



Behavior Issues at School

If a student has behavior issues at school and the student has an Individualized Education Program (IEP) or 504 Plan, the school should follow this plan to provide supports to the student. If the student does not have an IEP or 504 plan and is getting in trouble a lot, has a hard time making friends, or is repeatedly removed from the classroom, the student should be tested to see if they need an IEP or 504 Plan.

Frequently Asked Questions

▶ Does the school have to help my student?

Yes.

If the student has an Individualized Education Program (IEP) or 504 Plan, the school should follow this plan to provide supports to the student. If the student does not have an IEP or 504 plan and is getting in trouble a lot, has a hard time making friends, or is repeatedly removed from the classroom, the student should be tested to see if they need an IEP or 504 Plan.

▶ How can an IEP or 504 plan help a student?

An IEP/504 Plan can give the student:

- Breaks or time with a social worker or an aide.
- A Behavior Intervention Plan (BIP) that tells the school how to help the student.
- Additional rights that make it harder for the school to expel the student or suspend them for long periods of time.

▶ How can I get a behavior intervention plan (BIP) for my student?

- Email or write the school and ask for a Functional Behavior Assessment (FBA).
- An FBA helps the team know when and why the student is acting out.

► What if the school says I have to pick my student up early?

- Schools cannot ask you to keep a student home from school unless the student has been suspended or expelled.
- If the school asks you to pick your student up early, ask for paperwork to show the student has been suspended or expelled.
- If the school does not have this paperwork, it probably means the student has not been suspended or expelled and you don't have to pick the student up unless you want to.
- Keep track of how often this happens.
- This information can be proof that the student needs an IEP/504 Plan or that the student's plan needs to be changed.

► Can my student be suspended?

Yes. Even when a student has a 504 Plan or an IEP, the school can suspend them for up to ten days during a school year.

If the student is suspended for ten days or more during a school year for similar behavior, the student should have a Manifestation Determination Review (MDR).

If the student is suspended for more than a few days, ask the school to meet with you to talk about changing the IEP/504 Plan, Conducting a Functional Behavior Assessment, or revising a Behavior Intervention Plan to stop the behavior from happening again.

► What is a Manifestation Determination Review (MDR)?

If a student has an IEP or 504 Plan, the school must have a meeting called a Manifestation Determination Review (MDR) if the school wants to:

- Suspend the student for 10 or more total school days in a school year, or
- Expel the student or does not allow the student to attend school for 10 or more school days without formally suspending or expelling them.

During an MDR, the team talks about whether the student's disability is what led them to get in trouble or if the behavior was caused by the school not implementing their IEP, 504 Plan, or behavior plan.

If the behavior was caused by the student's disability or failure to follow the student's plan, the student cannot be disciplined and must go back to school, unless the behavior falls within one of the three exceptions in the transfer section below.

The school should talk about changes to the student's IEP, 504 Plan, or BIP to prevent future issues.

If the event was not caused by the student's disability or failure to follow the student's plan, the student can be disciplined. If the student has an IEP, they must receive services so they can still make progress towards their goals. If the student has a 504 Plan, they must receive services similar to students without disabilities who are similarly disciplined.

▶ **How can I stop the school from expelling my student?**

Attend the MDR meeting and talk about how the behavior may have been caused by your student's disability or by the school not following their IEP/504 Plan. To do this:

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

▶ **Can the school transfer the student?**

The school can transfer a student with an IEP to an Interim Alternative Education Setting for up to 45 school days if the student:

- 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 can I do if the school is expelling/transferring my student?**

If the student 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 [Colorado Department of Education](#). You have one year to file your complaint.
- If the student has been expelled, you can appeal the expulsion in state court. If you need assistance, call the [Colorado Lawyer's Committee's Expulsion Pro Bono Project](#).
- File for expedited due process. This type of hearing moves faster than a normal due processing hearing.

If the student has a 504 Plan, you can:

- Ask for a 504 Hearing with the school.
- Ask for the student to be re-evaluated for an IEP.
- File a complaint with the [Office for Civil Rights](#) or the [Colorado Civil Rights Division](#).

▶ **What are my rights with police in school?**

Any student, no matter if they have a disability or not, has the right to remain silent when questioned by a police officer.

- This means students do not have to say anything. They can say these simple words: “I do not want to talk. I want a lawyer.”
- In Colorado, police must also try to tell a parent or guardian before starting to question a minor.
- Students with disabilities are also protected by the American with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act (Section 504).
- Students with disabilities have a right to reasonable accommodations, including when interacting with police at school.

▶ **What accommodations do police in schools have to make when dealing with students with disabilities?**

Accommodations are specific to the student’s needs. Parents and students can ask for a student’s IEP or 504 Plan to include accommodations for when and how the police might interact with the student.

Some accommodations may include:

- Making sure the student’s parent or guardian is there before searching the student or their things.
- Calming everyone down before calling the police.
- Making sure that the student gets the right medical or mental health care before calling the police.

▶ **What can I do if the police violated my rights as a student?**

When possible, write down everything about the incident, including the officers’ badge and car numbers and the agency they work for.

- Get contact information for witnesses.

- If the student is hurt, get medical attention right away and take pictures of the injuries.
- File a written complaint with the agency's internal affairs division or civilian complaint board.

➤ **How do I file a complaint against the police?**

Follow the police agency's rules for making a complaint.

Most police agencies have their own way for making a complaint about police misconduct. You should follow their system and keep a copy of everything you submit.

➤ **How long do I have to file a lawsuit against the police?**

If you want to file a lawsuit about your interaction with the police, remember that for most legal claims there is a deadline to file in court. That deadline is called a "statute of limitations." For federal cases, this is usually two years from the time it happened.

➤ **How do I get reports or video from the police?**

To get more documents from the police about the incident, use the Freedom of Information Act (FOIA) or the Colorado Open Records Act (CORA) to ask for records from the police department. Most departments have a system or a person who handles FOIA and CORA requests. For smaller departments, it may be through the city or county. Ask the department about the process.

➤ **What can I do instead of calling the police when someone is in crisis?**

The police are not always the best people to help with medical or mental health emergencies. Consider:

- Calling trusted friends or family
- Calling 988 for mental health crisis support
- Contacting a local crisis response team

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