

QuickGuide Basic Outline of Expulsion of Special Education Students

Preliminary note: The Individuals with Disabilities Education Act, (IDEA), federal legislation which protects special education students, makes expelling Special Education students very difficult. The basic idea here is that many kids with emotional impairments do and say things that are directly related to their impairment. Therefore, the school would be basically expelling the student for having an emotional impairment. This is obviously unfair, discriminatory and completely ridiculous. This is also a major strategy for keeping kids in schools.

What happens first?

A student, who is already classified as special education, does or says something, which according to state law and/or school district code, is punishable by expulsion.

Hopefully...

Hopefully, the school is aware that federal law requires a different procedure for disciplining special education students, though this is not always the case. Do not assume the school is going to act responsibly at this point. You might have to fight them on this.

A school cannot simply expel a special education student. This would be illegal.

Stay-Put Rule

A Special Education student has a legal right to "stay-put" in his or her educational setting until the necessary meeting, hearings, testing, or whatever else is necessary takes place. It is illegal for the school to throw a special education student out pending any further meetings. If the school feels the student is a serious threat to the safety of other students, an alternative placement must be set up, but the student must remain in an educational setting.

Two things can happen next...

If the school really wants to see this kid out of their school, they will do everything possible to see that it happens. Sometimes, however, schools actually do work with the parents in coming up with a new plan for the student. Basically, our general stance is that if the child was engaging in "bad" behavior, his or her IEP needs to be reviewed because it is not working. It is most important in any situation such as this for the student to remain in an educational environment. Make this clear in any communication you have with the school.

Manifestation: Was the bad behavior related to the disability?

If the school wants to see the student expelled, they must prove that whatever the student did or said was **not** in any way, shape, or form related to his or her special education impairment. This is usually pretty hard to do. Some districts have partnerships with alternative placements that specifically deal with students who are classified as special education and have been unsuccessful at their home schools. Many districts do not, however, and they need to accommodate.

If your child has been expelled, or is facing expulsion, and is classified as special education **see immediately:** [QuickGuide to Special Education Protections from Discipline](#)