



Advocates for Children of New York
Protecting every child's right to learn



NAVIGATING SCHOOL DISCIPLINE IN NEW YORK CITY

Presented by:
Rohini Singh
Assistant Director, School Justice Project



Today's Training

2

Introduction



Types of Suspensions and
Parent's Rights



Key Takeaways



Legal Protections for
Students with Disabilities



What is Advocates for Children (AFC)?

3

AFC is an independent agency that protects the rights of all NYC students

Our Services:

- Helpline: **1-866-427-6033** (Mon-Thurs, 10am – 4pm)
- Guides and resources: www.advocatesforchildren.org
- Workshops and trainings
- Free legal services to low-income families



Suspension and Discipline Work

4

- Help young people who are facing:
 - Juvenile and/or criminal justice system involvement
 - School suspension
 - Exclusion from school due to their behavior
 - Bullying behavior
- Advocate for alternatives to discipline and for behavior supports and services so students remain in school
- Participate in city and state-wide coalitions to reform school discipline policies and procedures, and advocate for investments in supports for students



Students who are suspended are more likely to:

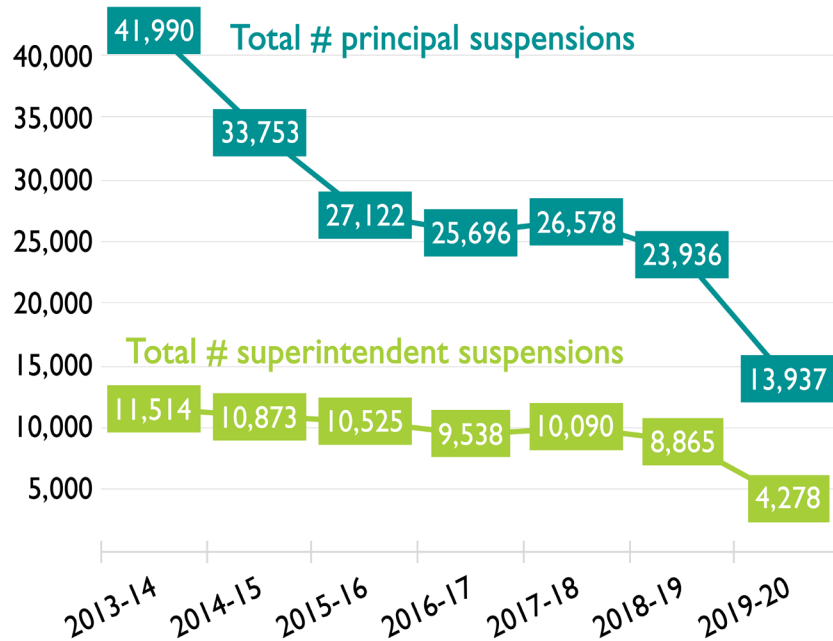
5

-
- Miss class
- Be held back a grade
- Be suspended again
- Drop out
- Get arrested

