

SOUTHERN DISABILITY LAW CENTER

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To: Interested Organizations

From: Jim Comstock-Galagan, Executive Director
Southern Disability Law Center

Re: *Legal Strategies and Effective Educational Practices for Preventing the Suspension of Students with Disabilities – A Southern Disability Law Center Resource Manual for Parents and Professionals.*

Date: November 7, 2014

The Southern Disability Law Center (SDLC) has just completed a Resource Manual entitled *Legal Strategies and Effective Educational Practices for Preventing the Suspension of Students with Disabilities – A Resource Manual for Parents and Professionals.*

The Manual addresses legal strategies under the Individuals with Disabilities Education Act (IDEA) as well effective educational practices for preventing the suspension of students with disabilities. The Manual is both timely and needed considering that students with disabilities are presently suspended at much higher rates than other students in school districts across Texas.

SDLC's Resource Manual discusses several IDEA legal strategies to augment and enhance the quality of services provided to students with behavioral challenges and thus reduce their prospects of future discipline and/or assignment to alternative schools. The Manual addresses:

- Related Services – the types of services that can be obtained under IDEA's definitions of social work, counseling, psychological services; the need for measurable and annual related services goals in a student's IEP; the circumstances under which increases in related services should be sought; and strategies for securing increases;
- Strategies for obtaining Functional Behavioral Assessments (FBAs) and Behavior Intervention Plans (BIPs) which include Positive Behavioral Interventions and Supports (PBIS). These strategies include using several different IDEA provisions that do not specifically mention FBAs or BIPs but can be used to obtain FBAs\BIPs (e.g. initial evaluations; reevaluations; peer reviewed research; supplementary aids and services;

supports for school personnel)

- Strategies for obtaining Supplementary Aids and Services that are geared toward students with behavioral challenges. These services include check-in, check-out with a social worker; circles of friends; classroom companion; peer buddy outside of class; peer tutors; behavior aid; FBAs, and BIPs;
- IDEA's requirement to review and revise students IEPs when they are not making academic and/or behavioral progress (and strategies for using this provision to increase related services, supplementary aids\services, and\or provide other behavioral supports including a FBA and BIP);
- Students right to receive direct educational services *and* related services (NOT home-work packets) whenever they are removed via suspensions\expulsion for more than 10 school days annually. Requiring school districts to provide *direct educational and related services* can serve as a deterrent to suspending students;
- A student's right to a Manifestation Determination Review (MDR), the legal standard for the MDR, the individuals required to make the decision, the student records that must be reviewed in making the decision and strategies for obtaining accurate MDR decisions.

SDLC's proposed Resource Manual also address *effective educational practices* related to the above legal topics including detailed discussions of related services; the essential elements of quality Functional Behavioral Assessments (FBAs); and the essential elements of effective Behavior Intervention Plans (BIPs) including the use of PBIS. The Manual also includes a number of practical tools called Protocols that can be used as checklists to ensure that related services, FBAs and BIPs include the various criteria and essential elements discussed in the *effective educational practices* sections of the Manual.