


MASE FALL LEADERSHIP CONFERENCE


45-Day Placements: A Deep Dive

Christian R. Shafer
Adam J. Frudden

October 23, 2025







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Special Circumstances: Justifications for a Unilateral 45-Day Placement




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Franklin Township Sch. Corp. (Ind. SEA 2024)

- A student with a disability imitated shooting another student with his hand while making shooting sounds and made a general statement about school shootings
- The school unilaterally placed the student in an IAES for 45 school days
- Was the school justified in unilaterally placing the student in an IAES for up to 45 school days?





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Franklin Township Sch. Corp. (Ind. SEA 2024)

The school was not justified in unilaterally placing the student in an IAES for up to 45 school days

The school, however, could have filed an expedited due process hearing request




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Mainland Regional Bd. Educ. (Bingham II, N.J. ALJ 2014)



- A student with a disability brought a “replica gun” to school in his backpack and showed another student
- The “replica gun” looked like a real gun but was “not operational”
- Can the school unilaterally place the student in an IAES for up to 45 school days?




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Mainland Regional Bd. Educ. (Bingham II, N.J. ALJ 2014)

The school could not unilaterally place the student in an IAES for up to 45 school days based on “special circumstances”






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When to use a unilateral 45-day placement?

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Other options depending on the circumstances...

Non-Disciplinary Options


Injunction

Exclusionary Discipline


Expedited Due Process Hearing



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Manifestation Determination Review:

Disciplinary Changes in Placement and Unilateral 45-Day Placements



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Options after the Manifestation Determination Review

Not a manifestation of the student's disability	Manifestation of the student's disability


R.R.M.

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FBAs and BIPs



- Manifestation of Disability
- Disciplinary Changes in Placement that would exceed 10 consecutive school days
- Unilateral 45-Day Placements

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Mainland Regional Bd. Educ. (Bingham II, N.J. ALJ 2014).

- The student had an ADHD diagnosis and took daily medication
- No school staff reported "impulsive-type behavior," the student had no prior behavioral incidents that year, and was earning "satisfactory" grades
- The student packed a "replica gun" in his backpack, took it onto school property, displayed and discussed it with another student, and then concealed it on school grounds
- The student told the principal that he brought the "replica gun" to school to return it to another student
- At the MDR, the school staff determined that the conduct was not a manifestation of his disability but the parent and the parent's advocate disagreed
- A subsequent psychiatric evaluation determined that the student had diagnoses of ADHD and "impulse control disorder"



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Mainland Regional Bd. Educ. (Bingham II, N.J. ALJ 2014).

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Was the conduct a manifestation of the student's disability?




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Mainland Regional Bd. Educ. (Bingham II, N.J. ALJ 2014)



- The student's conduct was a "calculated decision"—not an "impulsive act"—and thus, the conduct was not a manifestation of his disability
- While a 45-day placement based on "special circumstances" was not justified, the student was "exposed" to a potential long-term dismissal (e.g., expulsion)



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THE IAES AND SERVICES

IEP Team Decision

The IAES

The Services

Notification Requirements



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The Parent's Recourse if they disagree with a unilateral 45-day placement?



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Minn. Special Educ. Compl. 19-046C (Minn. SEA 2019)

- 10-day suspension; Superintendent provided reason for the longer suspension, & the District made work available prior to the 6th day of suspension, which Student did not do
- A MDR was held :
 - Relevant IEP team members determined a manifestation;
 - District notified Parent it would use a unilateral 45-day placement; &
 - The IEP team—without a general education teacher—discussed the IAES & services
- District unilaterally placed Student at IAES & notified Parent via PWN without providing procedural safeguards notice at meeting or with PWN
- Parent objected to the PWN & requested a conciliation conference & homebound services
- Student did not avail himself of services at the IAES
- District did not hold a conciliation conference within 10 days or respond to the request for homebound services within 14 days using a PWN
- The Student received an FBA and the District proposed to revise his BIP


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Did the district comply with federal and Minnesota special education law?



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Minn. Special Educ. Compl. 19-046C (Minn. SEA 2019)

- During the Suspension
- The 45-Day Placement
- Procedural Requirements
- Conciliation Conference





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Questions?

Christian R. Shafer
crs@ratwiklaw.com

Adam J. Frudden
ajf@ratwiklaw.com





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