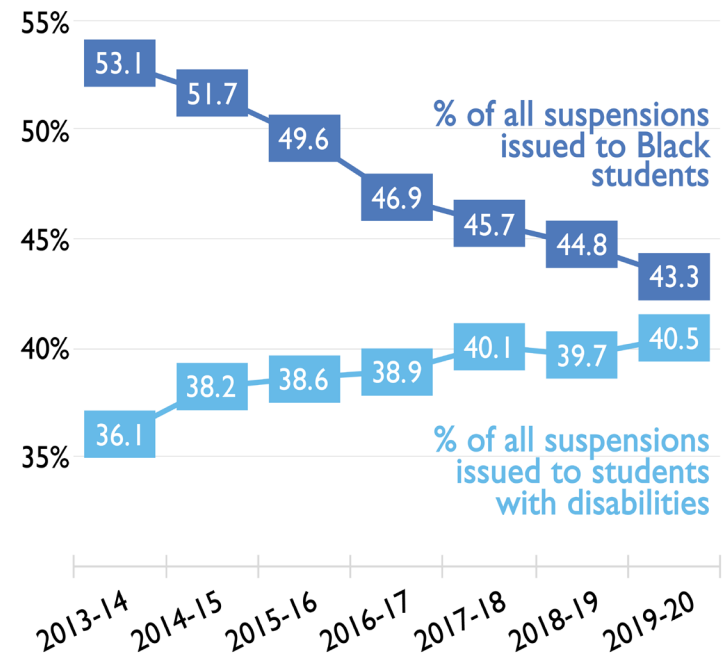


Suspension Data

Between 2013-14 & 2018-19, the # of principal suspensions declined **43%** & long-term suspensions dropped **23%**



Disproportionality by race has decreased, but disparities by disability status have increased



slido



**The school can call you to
come pick up your child
early.**

① Start presenting to display the poll results on this slide.

slido



The school can require a doctor's approval or note for your child to come back to school

ⓘ Start presenting to display the poll results on this slide.

slido



After a suspension, you have to meet with the principal before your child can come back to school.

① Start presenting to display the poll results on this slide.

slido



The principal can call EMS if they think your child is a danger to themselves and others.

① Start presenting to display the poll results on this slide.

slido



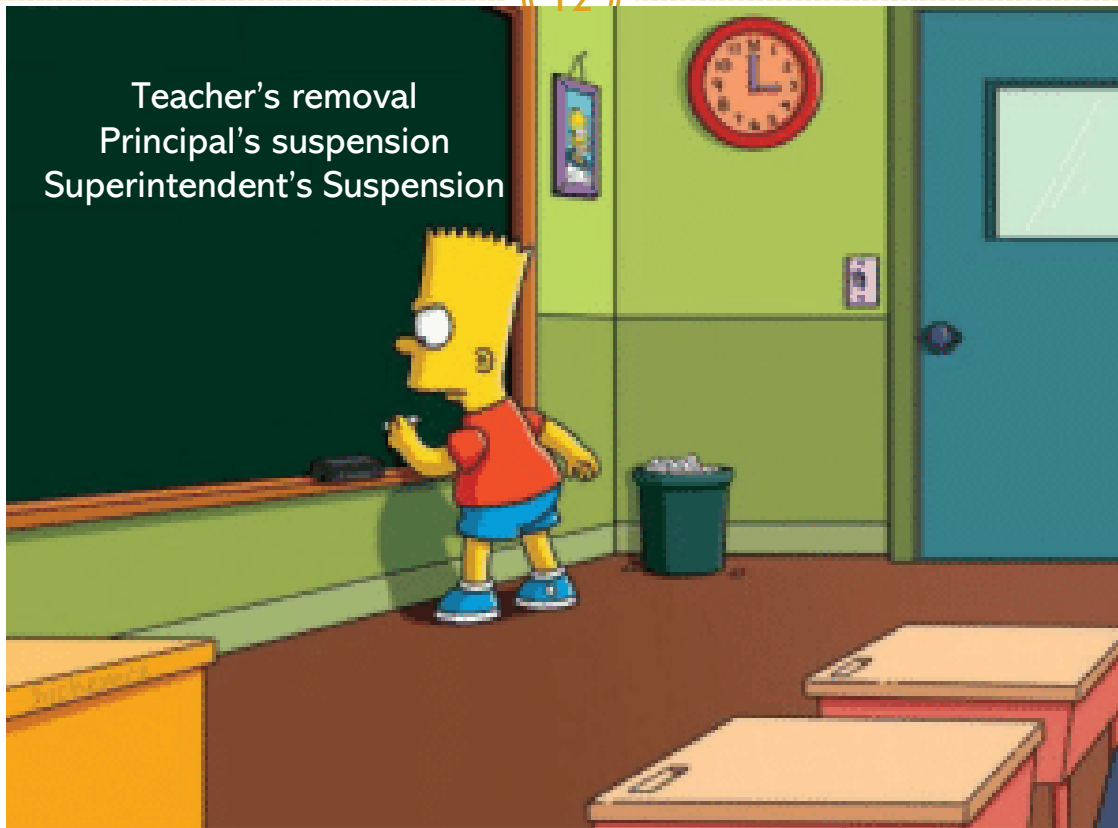
**A student can be
suspended for a year.**

ⓘ Start presenting to display the poll results on this slide.

