



Understanding IDEA Protections for Disciplinary Issues

Presented by:

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About Disability Rights Texas

- ▶ Part of the national Protection and Advocacy (P&A) System
- ▶ Established in 1977 through federal law
- ▶ Nonprofit legal firm
- ▶ Protect and advocate for the rights of Texans with disabilities ensuring their equal participation in society
- ▶ Serve Texans of all ages with a wide variety of disabilities

Services Offered

- ▶ Provide direct legal assistance to people with disabilities whose rights are threatened or violated
- ▶ Protect rights of individuals and groups of people with disabilities through courts and justice system
- ▶ Inform policy makers about how issues impact people with disabilities
- ▶ Educate people with disabilities and family members about their rights
- ▶ Make referrals to programs and services

Areas of Focus

- Alternatives to Guardianship
- Community Integration
- Disaster Preparedness and Recovery
- Early Childhood Intervention
- Education (K-12, college)
- Employment
- Healthcare
- Housing
- Institutional Rights and Civil Liberties
- Transportation
- Voting



PURPOSE OF IDEA

To ensure that all children with disabilities have available to them a free appropriate public education (“FAPE”) that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living. 42 U.S.C. § 1400(d)(1)(A).

To the maximum extent appropriate, students with disabilities should be educated with students who do not have disabilities or in the least restrictive environment (“LRE”). 20 U.S.C. § 1412(a)(5).

Individualized Education Program (IEP)

- ▶ Present levels of academic achievement and functional performance (PLAFP)
- ▶ Measurable annual goals (academic and functional goals)
- ▶ Accommodations
- ▶ Placement
- ▶ **Behavioral Intervention Plans (BIP)**
- ▶ Related Services
- ▶ Transition Services
- ▶ Standard Assessment Accommodation or Need for Alternate Assessment

What is a BIP?



When is a BIP Needed?

- ▶ Is the behavior impeding the student's education
- ▶ Is the behavior impeding the education of other students

Functional Behavior Assessment (FBA)

- Evaluations used to develop positive behavioral supports and a Behavior Intervention Plan (BIP)
 - Attempts to determine function of unacceptable behavior, what the student “gets” or “avoids” through behavior.
 - Identifies strategies to reduce triggers and replace problem behaviors.



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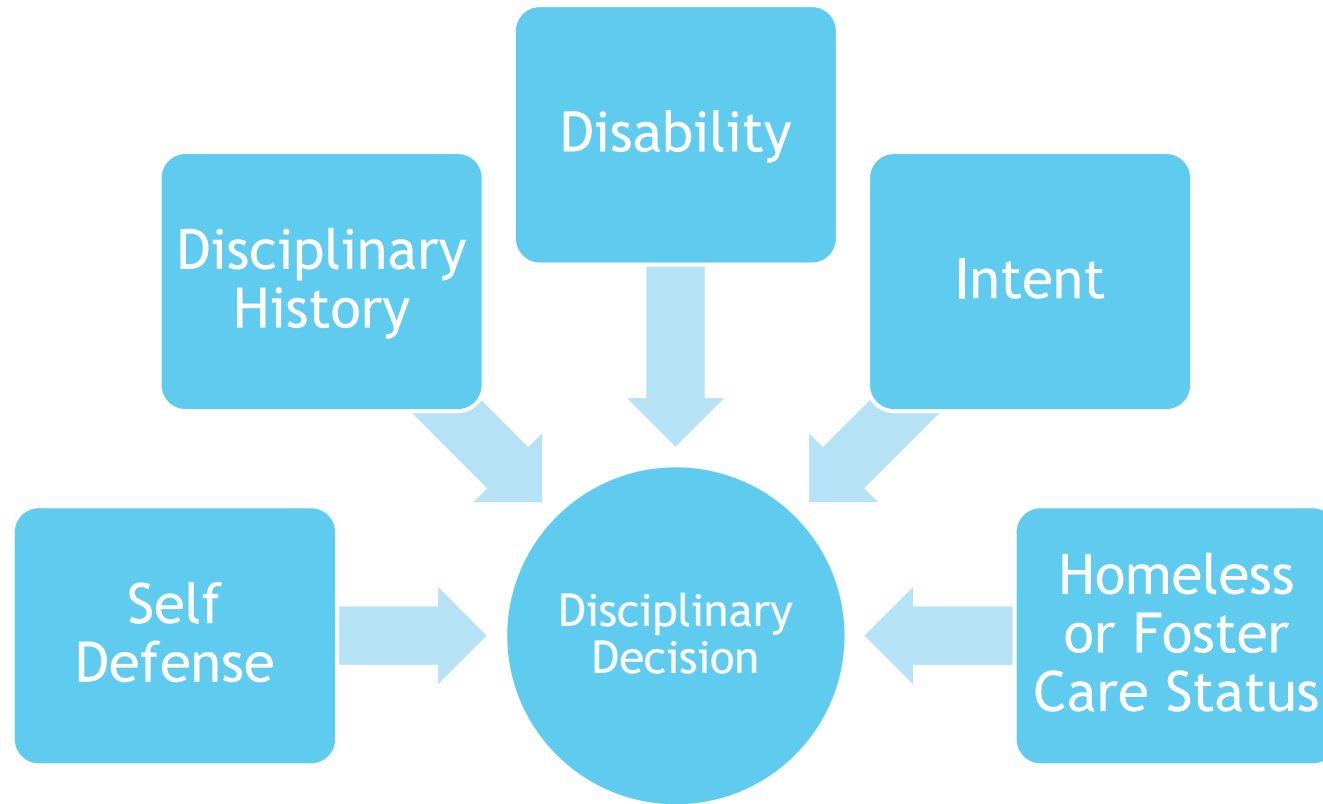
Discipline Statistics

