# QUICK GUIDE: SCHOOL DISCIPLINE FOR SPECIAL EDUCATION STUDENTS

If a child has an <u>Individualized Education Program (IEP)</u> in place or <u>has been referred for testing</u> to determine if the student qualifies for special education services, the student has added protections from suspension or expulsion from school. The chart below summarizes those rights.

## SCHOOL IMPOSES SUSPENSION ON STUDENT

Suspension for 10 days or less

Suspension for more than 10 days

Student is treated like regular education student; no extra protections exist.

**Exception:** When suspensions add up to more than 10 days total and form a "pattern" (e.g., same type of conduct led to suspension), school must treat it like a suspension of more than 10 days.

Student can be treated like regular education student for first 10 days of suspension.

But, school must hold **Manifestation Determination Review** (MDR), which is a specialized IEP team meeting, before student can be excluded for more than 10 days.

#### What Happens at the MDR?

IEP team, including parent, answers the following questions:

- Was the conduct caused by, or directly and substantially related to, the disability?
  - Example: If student gets in a fight and has only a learning disability in math, the conduct is probably not caused by the disability. But if that student has a conduct disorder, the conduct probably was caused by the disability.
- Was the conduct a direct result of the school's failure to implement the student's IEP?

If the team determines that the answer to either question is "yes," then the conduct was a "manifestation."

(See following page for suggestions on how to prepare for an MDR)

### If conduct is not a "manifestation":

- School can impose suspension.
- Student can appeal finding that conduct was not a manifestation, but suspension stands pending appeal.
- School must still provide "a free appropriate public education" to student during period of suspension.
- School must establish "behavior intervention plan."
- School should perform "functional behavioral assessment."

#### If conduct is a "manifestation":

- Suspension cannot be imposed beyond 10 days.
- IEP team can change services provided to student.
- IEP team can change student's placement.
- School must establish "behavior intervention plan."
- School must perform "functional behavioral assessment."

Note: "Free appropriate public education," "behavior intervention plan," and "functional behavioral assessment" are explained on the next page.

Note: Regardless of whether conduct was a "manifestation," a student can be removed from school for 45 days if the student brought drugs or a weapon to school or caused serious bodily injury by their conduct. The student, however, must still be provided a "free appropriate public education" during the 45 days.