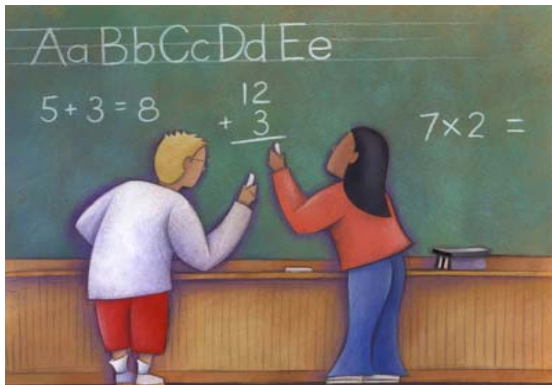




Special Education students or potential special education students have other rights under the federal law. Learn your rights!



This is an informational brochure, It is not a substitute for legal advice and is not intended to cover all circumstances. If you have a legal problem, consult a private attorney, or contact your local Legal Services office.



West Tennessee Legal Services

Contact information
731.423.0616

or

1.800.372.8346

Fax: 731.423.2600

Email: wtls@wtls.org

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Local Offices:

Jackson

210 West Main Street
Jackson, Tennessee 38305

Selmer

141 North Third Street
Selmer, Tennessee 38375

Huntingdon

113 West Paris Street
Huntingdon, Tennessee 38344

Dyersburg

208 South Church Street
Dyersburg, Tennessee 38024

Special Education



If you have a special education student or think that your child might be a special education student, the law says that your child **CANNOT** be excluded from school.



If the school says your child did something that he/she should be disciplined for and that discipline involves a suspension or being expelled for more than ten days, your child's **IEP-Team** must meet first.

What does the IEP-Team do?

- Decides if the offense was part of the student's disability and then decides, "Is the current placement appropriate?"
- If decided that the offense **was** due to the child's physical or mental impairment, he/she cannot be expelled. A new placement or other changes in his IEP may be decided for the student.
- If a school system suspends or expels a special education student, educational services as set by the **IEP-Team** (in the IEP) must be provided during the suspension.
- If decided the offense **was not** due to the child's impairment, the student may be suspended or expelled by the local board of education.

If the IEP-Team has not met, you should ask the Juvenile Court Judge to stop everything until the IEP-Team meets.

Anytime a school system files a petition against a student in Juvenile Court, the case should be considered a potential special education case. If your child is not in special education, you can request a special education evaluation for him/her. This must be done before the Judge acts upon the petition. After the evaluation takes place, the school should convene the IEP-Team to look at the evaluation of your child. If you do not agree with the results of the evaluation, you have the right to ask for an independent evaluation or for a Due Process Hearing.

While the evaluation process takes place, the student should remain in his/her current placement, unless it is a zero-tolerance charge. The student may then be placed in an interim alternative educational placement for 45 calendar days. Federal law refers to this as the "stay put" provision. If the school feels that the student is a danger to others, the school may ask the Federal District Court or any ALJ to help. Juvenile Court is not the right court to hear cases based on Federal Law.



At any point during this process a lawyer would be helpful, but you would definitely want to consult a lawyer if you are going to have a Due Process Hearing.

If you do not agree with the IEP-Team decision, you may request a Due Process Hearing

- Due process applies to a child's right to free public education. The right cannot be taken away without first providing the student with the due process of the law.
- Before a student can be expelled for 10 days or longer from school for disciplinary reasons, due process must be followed. The school board must meet the due process requirements as provided in federal law and the U.S Constitution.



Local school districts also must comply with the process under Tennessee law.



First, the school board must give written notice, which states the grounds for expulsion and the time and place of the hearing, to the parent or guardian. The notice must state the student's right to be represented by legal counsel, produce witnesses and submit evidence on his/her behalf, and cross examine any witnesses appearing against him/her.

- The hearing itself must be "full and fair." An interpreter must be provided by the school board if the student or parents have limited proficiency in English.
- Even before a principal suspends a student for less than 10 days, an informal hearing that meets the requirements of due process must be held. The student must be told the reasons for the suspension and given an opportunity to challenge those reasons.

