

# EDUCATION ISSUES & SCHOOL ENGAGEMENT

DISCIPLINE, SPECIAL EDUCATION, AND SAFETY PLANNING  
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IS EDUCATIONAL ADVOCACY RELEVANT?

HOW WILL MY CLIENT'S EDUCATIONAL CIRCUMSTANCES IMPACT THIS CASE?

HOW WILL MY CLIENT'S CASE IMPACT MY CLIENT'S EDUCATIONAL CIRCUMSTANCES?

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WHAT KIND OF LAWS IMPACT YOUR CLIENTS AS STUDENTS?



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## COLLATERAL CONSEQUENCES

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Unfavorable Record (School to Prison Pipeline)  
Truancy & Delinquency (Legal Issues)  
Academic Health & Discipline → Compounding Legal Issues  
Compounding Math/Regression

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## HEADS UP! LOCAL CONTROL

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Will the district act?

According to its own code?

Deadlines!

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## GAL'S UNIQUE POSITION

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- Front lines!
- Can ensure educational representation, advocacy earlier than a defense attorney

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BEFORE ANYONE ELSE, A GAL CAN:

- 1) Bring in an educational expert/advocate
- 2) Obtain records to support advocacy against harsh discipline
- 3) Work with client, parent/guardian, and school/district to ensure appropriate services are available
- 4) Invoke IDEA/ECEA/504 rights (MDR, services, etc.)
- 5) Participate in disciplinary hearings

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WHAT TO DO...

- Meet with client
- Meet with parents/guardians, social workers, education advocates, etc.
- Review suspension and expulsion paperwork for notice requirements and make sure you comply
- Call the principal and school lawyer send letter entering your appearance.
- **Buy time**
- Make sure child is getting work and/or tutoring
- Contact child's criminal lawyer to coordinate representation
- Procure schools policies and procedures re discipline
- Get all the records

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DISCIPLINARY CODE  
(COLO. REV. STAT. § 22-33-101 ET. SEQ.)

- § 22-33-105
- § 22-33-106
- § 22-33-106.3
- § 22-33-106.5

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DISCIPLINARY CODE:  
§ 22-33-106

- "Behavior on or off school property that is detrimental to the welfare or safety of other pupils or of school personnel"
- "willful disobedience"
- "habitually disruptive"



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§ 22-33-106(1.2)(F)



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DISCIPLINARY CODE:  
§ 22-33-105

- Yellow Flag: Suspension >5 days
- Red Flags
  - Expulsion (esp. ≥1 yr)
  - No notice
  - No hearing for suspension longer than 10 days or expulsion
  - No formal suspension or expulsion but asked to stay home or threatened with trespass

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§ 22-33-105(5)(A)

"appropriate alternate education program"

Note: Guilty pleas can directly lead to expulsion pursuant to 22-33-105(5)(b).



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DISCIPLINARY CODE:  
§ 22-33-106.3

- Signed by student AND
- Parent/guardian is present OR a reasonable attempt was made to contact
- GAL should be present and consult with client (as well as parent/guardian and educational advocate or defense counsel)

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DISCIPLINARY CODE:  
§ 22-33-106.5



Courts/DAs "shall" notify schools

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### CIVIL RIGHTS LAWS: RACE, COLOR, NATIONAL ORIGIN

Title VI

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### CIVIL RIGHTS LAWS: GENDER

Title IX

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### CIVIL RIGHTS LAWS: DISABILITY

- Colorado: Exceptional Children's Education Act (ECEA)
- Federal:
  - Individuals with Disabilities Education Act (IDEA)
  - Section 504 of the Rehabilitation Act
  - Americans with Disabilities Act (ADA)

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IDEA  
20 U.S.C. §§ 1401 ET. SEQ.

- Especially: §§ 1415, 1416
- Individualized Education Program (IEP)
- **Keep in Mind:** School to Prison Pipeline

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IEP



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"WE CAN JUST DO A 504 PLAN"



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### IEP VS 504

IEP

- Accommodations: How a student learns (e.g. preferential seating, extended time, etc.)
- Modifications: What a student learns (e.g. curriculum)
- Services (e.g. tutoring, psych services, etc.)
- Through high school

504

- Accommodations
- Through secondary education

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### ECEA/IDEA RIGHTS OFTEN AT ISSUE

- Manifestation Determination Review (MDR) – 20 U.S.C. § 1415(k)(1)(E)
  - **Law:** If IEP, 10 days to hold an MDR
  - **Note:** "direct and substantial relationship to the child's disability"

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### ECEA/IDEA RIGHTS OFTEN AT ISSUE

- Child Find – 20 U.S.C. § 1412(a)(3)

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### ECEA/IDEA RIGHTS OFTEN AT ISSUE

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- Failure to Reevaluate or Review– 20 U.S.C. § 1414(g)(2)(B), 1414(d)(4)(A)(i)



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### ECEA/IDEA RIGHTS OFTEN AT ISSUE

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- Free and Appropriate Public Education (FAPE) Issues – 20 U.S.C. § 1401, 34 C.F.R. § 300.8



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### CAUTIONARY TALES & PRACTICAL TIPS: DIGGING THE TRENCHES

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- Best Interests, Express Interests, & Legal Rights



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### CAUTIONARY TALES & PRACTICAL TIPS: SAFETY PLANNING

- Who is being kept safe?
- Does the safety plan account for disability or special education services?

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### CAUTIONARY TALES & PRACTICAL TIPS: "CHOOSING TO MISBEHAVE"

- "Social Maladjustment"
  - Federal Definition:
  - Colorado Definition:
  - Can have + SED
- Request a reevaluation
- Request an IEE
- Join the IEP Team

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### CAUTIONARY TALES & PRACTICAL TIPS: "NOT ENOUGH DATA"

- The struggle is real.
- Be strategic

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CAUTIONARY TALES & PRACTICAL TIPS:  
"DOING FINE NOW"

- Why? What has changed?
- Request an IEE



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CAUTIONARY TALES & PRACTICAL TIPS:  
"LACK STAFF/RESOURCES"

2 points for honesty.



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CAUTIONARY TALES & PRACTICAL TIPS:  
EXPULSION HEARING

- Often forgone conclusion
- Negotiate
- Appeals



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CAUTIONARY TALES & PRACTICAL TIPS:  
THE YOS PREDICAMENT

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COMMUNITY RESOURCES

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- CJDC
- RMCLC
- DLC
- Experts
- Wrightslaw

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CAUTIONARY TALES & PRACTICAL TIPS:  
ADDITIONS? ADVICE? AIRING OF GRIEVANCES?

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EDUCATIONAL ADVOCACY IS PART OF A HOLISTIC APPROACH

THANK YOU!



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