

50
YEARS
OF THE IDEA

MASE FALL LEADERSHIP CONFERENCE

THE 50-YEAR EVOLUTION OF DISCIPLINE UNDER THE IDEA

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The Evolution of Student Discipline Under Constitutional and Federal Law



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Prior to 1975...

Schools educated about one in five children identified with disabilities

State statutes permitted schools to deny enrollment to children with disabilities

"Societal devaluation of individuals with disabilities"

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Mills v. Bd. Ed. D.C. (D.D.C. 1972)

- DCPS was not serving most "exceptional" children, including "children with behavior problems"
- DCPS was suspending or expelling many "exceptional" children without a prior hearing or periodic review thereafter
- DCPS raised concerns about funding



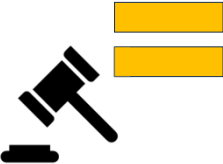
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Due Process and Equal Protection Clauses



"No state shall . . . deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

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Mills v. Bd. Ed. D.C. (D.D.C. 1972)

Public schools are constitutionally required to educate "exceptional" children and provide them a hearing prior to exclusion, as well as that a failure to comply with these requirements cannot be excused by insufficient funds



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FAPE & Procedural Safeguards

The Education for All Handicapped Children Act of 1975

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Honig v. Doe (U.S. 1988)

The EHA had a "stay-put" provision

State educational code permitted "indefinite suspension or expulsion" for conduct arising out of disability

Two students were "indefinitely" suspended and proposed for expulsion for "violent and disruptive conduct related to their disabilities"

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It is "clear" that "Congress very much meant to strip schools of the *unilateral* authority they had traditionally employed to exclude disabled students, particularly emotionally disturbed students, from school."

Honig v. Doe (U.S. 1988)

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Honig: Can public schools unilaterally exclude children for dangerous conduct related to their disability?

A school can unilaterally suspend a student for up to 10 school days


A suspension in excess of 10 school days constitutes a prohibited "change in placement"

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The IDEA Reauthorizations



Manifestation Determination Review

Suspensions & Expulsions

The IDEA codified and clarified rules regarding the discipline of students with disabilities

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Recent Federal Guidance

U.S. DOE "particularly concerned" with the disproportionate discipline of students with disabilities

Supporting students with disabilities' behavior needs instead of "overreliance" on exclusionary discipline is "critical"

Exclusionary practices place students with disabilities at risk for "short- and long-term negative outcomes"

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The Evolution of Student Discipline Under Minnesota Law





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Minnesota Pupil Fair Dismissal Act



“No public school shall deny due process or equal protection of the law to any public school pupil involved in a dismissal proceeding which may result in suspension, exclusion, or expulsion.”



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Amendments to the Minnesota PFDA

Suspensions


Expulsions & Exclusions

Withdrawal Agreements

Nonexclusionary Disciplinary Policies and Practices




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Minnesota Special Education and Special Programs Statute




FAPE and Dismissals




Due Process Hearings



Expedited Due Process Hearings





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The future of the discipline of students with disabilities...





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IDEA and Disciplining Students with Disabilities

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Key IDEA Concepts related to Exclusionary Discipline



Change in Placement



Manifestation Determination Review



FBA & BIP

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Authorized Exclusionary Discipline for conduct that is...

not a
manifestation of
disability

a manifestation
of disability

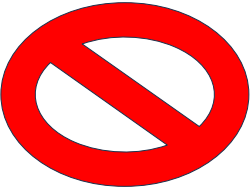
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IDEA's Limits on Exclusionary Discipline







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Unilateral 45 (School) Day Placements pursuant to IDEA

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Informal Exclusions

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Parent Pick-Ups,
Missed Classes,
Administratively
Shortened
School Days, &
In-School
Suspensions

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Transportation Suspensions

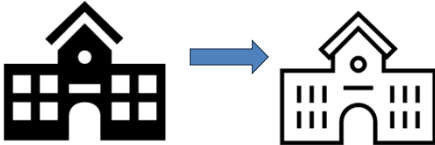



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Transfers






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Special Education Programming




Develop IEPs & BIPs



Review & Revise IEPs & BIPs



Implement IEPs & BIPs



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Threat Assessments



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Questions?



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