

Due Process

SUSPENSION

If the school does not take care of the problem at the IEP meeting, then you can request a due process hearing.

ALTERNATIVE PLACEMENTS

The school can ask for a due process hearing if it wants the transfer to last longer.

The parent can request a due process hearing if the parent disagrees with the transfer.

EXPULSION

The parent can request a due process hearing if the parent disagrees with the decision of the IEP team.

DUE PROCESS HEARINGS

Special education due process hearings require evidence and witnesses. You should have an attorney.

EXPULSION HEARINGS

The student has regular due process rights but the hearing is informal.

Additional information may be found at:

LawHelp.org/SC

South Carolina's guide to free legal resources

Education Cases Accepted:

- Access to Education
- Access to School Records
- Bullying / Harassment
- Individualized Education Plans (IEP)
- School Attendance
- School Enrollment & Fees
- School Record Disputes
- Special Education
- Suspension / Expulsion

Other Legal Representation

- Consumer & Bankruptcy
- Employment
- Family
- Federal Income Tax
- Housing
- Migrant Farm Workers
- Probate
- Public Benefits

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Printed January 2010



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School discipline is different in special education. There is more protection.

Suspension

Generally, students can be suspended for up to 10 days in a school year.

Schools offer extra lessons to make up for missed instruction and services after the 10th day of suspension.

Suspension days should be counted because a child's placement should not change outside of an IEP meeting.

A pattern of suspensions or suspensions for more than 10 days can be a change in placement.

Example for Suspension

The school calls Mary's mother every day at 10:00 a.m. and asks her to take Mary home. This is a suspension. Mary is being sent home without lessons for most of the day. Mary's mom should request lessons at home or an IEP meeting to arrange things so Mary can stay at school.

Alternative Placements

An Alternative Placement is like a temporary transfer.

If a parent does not agree, then students can only be transferred for 45 days if they cause bodily injury, or are accused of a drug offense or a weapon offense at school.

An Alternative Placement is for 45 days unless the school gets permission to make it longer.



Example for Expulsion

John has a mental disability. John is in the ninth grade. A student begins pushing John around. John threatens to stab the student with his pencil. Expulsion is suggested. His IEP team meets. It is an expression of a disability. His mother wants him to stay at home for a little while. The school stops the request for expulsion. After 45 days at home, the teachers want John to stay at home. John's mother wants him to go back to school. John gets to go back to school.

Expulsion

Students cannot be expelled for anything that is a manifestation of a disability.

The disabilities are listed at the top of the IEP.

The IEP team must meet to determine whether an offense is an expression of a disability.

You should ask your attorney to attend this IEP meeting.

If it is not an expression of a disability, then the school can recommend expulsion to the school district.

The school district has to offer enough services to expelled students for them to complete their IEP.