- ▶ Campus arrests in Texas – 24% had disabilities while only making up 9% of the student population.
- ▶ National research suggests that anywhere from 70 – 90% of youth involved with the juvenile justice system have disabilities.
- ▶ An OCR Report found for the 2017-18 school year, students with disabilities served under the IDEA “represented 13.2% of the total enrollment but received 20.5% of one or more in-school suspensions and 24.5% of one or more out-of-school suspensions.”

IDEA Disciplinary Protections

- ▶ Removal from class for more than 10 consecutive school days; OR
- ▶ Removals form a pattern (because they total 10+ days/ year, the behavior is substantially similar, and removals are close in time.

Discipline and Common Sense Considerations TEC § 37.001(a)



Disciplinary Removals

- School may remove for on and off campus behavior
- Whenever a student is disciplined, the parent should receive notice explaining the reason the student is being disciplined and the student should be given the opportunity to explain his or her version of the event
- Schools cannot suspend students for more than 3 consecutive days

Manifestation Determination Review by ARD

34 CFR 300.530 (e)(1)

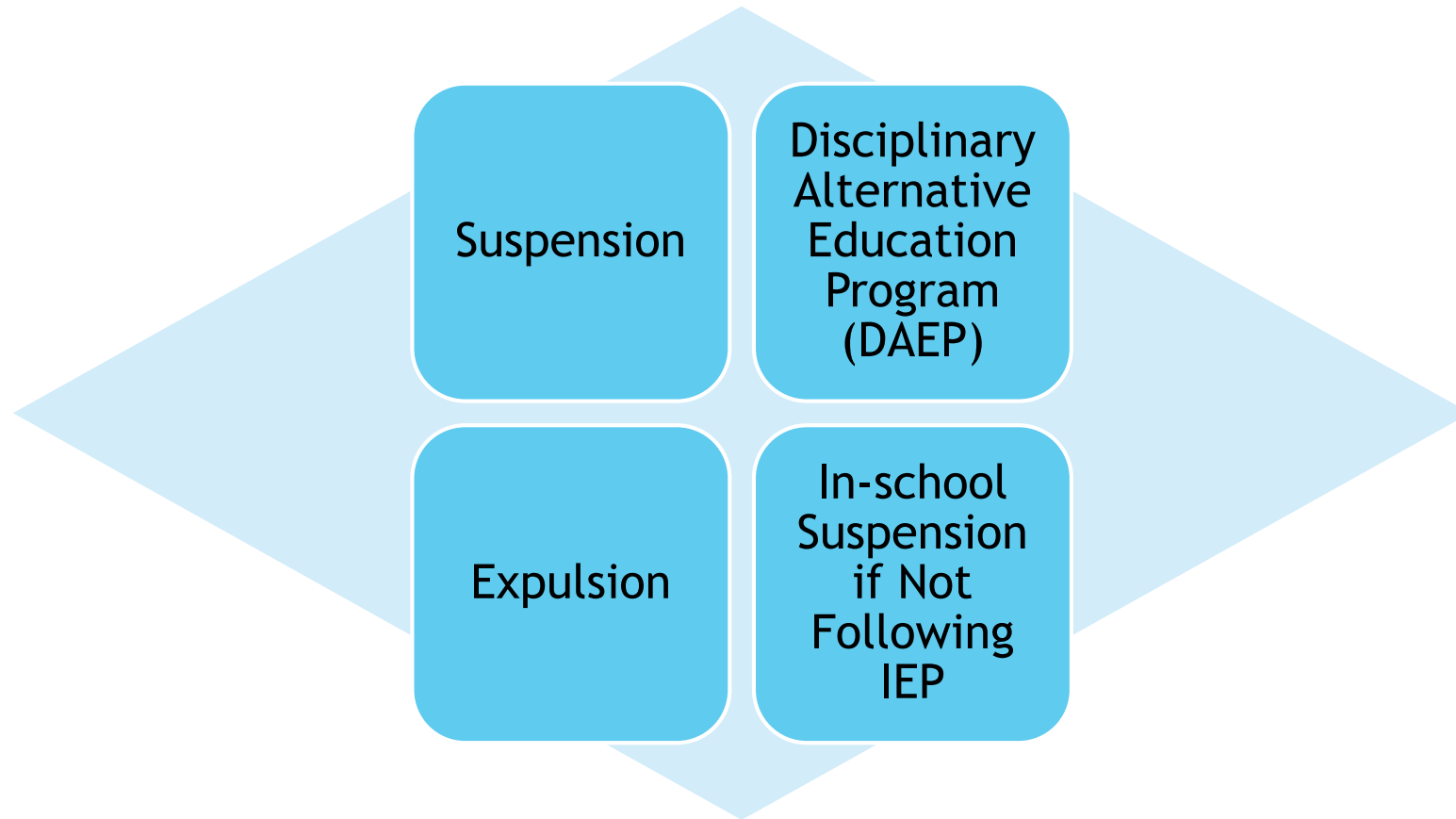
Conduct caused, or direct & substantially related to disability; OR Direct result of school's failure to implement IEP. *

- Conduct a functional behavioral assessment (FBA)
- Implement a behavior intervention plan (BIP); and
- Return student to prior placement.

Conduct Not caused by, or direct & substantially related to disability; OR Direct result of school's failure to implement IEP.

- Same disciplinary procedures applied to non-disabled students

Disciplinary Placements When FAPE Still Required for Removal > 10 Days



Sample Questions to Ask if BIP is not Working