Types of Suspensions and Removals in NYC

12

Teacher's removal
Principal's suspension
Superintendent's Suspension





The NYC Discipline Code

13



**Department of
Education**

Chancellor Richard A. Carranza



Citywide Behavioral Expectations to Support Student Learning Grades K–5

including the K–12 Student Bill of Rights and Responsibilities
and the Discipline Code

Effective September 2019



**Department of
Education**

Chancellor Richard A. Carranza



Citywide Behavioral Expectations to Support Student Learning Grades 6–12

including the K–12 Student Bill of Rights and Responsibilities
and the Discipline Code

Effective September 2019

Level 4 Infractions – Aggressive or Injurious/Harmful Behavior

- B33 Engaging in sexual conduct on school premises or at school-related functions (D–I)
- B34 Making sexually suggestive comments, innuendoes, propositions, or similar remarks, or engaging in nonverbal or physical conduct of a sexual nature (e.g., touching, patting, pinching, lewd or indecent public behavior, or sending or posting sexually suggestive messages or images) (D–K)
- B35 Posting, distributing, displaying, or sharing literature or material containing a threat of violence, injury or harm, or depicting violent actions against or obscene, vulgar or lewd pictures of students or staff, including but not limited to posting such material on the Internet (D–K)
- B36 Engaging in physically aggressive behavior other than minor altercations as described under B24, which creates a substantial risk of or results in minor injury (D–K)
- B37 Coercing, threatening, planning, or instigating an act of violence, injury, or harm to other(s) (D–K)
- B38 Engaging in or causing disruptive behavior on the school bus which creates a substantial risk of or results in injury. **NOTE:** Students may also be excluded from the bus as per Chancellor’s Regulation A-801. (D–K)
- B39 Engaging in harassing, intimidating, and/or bullying behavior, including using electronic communication to engage in such behavior (cyber-bullying); such behavior includes, but is not limited to: physical violence; stalking; verbal, written, or physical conduct that threatens another with harm; seeking to coerce or compel a student or staff member to do something; hazing; taunting; exclusion from peer groups designed to humiliate or isolate; using derogatory language or making derogatory jokes or name calling to humiliate or harass. (D–K, G–K only, where behavior involves physical violence)

Student supports and interventions may be used in tandem with disciplinary responses.

Supports and Interventions (see p. 13–15)

- Collaborative problem solving
- Community service (with parental consent)
- Conflict resolution
- Development of Individual behavioral contract
- Functional Behavioral Assessment (FBA)/Behavioral Intervention Plan (BIP) (see page 22)
- Guidance conference
- Individual/group counseling
- Individualized Support Plan (ISP)
- Intervention by counseling staff
- Mentoring
- Parent Outreach
- Peer Mediation (see page 17)
- Positive behavioral interventions and supports (PBIS)
- Referral to a community-based organization (CBO)
- Referral to counseling services for (bias-based) bullying, intimidation, or harassment
- Referral to counseling services for youth relationship abuse or sexual violence
- Referral to mental health support services
- Referral to Pupil Personnel Team (PPT)
- Restorative practices (see pages 16–17)
- Short-term behavioral progress reports
- Social emotional learning

Range of Possible Disciplinary Responses* (see pages 17, 21–25)

- D. Parent conference
- E. In-school disciplinary response (e.g., formal restorative conference, exclusion from extracurricular activities, or communal lunchtime)
- F. Removal from classroom by teacher (subject to the requirement to impose a suspension at five or more semester or four or more trimester removals)
- G. Principal's suspension for one to five school days
- H. Superintendent's suspension that results in immediate reinstatement with a welcome-back circle upon return
- I. Superintendent's suspension that results in a suspension for a fixed period of six to ten school days with a welcome-back circle upon return
- J. Superintendent's suspension that results in a suspension for 11–15 school days with a welcome-back circle upon return
- K. Superintendent's suspension that results in a suspension for 16–20 school days with a welcome-back circle upon return

***NOTE:** Further details about **supports and interventions** can be found on **pages 13–15**. Further details about **disciplinary responses** can be found on **pages 23–24**.



