

Invisible Disabilities and Special Education Rights in Psychiatric and Residential Settings

If you're reading this material, you may have been in a psychiatric facility, you have a child who has been in a psychiatric facility, or you are staff at the facility.

If you have a disability or if people suspect or assume you have a disability (mental illness) and the disability affects your schooling, there are 3 laws that may protect you:

- The Americans With Disabilities Act (ADA)
- Section 504 of the Rehabilitation Act (§504)
- Individuals With Disabilities Education Act (IDEA).

Many times, students are repeatedly in trouble at school because of their behavior. There are special protections from suspension and expulsion if the behaviors are related to a student's disability.

- §504 plan (accommodations)
- IEP under IDEA (funded services such as an aide to assist with student)

If there is no §504 plan or IEP and you think you should have one, begin by getting an evaluation. You can ask the doctors at the facility you are in to provide you with one. Also, the school must evaluate every suspected disability. Evaluations that have already been done by approved professionals must be considered to qualify you for services. Request evaluations and services from the schools, sign and date it. Make 3 copies; one for the hospital or facility's school, one for yourself to keep on record, and one for the school you usually attend. If you have any problems with suspensions later, these copies will help show the school is aware you have a disability and you will have the protections of these laws.

Some types of invisible disabilities that may qualify a student for services:

- Post Traumatic Stress Disorder (PTSD)
- Obsessive Compulsive Disorder (OCD)
- Oppositional Defiant Disorder (ODD)
- Traumatic Brain Injury
- Attention Deficit Hyperactivity Disorder (ADHD) or Attention Deficit Disorder (ADD)
- Bipolar disorder
- Schizophrenia
- Depression
- Anxiety
- Personality Disorder

Some services that can be provided by the schools:

- Functional Behavioral Assessment (FBA)
- Behavioral Intervention Plan (BIP) The behavior plan should have specific examples of how to address inappropriate behaviors when they come up at school. Some plans may

have a daily plan, a crisis plan, and an emergency plan that keep the student in school and in treatment rather than expelled or in detention. Disruptive behavior will lead to consequences and it is in the student's best interest to learn appropriate behaviors while in school.

- Manifestation determinations meetings- part of the 504 plan meeting or the IEP meeting to determine if the behavior you are in trouble for at school is directly related to the disability.
- Accommodations such as a flexible schedule of when you arrive at school or leave school.

Weapons, drugs and behaviors that cause serious bodily harm to you or others are not protected even if you have a disability. The school administrators can immediately place you in an alternative setting. If you are in special ed, some educational services must continue to be provided to you.

Ideas for behavior plans:

- cooling off time
- going to a special room
- contacting a preferred adult at the school
- writing a journal to process the incident
- redirection to other activities
- mediation training
- going to the counselor
- using anger management skills
- free time for accomplished assignments

Being aware of your own IEP and participating in your Behavior Intervention Plan at school, whether you are in a hospital, residential program, or your neighborhood school will help in your recovery and transition back into the school setting.

Important contacts:

Disability Rights New Mexico DRNM (Formerly P&A)

(505) 256-3100 or (800) 432-4682

Parents Reaching Out (PRO)

(505) 247-0192 or (800) 524-5176

New Mexico Family Network (Formerly PBDC)

(505) 265-0432 or (800) 273-7232

Educating Parents of Indian Children with Special Needs

(505) 867-3396

These tip sheets are paid for in part with a grant from the Developmental Disabilities Planning Council.

5/19/2009