- ▶ Is the BIP being implemented?
- ▶ Is the BIP being implemented correctly?
- ▶ Is an updated FBA needed?
- ▶ Is there a student/teacher conflict?
- ▶ Is the education setting the issue?
- ▶ Are all of the necessary services and supports provided

Precautionary Tips

- ▶ Review FBA yearly per law
- ▶ If uptick in disciplinary removals, immediately request ARD to address
- ▶ Maintain regular contact with your child's teachers

Why are IDEA Protections Needed?

- Tony is a 14-year-old who has a history of psychiatric hospitalizations. He regularly had behavioral issues in school, but he was never evaluated for special education services. One day on campus, there was an attempt by the SRO to prevent the student from walking away from her. When the student pushed past her, he was arrested and charged with assault. He was then expelled from school for an entire school year with no educational services provided.
- Donald is a 16-year-old who has been struggling in school both academically and behaviorally for years. He had numerous disciplinary referrals, but has not qualified for special education services. The last referral from school landed him at DAEP. While there, he was alleged to have been horse playing in the classroom. Law enforcement was contacted when he refused to leave the room and he was eventually arrested and then expelled.

Apply for DRTx services

- Statewide Intake Lines:
 - ✓ 1-800-252-9108
 - ✓ 1-866-362-2851 (Sign Language Video Phone)
 - ✓ 512-271-9391 (Purple 2 Video Phone)
- Online Intake: Intake.DRTx.org
- Self advocacy resources, information about our services: www.DRTx.org

Remember. . .



"You cannot keep doing the same thing, the same way, and keep expecting something different to happen."

- Beth Moore

Contact Information

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