Types of Suspensions

16

Teacher Removal

Up to 4 days

Parent can ask for meeting

Phone call

Principal's Suspension

Up to 5 days

Principal holds conference

Written notice

Superintendent's Suspension

From 6 – 20 days**

Requires formal hearing

Written notice

**20+ days:
for some
Level 5
infractions
ONLY

No other removals are allowed!



Other Discipline

17

Can only
be expelled
if over 17
and no IEP

Cannot use
corporal
punishment

Cannot
transfer
student
without
permission



Principal's Suspension: Notice to Parent

18

WRITTEN NOTICE IS REQUIRED

(in parent's language)

By personal
delivery (within
24 hours)

Reasons for
suspension
(including date, time,
place of incident)

Date, time, and
place of
**suspension
conference**

Statement of
student's rights

Period of
removal and
alternative
instruction

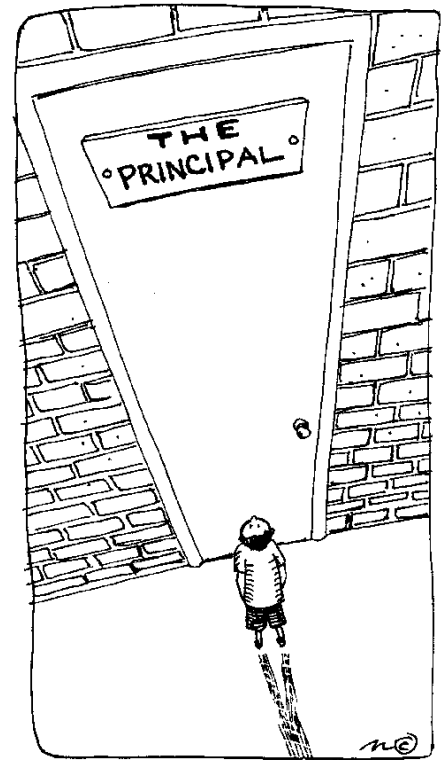




Principal's Suspension Conference

19

- Student must stay in class until suspension conference
 - Except if “threat of danger”
- Principal must attend conference
 - Decide if suspension is justified
- Parent's rights
 - Present student's version and question witnesses
 - Right to interpreter
 - Discuss plan to address behavior





Superintendent's Suspension: Notice

20

School must get approval and call parent immediately

Parent must get written notice within 24 hours, including:

Reasons for suspension

Alternative school location

Details about hearing
(scheduled within 5 school days)

Witness List

Parent's rights and places to call for help



Lois Herrera, Chief Executive Officer
Chief Executive Officer of the Office of Safety and Youth Development

NOTICE OF SUPERINTENDENT'S SUSPENSION

April 18, 2018

Paula Parent
123 1st Avenue
Brooklyn, NY 11201

Dear **Paula Parent**:

This is to inform you that at the request of the Principal, your child, **SAM STUDENT**, has been suspended from school by the Chief Executive Officer of the Office of Safety and Youth Development starting on, **04/19/2018**.

Your child is being removed from school prior to the suspension hearing because your child's continued presence in school poses a continuing danger to persons or property or an ongoing threat of disruption to the academic process. If you would like to meet with the principal prior to the suspension hearing to discuss this incident, please contact the school.

During the suspension, your child is to report to the following alternate placement site: **88K992 ALC - Brooklyn Choices (718) 821-5484 located at 271 Melrose Street BROOKLYN, NY 11206**. During the suspension, your child has the right to receive homework and class work assignments. Furthermore, your child will be permitted to take any Citywide or State examinations that are administered during the suspension period for which no make-up examination is permitted by the testing authority, as well as to make up school examinations that may affect your child's academic record. Please contact the Dean(s)/Assistant Principal at your child's school to arrange to do so.

