

THE COOPERATION OF LAW ENFORCEMENT AND SCHOOL  
ADMINISTRATION IN SCHOOL DISCIPLINE CASES

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School Cooperation With Law Enforcement

1. When Zero Tolerance Meets IDEA
  - a. Zero tolerance policies are being implemented throughout the United States at a time when juvenile crime statistics have been decreasing.
  - b. Although violent crime in school is down, the number of suspensions and expulsions has increased dramatically.
  - c. It has been difficult to establish any correlation between zero tolerance policies and any significant impact on drug and alcohol use by high school students.
  - d. Zero tolerance policies are hard to implement consistently and when discipline is centralized in large school districts, the influence of the school principal is diminished.
  - e. According to many leading psychologists, rigid and inflexible discipline policies directly conflict with two major developmental needs of school-aged youths: 1) the development of strong and trusting relationships with key adults in their lives, particularly those in their school; and 2) the formation of positive attitudes toward fairness and justice.
  - f. Damage is particularly acute for children who are already considered "at risk" for school failure and often has the effect of pushing them out of school completely.

2. The introduction of police officers into the school Environment
  - a. Over the past several years, most school districts have developed cooperative agreements with local police departments to provide “school resource officers” (SRO) that are present in the schools.
  - b. In most cases SRO’s share administrative as well as police responsibilities.
  - c. Role of the SRO is as much to develop relationships within the student communities as well as traditional police roles.
  - d. The SRO is often the point person in the investigation of school based criminal behavior.
3. Considerations for the use of police officers in the educational environment.
  - a. Police officers should not usurp the role of the school administrators. School staff should always be the primary persons involved with cases of school discipline.
  - b. In discipline cases, parents and students should be provided witness statement taken by the SRO.
  - c. School / student searches, if warranted should be conducted by school staff in cooperation with the SRO
  - d. Interviews with students in discipline cases should include parents, or at least notice to parents prior to the interview.

## School Discipline and Intervention When Children Charged with Criminal Activity

### A. General Considerations for Student Discipline- Due Process for Discipline of Students

1. Some current status and trends in school discipline.
  - a. Requirement of due process: In articulating the due process

requirements applicable to disciplinary proceedings, Courts balance the student=s interests in education against the schools= interest in maintaining effective order and discipline.

b. Public school students facing suspension or expulsion have due process rights under the 14<sup>th</sup> amendment. The students is always entitled to:

1. Advance notice of the charges

2. A fair opportunity to be heard

3. An impartial decision maker

c. The courts have recognized, however, that not every disciplinary measure employed by the public schools requires the invocation of due process procedures. Bernstein v. Menard, 557 F. Supp. 90 (E.D. Va. 1982)

d. The school district can provide greater procedural protections than the Constitution; which provides a mandatory minimum.

#### Additional Considerations for Due Process

a. Information required in the notice of expulsion

1. Details regarding all possible punishments. Betts v. Board of Education 466 F 2d 629 ( 7<sup>th</sup> Cir. 1972)

2. Details of all possible remedies and alternative courses of action. Rosa R. v. Connelly, 889 F.2d 435 (2nd Cir. 1989).

3. The names of witnesses and the substance of witness testimony. United

Independent School District v. Gonzalez, 911 S.W.2d 118 (Tex. Ct. App. 1995).

B. Placement of Special Education Students for Disciplinary Reasons

1. Determination of the alternative placement
  - a. Must be conducted by the IEP team, not by an administrator
2. The alternative Placement must be appropriate
  - a. Enable the child to participate in the general curriculum , although in another setting.
  - b. Continue to receive the services and the accommodations that are identified in the IEP.
  - c. Continue interventions and strategies to correct the problem behavior.
3. The alternative placement must satisfy FAPE for that student; including special education services.
4. The same procedural protections apply to placements in alternative schools as other placements.
5. The AStay Put@ Requirement
  - a. Students who have been identified as disabled pursuant to the IDEA or Section 504 must be maintained in their Athen-current educational placement@ during the pendency of any proceedings conducted pursuant to the statutory requirement of 20 U.S.C. 1415 (j).
  - b. This is often referred to as the Astay-put@ provision. If the school system seeks to expel a child with a disability the child=s placement may not be changed without the consent of the parents.
  - c. If the parents challenge the finding of an adverse Amanifestation determination@ the child may not be moved until such time as the

procedural reviews are exhausted. The exceptions include placement in alternative placements under the provisions of IDEA as described above.

6. Is Homebound a Placement?

- a. This may be the appropriate placement for some disabled students, for example, those with certain medical disabilities or those who are sick and cannot attend school.
- b. This placement has to comply with FAPE and the least restrictive environment. Parents should not agree to a homebound placement for disciplinary reasons only because there “is no other school alternative” offered by the school administration.
- c. Special education students should still receive the same protections and services they would receive at school.
- d. Homebound instruction is one of the placement settings available as an alternative setting, for example, due to a student bringing a weapon to school.

C. The Special Rules that Apply in Cases Involving Weapons or Drugs

1. When Special Education Students are Charged with Criminal Offenses.

- a. IDEA 2004, Section 615(k)(1)(G)(i)-(iii) lists special circumstances that may allow the school system to place the student in an alternative setting.
- b. A student may be removed to an interim alternative educational setting for 45 school days or less, even if the behavior is a manifestation of the child=s disability, in the following cases:

1. The student has a weapon on school grounds or at a school function; or
2. The student uses, possesses, or sells controlled substances on school grounds or at a school function; or
3. Inflicts serious bodily injury on another person on school grounds or at a school function.

