Education, The Law, And Discipline Essay, Research Paper

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Education, the Law, and Discipline

Discipline is a touchy subject in education. Educators must respect the legal rights of citizens as protected by the Constitution of the United States, Judicial decisions, and State and local Laws. In particular, students who have been identified with disabilities are protected by one of several pieces of legislation at the Federal level. These would include PL 94-142 (now known as IDEA and formerly EHCA), Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act (ADA). Suspension of bus transportation and In School Suspension will all be discussed in relation to students’ rights under the aforementioned acts.

Suspension of bus transportation- Students may be suspended from the bus even if they are being served under IDEA, 504, or ADA. Transportation of students is not mandated by the State and is a local school service. Transportation is provided as a service of privilege of which the district has control over the parameters in which service may or may not be provided. The only way a student may not be denied transportation by the district if the suspension affects implementation of the students IEP (Buncombe County School District, 23 IDELR 364 (OCR 1995). If implementation is affected for more than 10 days, a change of placement has been constituted and both the parent’s and student’s right to Due Process as guaranteed by the 14th Amendment has been violated.

In-school discipline, use of time-out, and In-school-suspension does not constitute a change in placement as determined by OSEP Memo: 22 IDELR 531 (OSEP 1995). However, should the disciplinary measures utilized by the school affect implementation of the student’s IEP, a violation of the student’s rights has been committed as determined by FAPE under IDEA. Consequently, it could be argued that failure to implement the IEP as defined by the LRE for the child could constitute a change in placement. Therefore, if the adaptive measure of discipline is utilized for more than 10 days, the student’s right to FAPE and both the student’s and the parent’s rights to Due Process as protected by the 14th Amendment have been violated.

Discipline is a double-edged sword for the school administrator. It requires as much of the school as it does the student, if not more. Any change or adaptation to the standard of care provided to each student automatically invites the potential of a case against civil liberties, or in our field, violations of rights provided by IDEA, Section 504, and ADA.

Bibliography

PL 94-142– IDEA

Section 504 of the Rehabilitation Act of 1973

Americans with Disabilities Acto (ADA)

Buncombe County School District, 23 IDELR 364 (OCR 1995)

14th Amendment of the U.S. Constitution