This letter contains critical information about the reasons for the proposed suspension, as well as key dates on which meetings will occur that will affect the outcome, length and services your child may receive if your child is suspended following the hearing.

Suspension Hearing

A Suspension Hearing Officer will conduct a hearing, after which the Hearing Officer will make findings of fact regarding the charges that appear below. A suspension hearing has been scheduled for:

DATE: 04/25/2018
TIME: 8:30 AM
PLACE: Brooklyn Office of Student Suspensions
335 Adams Street, 6th Floor
Brooklyn, New York 11201-3724
(718) 923-5120

Charge(s) for Superintendent's Suspension of Sam Student

On 4/17/18 at approximately 2:00 PM, Sam Student

engaged in physically aggressive behavior as he swung his fist at Tina Teacher (teacher).

This behavior constitutes a danger to the health, safety, welfare and morals of your child and others at the school.

Enclosures: Notice of Student Rights
 Non-Binding Witness List
 Community/Legal Services
 Procedural Safeguards Notice

RE: Sam Student

Non-Binding Witness List

1 Tina Teacher



Ask the school for the suspension packet!

23

Occurrence
Report

Witness
Statements,
including from
student

Records Cover
Sheet

Evidence Voucher

Injury Reports

Video

Other School
Records

The school must give it to you before the hearing.

RECORDS COVER SHEET – SUPERINTENDENT’S SUSPENSIONS

(The information requested in this form is required for dispositional purposes. It must be filled out in its entirety by a school official and signed by the principal.)

Student's Name _____ OSIS: _____ DOB: _____ Age _____
 School: _____ CFN _____ Principal's Name _____
 School Contact: _____ E-mail: _____ School Phone# _____
 Parent Name: _____ Address: _____
 Telephone (Cell): _____ Telephone (Home): _____ Telephone (Work): _____

ACADEMIC RECORD

Subject	Subject Code	Current Grades	Last Term's Grades
English		<i>see report card</i>	
Math			
Science			
Language			
Social Studies			
Phys. Ed.			
Other			
Other			

Grade: 7 Credits _____ Gen. Ed. _____ I.E.P.

Current School Year Attendance

Absent 4 Late 11

SUSPENSION HISTORY

Prior Principal's Suspensions/Teacher Removals		Prior Sustained Superintendent's Suspensions	
Date	Reason	Date	Reason
3/22/16	B36		
1/25/16	B39		
1/11/16	B36		

Prior Transfers (if applicable)

School			
Date	From	To	Reason(Safety/Suspension)

Synopsis of Disciplinary Record (Check all that apply)

- excessive cutting truancy loitering gang related activity
 causing a disturbance harassment/students insubordination
 harassment/staff members fighting vandalism
 other (EXPLAIN BRIEFLY) _____

Prior guidance interventions and recommendations

*Dean Mediation, Meeting w/ Agency
Refer for counseling*

School guidance recommendations (may use more than one)

- Anger management training _____ Refer for counseling _____
Stress management training _____ Refer for family counseling _____
Academic Intervention Services _____ At-risk behavior _____
Refer for community based mental health interventions _____ Conflict Resolution _____
Refer to school psychologist for evaluation _____ Substance abuse, health and at-risk behavior counseling _____
Other (explain) _____

PLEASE ATTACH TEACHER COMMENTS

**STUDENTS WITH AN IEP/504 PLAN OR REFERRED FOR SPECIAL EDUCATION SERVICES
(IEP must be provided)**

Date of current IEP 3/16/16
Student been referred for evaluation (but currently does not have an IEP) _____ Date of referral _____
Date of most recent annual review _____
Total days (current school year) the student has been removed/suspended from class _____
Current placement/program/services _____
504 Plan _____

Principal's Recommendation

- Immediate Reinstatement Continued suspension for 6-10 days 10
 Extended suspension for 30-90 days (indicate # of days) _____
 LTS (one year no review) LTS (one year with six month review) _____

