that take place off of school grounds, such as dances and football games.

According to a survey report from the PACER Center's Overview of School Discipline of Students with Disabilities, students with disabilities are no more likely to violate student codes of conduct than students without disabilities, and are therefore subject to suspension and expulsion at a similar rate.

Many parents and advocates are concerned that school suspension or expulsion of students with disabilities may have a disparate impact (more severe consequences)

because the loss of time from school may cause them to suffer irretrievable loss or regression, whereas such discipline is merely punitive for students without disabilities. The Individuals with Disabilities Education Act addresses some of these concerns through procedural safeguards. (See Virginia SPED Regulations for complete listing.)

The Individuals with Disabilities Education Act of 2004 has added the following provisions to address the use of suspension and expulsion to discipline students with disabilities: It establishes a new rule for manifestation determinations that requires the IEP team, including the parent and school personnel, to review all relevant information in the student's record, including teacher observations, information from the parent and the student's IEP to determine if the misconduct was caused by or directly related to the student's disability or could have resulted from the schools failure to follow the child's IEP.

If the above team determines that the behavior was a manifestation of the disability, the team is required to conduct a functional behavioral assessment and develop a plan for the student or review an existing plan and modify it to address the undesirable behaviors.

The school is also authorized to consider special circumstances, on a case-by-case basis when a change of placement for a student with disabilities is indicated because of a conduct code violation.

WHAT ARE YOUR RIGHTS?

- Parents have the right to an informal meeting with the principal before suspension, except in emergencies.
- Parents and the student have a

right to know the student code violation and the evidence to support any allegations, via written notice.

- Students have a right to explain their version of the incident or activity.

- If removal is for more than ten days, students with disabilities are entitled to a manifestation determination, a positive behavior support plan review.

- And for students who have already been suspended greater than ten cumulative days during the current school year, consideration of whether the current suspension will result in a change in placement.

- Students with disabilities cannot be subject to more severe disciplinary actions than students without disabilities for similar behaviors or student code violations.

STRATEGIES FOR PREVENTION AND COLLABORATION

Virginia law says that parents have a duty to assist the school in upholding the student code of conduct. This part of the law can be used to hold parents accountable for continued violations by their child, but it should also be used by parents as an invitation to take part in the development, planning and implementation process for school codes of conduct.

INFORMAL STRATEGIES

- Initiate collaborative efforts with the school before any problems arise. Do not wait until your child is suspended or expelled.

- Take the initiative to become informed. Visit or volunteer at the school as often as possible. Know and understand your — and your child's — rights and responsibilities. Know the teacher's and the school's rights and responsibilities.

- Read and keep a copy of the student code of conduct for your child's school district.

- Speak with your child's principal and teachers so that you understand the classroom and school environment they seek to maintain and let them know they have your support.

- Take a look at the big picture. Have there been incidents of bullying or gangs or poor student conduct that the school might be under community or other pressures to address?

- Note what behaviors and activities are tolerated and what are not. Some schools (or classrooms) may have a record for a high number of suspensions and expulsions, whereas others may have a low number. It could mean that one school (classroom) has a different standard or has more problem students.

- One school's (classroom's) tolerance for poor behavior and activities may reduce the likelihood of your child being suspended or expelled but the trade off could be that your child's safety is at risk. Be honest and realistic.

- Seek out and bring information to the school on positive solutions that are working in other communities, things like early intervention, positive behavioral interventions, and effective alternative placements.

FORMAL STRATEGIES

- Convene the IEP team to discuss any concerns you may have about your child's disability-related behaviors and how they may cause problems in the classroom or the school and if they could result in student code violations. Basically, you want an IEP- positive behavior support plan review and update. Unfortunately, many parents wait until their child has been suspended or expelled to request such a review. Again, be honest and realistic with his or her teachers and the school's principal to ensure you have a written plan worked out to prevent those behaviors and an alternative to removal, if possible, in the event they do occur.

- Find out when your local Special Education Advisory Committee (SEAC) meets and sign up to speak and inform them of any part of the student code of conduct you feel has a disparate impact on students with disabilities or a particular disability.

- Find and provide information to them about positive trends that others are using to address the same concerns in other local school districts.

- Stay abreast of policies, rules and regulations regarding conduct violation and discipline for students with disabilities and the positive ways that other localities and states may address them. Remember, preventing suspension or expulsion before they occur is the best strategy. However, in the event that your child is suspended or expelled, exercise all of your rights. ■

Resources, Information, and Documents Used for this Article

- PEATC 1-800-869-6782, www.peatc.org
- Virginia Department of Education - Office of Special Education Programs
- United States Department of Education - *Alternative Strategies to Reduce Student Suspensions and Expulsions and Ensure Educational Progress Initiative*.
- VDOE Annual Report (2003-2004) *Discipline, Crime and Violence*
- Regulations Governing SPED in Virginia - 1-800-422-2083
- Parent Advocacy Coalition for Educational Rights www.pacer.org
- Center for Effective Collaboration and Practice - www.cecp.air.org
- National Association of State Directors of Special Education - www.ideapartnership.org

Assistance

- PEATC 1-800-869-6782 or peatc.org
- Local Parent Resource Centers, 800-422-2083
- Local Special Education Advisory Councils, 800-422-2083
- Office of the Ombudsman - Virginia
- Department of Education 1-800-422-2083
- Office of Mediation - Virginia Department of Education 804-786-0711
- Office of Dispute Resolution - Virginia Department of Education 1-804-786-8520
- Virginia Office for Protection and Advocacy, 800-552-3962
- Just Children Legal Aid Justice Center, 434-977-0553
- Virginia Poverty Law Center, 804-782-9430