

## **PROTECTION FOR STUDENTS NOT YET ELIGIBLE**

A student who has not yet been determined eligible for special education and who has engaged in behavior that violates the rules and code of conduct of the school is protected under Article 7 if the school had prior knowledge that the student was disabled before the behavior that precipitated the disciplinary action occurred.

The school is deemed to have knowledge that a student is a student with a disability if any of the following have occurred:

1. The parent of the student has expressed concern in writing to licensed personnel that the student is in need of special education.
2. The parent of the student or the school has requested an evaluation of the student.
3. The teacher of the student or other school personnel has expressed specific concern about a pattern of behavior demonstrated by the student directly to supervisory personnel of the public agency.

If a referral is made for an initial evaluation during the time period in which the student is subjected to suspension, expulsion, or placement in an interim alternative educational setting, the evaluation must be conducted within twenty (20) instructional days from the date of the parent's written consent for the evaluation. Until the evaluation is completed, the student remains in the educational placement determined by school authorities, which may include suspension or expulsion without educational services.

The school shall not be deemed to have knowledge that a student has a disability if any of the following has occurred:

1. The parent of the student has not allowed an evaluation of the student.
2. The parent of the student has refused special education services.
3. The school has conducted an evaluation and found the student not eligible for special education services.

If a school does not have knowledge that student has a disability prior to taking disciplinary measures against the student, the student may be subjected to the same disciplinary measures applied to students without disabilities who have engaged in comparable behaviors.