



Key points:

- **Determine if student's inability to comply with code of conduct is symptom of disability**
- **Convene IEP team to discuss proposed policy exemptions, alternatives**
- **Focus on addressing misbehavior rather than eliminating disciplinary consequences**

Know how to respond to requests to waive disciplinary policies

Parents of students with behavioral issues may request that their child be exempted from certain disciplinary policies, asserting that the child's disability prevents her from complying with the district's code of conduct.

Avoid denying such requests without proper consideration. "Are there times when [FAPE] could include an exemption or alternative to a code of discipline? Yes, because that is the very nature of individualizing a program to provide FAPE," said Sarah Garcia, a school attorney with [Lozano Smith](#) in California.

However, it shouldn't be the standard, Garcia said. "It's not enough to say, 'We're going to ignore your behavior because you have a disability,'" she said. "Not only would that be inappropriate from a FAPE perspective, in terms of individually determining what that student needed, it also would be discrimination, because you're addressing students with disabilities differently than the general population."

To make an appropriate determination, first ask two questions:

<p>1. Is the student's behavior a symptom of her disability?</p>	<p>For example, consider a student with Tourette syndrome whose symptoms include vocal tics in the form of inappropriate language. "We're talking about something that's completely outside a student's control," Garcia said. "A student with Tourette syndrome cannot learn to not have those verbal outbursts. We want to make sure we're not disciplining for that."</p> <p>In such situations, an exemption or alternative to the code of conduct may be appropriate, Garcia said. For instance, she said, you could include in the student's IEP, "Student will not be disciplined for the use of vulgarity when it is identified as a symptom of her Tourette syndrome."</p>
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2. Is the student capable of changing the behavior?

On the other hand, if the student is able to learn new behaviors, the IEP team should focus on implementing positive behavioral interventions and supports that will address and improve the negative behaviors, Garcia said.

"We want to make sure we're not lowering the bar and letting them get by because of a disability," she said. "Merely exempting them from discipline instead of addressing the underlying behavior doesn't set them up for success [or] give them access to becoming full members of the school community."

In addition, take these steps:

- **Talk to the student's parents.** Understand that parents may resort to requesting a policy exemption because they're unaware of other options to address their child's behavior, Garcia said. "All they know is that [their child] is being suspended for something," she said. "In their mind, what they're asking for is, 'Stop suspending the student for this.' In reality, what we need to be focusing on is how we can address the behavior, not the suspension. If we address the underlying behavior, then the suspension will take care of itself." Explain to parents that the ultimate goal is to better support their child, Garcia said.

In terms of procedure, the IEP team should meet to discuss the parents' request, Garcia advised. Review the student's current accommodations, services, and supports to ensure they're still appropriate. Determine if the exemption is warranted. "If it's not, and that's what the parent is still asking for, maybe the parent is concerned about a pattern of behavior that's not being addressed," Garcia said. Discuss other options in an open and collaborative way. Ultimately, if you're unable to come to an agreement, send the parents prior written notice of your decision, she said.

- **Document approved policy exemptions or alternatives in the student's IEP.** List any approved exemptions or alternatives in the accommodations section of the student's IEP, Garcia advised. Such documentation will go a long way in demonstrating the team has considered the student's individual needs and that your process and procedures were nondiscriminatory.

Ragini Algole covers special education issues for LRP Publications.

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