Print Name _____

Principal's Signature _____



Insert Fax This Way

Do not write on back

Do not send cover sheets

Do not send multiple sheets at one time



1594841



New York City Department of Education

WRITTEN STATEMENT FORM

FAX completed forms to (718) 935-5860

ATS: 32K384

NAME C [REDACTED] C [REDACTED]		GENDER Female
STATUS Educational Assistant	DATE OF BIRTH	

STATEMENT

About 8:30 am, on October 16, 2007, I went to the cafeteria to pick up my one to one student. As I waited for my one to one student to line up with his class, I was hit on my left ankle with a milk container. I saw [REDACTED] (student) throw it.



New York City Department of Education

OCCURRENCE REPORT

DOE CONTROL NO. 32K384-101607-0075	NYPD CONTROL NO. none supplied
---------------------------------------	-----------------------------------

ATS CODE 32K384	SCHOOL AND/OR PROGRAM NAME/NUMBER Frances E. Carter School			INCIDENT DATE & TIME 10/16/2007 1:30 PM	DURING SCHOOL HOURS? Yes
REPORT Original	BOROUGH Brooklyn	SUPERINTENDENCY 32	GEOGRAPHICAL DISTRICT 32	IS THIS REPORT FOR INFORMATION ONLY	

Occurrence Reported by: Ms. [REDACTED]

Occurrence Data Entered at: 10/16/2007 at 3:12 PM

Location of the Occurrence: Cafeteria

Category: A51

Contacts: NYPD was contacted but the date/time of contact was not provided
Superintendent was not contacted

Description of the occurrence

A male student, [REDACTED] threw a full container of milk at a female Educational Assistant, ([REDACTED] [REDACTED]), hitting her on the left ankle. In classroom #211 he picked up a chair and attempted to hit a female teacher, Ms. a male student, [REDACTED] to the floor and pushed a male student, [REDACTED], against the wall. [REDACTED] ran through out the building the building refusing to take direction from [REDACTED] Principal or [REDACTED] Guidance Counselor. Security Guard, [REDACTED] brought [REDACTED] to 116A where he was repeatedly cursed, kicked a chair, threw a table, kicked the walls and a file cabinet. PO [REDACTED] of the 83 pct responded. EMS transported him to Kings County Hospital. Attempted parental contact. Administrative action pending.

Persons Involved

Suspects

[REDACTED]

Victims

[REDACTED]



Superintendent's Suspension Hearing: Options

28

Adjournment for Good Cause

Plead No Contest

Proceed with Hearing

Superintendent's Suspension: Post-Hearing Decision



Hearing officer makes recommendation based on testimony and all documents in evidence

Within 2 days
of hearing

parent must receive notification:

- whether charges are dismissed or sustained,
- if charge sustained, where student is assigned to attend school,
- how suspension will be reflected in student's records, including when expunged

Within 5 days
of hearing

- hearing office must mail a full report of Findings and Disposition to the parent

Student remains at alternative education site pending decision, unless the parties agree otherwise

If The Charges Are Sustained...



Superintendent may:

For most
infractions:

Immediately
reinstate
student to
school

Continue the
suspension for
6-10, 11-15, or
16-20 school
days

For very serious behavior,
only by DOE main office
approval

Continue the
suspension for more
than 20 school days up
to 1 year (automatic
review for 40 or more
school days

Expulsion:
only possible for
students without IDEA
protections who turned
17 before the school
year

- Recommend services
- Grant or deny school transfer, if parent requests

Appeals



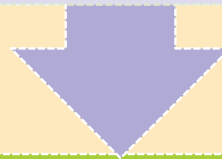
Must be in writing, and state grounds for appeal and relief requested

Extensions for good cause only

1st Level: Chancellor/Office of Legal Services

Timing:

Must file within 20 school days of date of decision or 10 school days from receipt of tape recording or hearing transcript, whichever is later



2nd Level: NYS Education Commissioner

Timing:

Must initiate within 30 days of decision, unless delay is excused by Commissioner for good cause shown in the petition



Questions?

