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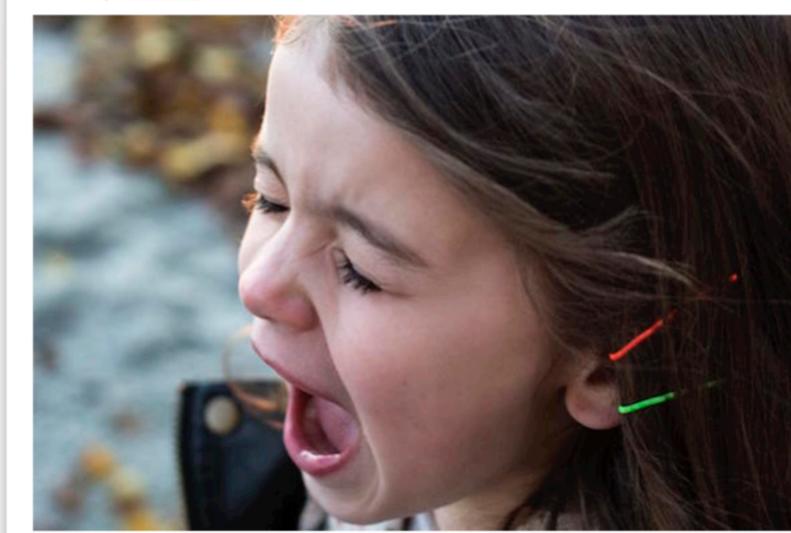
CALENDAR

BLOG

YOUR SCHOOL SHOULD BE HELPING YOUR CHILD WITH BEHAVIOR CHALLENGES

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Written by: Lara Cleary



Now that it's fall, the days are getting shorter and the honeymoon period for your child's return to school has ended. Maybe you've begun to receive calls and e-mails from teachers and school administrators that your child is not following directions, is being disruptive in class, or is struggling generally. The school district may also be mentioning possible disciplinary action toward your child. You know that your child needs help, but what can you ask for and what are your child's rights? The answers to these questions often turn on whether your child has been or should be identified as having a disability.

Children with identified disabilities: Children with identified disabilities in public schools may be entitled to receive services and accommodations through an IEP (Individualized Education Program) under the Individuals with Disabilities Education Improvement Act (IDEA) or through a Section 504 Plan under the Rehabilitation Act of 1973.

There are many accommodations, related services, and supplementary aids and supports that can (and should) be implemented in the regular education environment for a child with behavioral/emotional challenges. In addition, the IDEA requires the consideration of a Functional Behavioral Assessment (FBA) and Behavior Intervention Plan (BIP) for students who are unsuccessful with typical behavior supports. The FBA and BIP are formal ways for parents, teachers and other school professionals to work collaboratively to determine the best way to help a student who is exhibiting behavioral difficulties.

Children with IEPs or Section 504 Plans are also entitled to protections and procedural safeguards should

their behaviors invoke significant disciplinary action such as a suspension or expulsion. As a general rule, the suspension or expulsion of students with disabilities has been treated similarly under both the IDEA and Section 504. The Office of Civil Rights has stated that the same protections available to students classified as students with disabilities under the IDEA are available to students classified as students with disabilities under Section 504, except for students who have a disability solely by virtue of alcoholism or drug addiction. Children "not yet identified" with disabilities: If you believe that your child may be entitled to

contact your school and request a case study evaluation (CSE). In Illinois, a school district is required to respond to a parent's request for a CSE within 14 school days of that request. If the school district determines that an evaluation is not warranted, it must provide its reason for denying the request in writing. Similarly, if you believe your child may be entitled to services under a Section 504 Plan, you have the right to

contact your school and request an initial evaluation in order to determine whether your child is eligible to

accommodations and/or services for emotional or behavioral challenges under the IDEA, you have a right to

In addition, under certain circumstances, a student who has not yet been identified as eligible for special education may still be entitled to claim the procedural protections afforded to individuals under the IDEA. A previously unidentified student with a disability facing disciplinary action such as suspension, expulsion or a change in placement to an interim alternative educational setting may, nonetheless, claim the procedural safeguards of the IDEA if the district had knowledge that the student was a child with a disability "before the behavior that precipitated the disciplinary action occurred."

Children without disabilities: Unlike the discipline of students with disabilities, the discipline of general education students is not governed by the IDEA or Section 504 procedural safeguards, but rather by state laws and regulations. Recently, Illinois enacted Public Act 099-0456 (commonly referred to as Senate Bill 100), which went into effect at the beginning of the 2016-17 school year. This new law includes a broad list of school climate and student-behavior measures, but its central purpose is to make suspensions and expulsions a disciplinary option of last resort. The goal is to keep children in school receiving an education.

Under Public Act 099-0456, suspensions of three days or fewer will be allowed only if a student's presence at school poses a threat to others or "substantially disrupts, impedes, or interferes with the operation of the school." The law leaves those terms open to the discretion of local school boards. Suspensions longer than three days, expulsions, or disciplinary transfers to alternative schools may only be used if a student poses a threat or significant disruption to the learning environment and other options, such as restorative practices, have been exhausted.

Lara Cleary is a partner with the law firm of Hansen & Cleary, LLC. Hansen & Cleary is a boutique law practice focusing on the representation of children and families, individuals with disabilities, medical and mental health practitioners, private schools, and other non-profit agencies in the greater Chicagoland area and throughout the State of Illinois. If your child is struggling in school and is exhibiting emotional/behavioral difficulties, your child may have protections and rights under federal and State law. Please contact us at 847-715-2801 or through our website, hansencleary.com, with any questions.

Related articles:

How to advocate for your special-needs child in CPS

receive supports and services under Section 504.

The special needs of a special needs parent

Chicago venues that cater to kids with special needs The NPN blog gives voice to our members' thoughts about parenting in the city, and the views

expressed don't necessarily reflect our own. Want to write for us? Email laura@npnparents.org with your topic ideas.

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