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Know Your Rights – Long Term Suspension Hearings

Parents and students have the right to...

- Receive notice of the hearing, alleged rule violation, and type of discipline that may be imposed.
- Have representation by an attorney at that disciplinary hearing.
- Present evidence and witnesses and cross examine school's witnesses and school's witnesses.
- Receive a written decision within five working days of the hearing, which shall include a concise summary of the evidence.
- Receive information on how to appeal a decision by the hearing authority.
- Request Special Education evaluations if concerns that student may have a disability impacting learning.

Parents of students with disabilities have the following additional rights...

- To have a Manifestation Determination Review (MDR) prior to change of placement or long-term suspension hearing.
- To appeal the decision of the MDR.
- Receive a Prior Written Notice if any changes to the student's placement are proposed.
- If subject to long term suspension or expulsion, continue to receive Free Appropriate Public Education (FAPE).
- To request a student to be re-evaluated up to once per year.
- To request a new IEP meeting to be held within 30 days of written request.



Know Your Rights: School Discipline

**Protection and Advocacy
for Native Americans
with Disabilities**

School Suspensions

- Students shall be informed of changes and given opportunity to present his/her version of facts, but a formal hearing is not required.
- School must notify parents explain in reasons or terms for suspension either by phone or writing.
- Short-term suspensions cannot be appealed.

Long-term suspension or expulsion hearings:

- Students may not be long-term suspended or expelled without hearing.
- School must provide written notice of the hearing to parent and student. This notice must provide an explanation of student rights, which are listed in the Know Your Rights Section of this brochure.
- Parents and students have the right to request a delay in the hearing to obtain legal representation or gather evidence.
- Failing to appear at the hearing could result in automatic suspension or expulsion of the student.
- The school must prove that it was more likely than not the student committed the offense.
- The school shall issue a written decision within 5 business days after the hearing. The decision must contain a description of the evidence upon which it was based.

After the hearing:

Students have a right to appeal the decision and the school must explain the appeal process. In most School Districts, the timeline to appeal is 10 days.

Long-term suspension or expulsion of students with disabilities:

- Prior to a long-term suspension or expulsion hearing or change of placement for the student, the school must hold a Manifestation Determination Review (MDR) with parents and student.
- The purpose of the MDR is to determine whether the student's behavior is a manifestation of his/her disability.
- If the behavior is a manifestation of the disability, the student must be returned to his/her prior placement.
- If MDR team determines that student's behavior is NOT a manifestation of their disability, school can proceed long-term suspension or expulsion hearing.
- Students who have an IEP must continue to receive special education services even if they are suspended or expelled.

Things to remember about MDRs:

- Must be conducted before long-term suspension or expulsion hearing is initiated.
- Parents and child are important participants.
- School should not have its decision made prior to the MDR.
- School must provide written notice to parents about its decision.
- If parents disagree with the decision of the MDR team, they have a right to appeal that decision by filing a State Complaint or Expedited Due Process Complaint.
- If a student's behavior is found to be related to the disability, the school must initiate or review a Functional Assessment and Behavior Intervention Plan.

General Tips

- School Record Access:
You have the right to...
 - Request to see your child's records at any time, free of charge.
 - Ask for an explanation of those records.
 - Grant permission for other individuals to access your child's records.
- You can request school district policies and procedures.
- If you believe your child may be eligible for special education services, you can request that the school evaluate your child.
- Once a school obtains your permission to evaluate your child, they must complete the evaluation within 60 days.
- Although schools are not required to provide educational services to students who have been suspended or expelled (unless they have an IEP), you should discuss alternative education with the school.
- It is important to remain in communication with the school regarding your child.
- Often, effective communication can resolve issues before they become more serious.
- If you don't understand what is happening in meetings, ask questions! The school has a responsibility to help you understand the discipline process.