32





You decide!



slido



What type of academic instruction is a NYC student entitled to following a suspension hearing?

ⓘ Start presenting to display the poll results on this slide.



Alternative Instruction

35

Homework

Classwork

Exams

Full time
instruction*

At student's school, a different school,
or an Alternative Learning Center



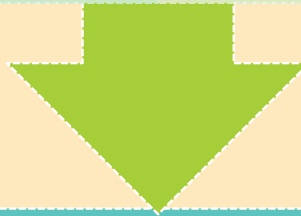
Alternative Instruction

36

During principal's suspension or while waiting for suspension hearing:

K-8: full-time instruction

High School: at least 2 hours/day



After suspension hearing

All students who continue to be suspended have right to full-time instruction.



Protections For Students With Disabilities

37

Expedited evaluations

Manifestation Determination
Review (MDR)

Suspension plan

FBA & BIP



Who Is a Student with a Disability for Discipline Purposes?

38

Students
with IEPs

Students
with 504
Plans

School
Deemed
to Know



Right to Expedited Evaluations

39

Suspended students must get expedited evaluations when:

Parent requests an initial evaluation

School is “deemed to know” student has a disability



Must be done within 15 days of parental consent



What is an MDR?

40

Meeting to decide if the student's behavior was:

caused by the
student's disability;

OR

a result of the school's
failure to follow the
student's IEP or BIP



You decide!



slido



Which of the following statements is true?

ⓘ Start presenting to display the poll results on this slide.



Is it a Manifestation?

43

YES

- Student returns to school
- School must do:
 - Functional Behavioral Assessment (FBA)
 - Behavior Intervention Plan (BIP)

NO

- Suspension continues
- School must:
 - Create a Suspension Plan
 - Consider doing an FBA and BIP



When Must the School Hold an MDR?

44

When the student is suspended for 11 or more days:

in a row

w/in 40 school days

+ a pattern



What must the team review during the MDR?

45

IEP

FBA and BIP

Evaluations
and teacher
observations

Occurrence
reports

Records from
the parent

Other
information



Follow prompts
on MDR
Worksheet

MANIFESTATION DETERMINATION REVIEW WORKSHEET

Meeting Date: _____ SOHO Case #: _____
Student Name: _____ Student OSIS: _____
Date of Birth: _____ Current School: _____

Please reference the Standard Operating Procedures Manual for Special Education Services chapter on Students with Disabilities Subject to Discipline (SOPM) found [here](#) while completing this Worksheet.

Complete this Worksheet in paper or electronically in SOHO at the MDR meeting. If the Worksheet is completed in paper at the meeting, the contents must be entered into SOHO within 24 hours of the meeting.

Include a response for all questions. Answers to these questions must be determined at the MDR meeting and must include the contributions of all meeting participants, including the parent(s) if present.

MANIFESTATION DETERMINATION REVIEW TEAM

Enter names and other relevant information for all individuals present at the meeting. It is recommended that at least two school staff members attend the MDR meeting. The following people must participate in the MDR in person, unless otherwise indicated:

- *A representative of the school district knowledgeable about the student and the interpretation of information about the student’s behavior (e.g., school psychologist, social worker, guidance counselor);*
- *The parent (the parent may participate in person or by phone); and*
- *Other individuals as determined by the school district and/or the parent (other individuals may participate by phone if necessary).*

Name (and Signature)	Title	By Phone (Y,N)
Required member		



Preparing for the MDR

47



Review all the documents



Make sure the student is getting all services on their IEP



Ask outside providers to participate



Questions?

48





5 School Discipline Takeaways

49

Schools should try to help students before suspending them

Notice must be in writing

Ask for principal's suspension conference

Always get the packet

No out of school suspensions!



Wrapping up: Reminders!

50

- Fill out our [survey](#).
- If you need help, ask!
- Call Our Helpline: 866-427-6033
 - Toll free
 - Monday-Thursday
 - 10am-4pm
- Email Us: Info@advocatesforchildren.org

