
Protection for Students Not Yet Eligible for Special Education

A student who has not been determined eligible for special education and related services under the IDEA and who has engaged in behavior that violated a code of student conduct may assert any of the protections provided for in IDEA if the District had knowledge that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred.

The District would be deemed to have knowledge that a student is a student with a disability if before the behavior that precipitated the disciplinary action occurred:

- The parent of the student submitted to District supervisory or administrative personnel or a teacher of the child, a written statement of their concerns that the student is in need of special education and related services. This may be a parent referral for special education or any such written expression that the parent provides the District. This expression of concern can be provided orally if the parent does not know how to write or if they have a disability that prevents a written statement;
- The parent of the student requested an evaluation of the student to determine her/his eligibility for special education and related services under IDEA; or
- The teacher of the student, or other District personnel, expressed concern about the behavior or performance of the student to the director of special education of the District or to other supervisory personnel.

If the District does not have knowledge that a student is a student with a disability prior to taking disciplinary measures against the student, the student is subject to the same disciplinary measures as applied to students without disabilities who engage in comparable behavior.

The District will not be deemed to have knowledge that the student has a disability if the student's parents had not allowed an evaluation of the student, or has refused services under the IDEA, or the student has been evaluated and determined not to be a student with a disability under the IDEA.

If a request is made to evaluate the student to determine eligibility for services during the time period in which the student is subject to the disciplinary measures, the evaluation must be conducted in an expedited manner. Pending the results of the evaluation, the student remains in the educational placement determined by school authorities, which can include suspension or expulsion. Due to the specific requirements of the state expulsion statutes, educational services may or may not be required during the period of expulsion. The District's code of student conduct explains in detail the provision of services during periods of expulsion.

If the student is determined to be a student with a disability and in need of special education and related services, special education and related services must be provided according to the IDEA, including the disciplinary provisions of the Act, as outlined in this chapter of the District's Special Education Policy and Procedures Manual.