

EDUCATION ADVOCACY ISSUE-SPOTTING GUIDE

SCHOOL ENROLLMENT AND ACCESS

Is a school district refusing to enroll and provide any educational services to a youth?

Issue-Spotting	What does the law say?	What steps can you take?	Toolkit
Is the enrollment denial due to the student <i>living apart from their parent/legal guardian</i> and/or <i>away from their home school district</i> for important reasons unrelated to “school district shopping”?	Youth living with <u>non-parent caregivers</u> due to documented necessity can enroll in caregiver’s district. Youth who are <u>homeless</u> (including unstable housing) or in <u>foster care</u> can enroll where they were before the instability/foster placement OR where they currently reside. Youth in <u>PRTFs</u> must be educated by PRTF. Youth in other <u>licensed facilities/group homes</u> can enroll in school district where the facility/home is located.	1. Review <i>Enrollment Rights</i> overview. Challenge any enrollment denial through the proper channel at your student’s school. 2. <u>For homeless youth</u> , connect with McKinney-Vento liaison for enrollment assistance. 3. <u>For youth in foster care</u> , ensure DSS social worker convenes a Best Interest Determination (BID) meeting. 4. Call LANC if still unable to enroll.	pp22-23
Is the enrollment denial due to an ongoing long-term suspension, 365-day suspension, or expulsion ?	Youth <i>who have IEPs</i> cannot be denied enrollment. <i>For all other youth</i> , consideration must be given to whether the district is required to enroll and offer alternative education.	1. Review <i>Enrollment Rights</i> overview. Challenge any enrollment denial through the proper channel at your student’s school. 2. <u>For youth with IEPs</u> , review special education resources. 3. <u>For youth with disabilities who don’t have but may need IEPs</u> , review <i>Special Education Eligibility</i> overview. 4. Call LANC if still unable to enroll.	pp22-23 pp35-46 pp32-34
Is the enrollment denial due to: • An <i>arrest and/or adjudication in juvenile court</i> ? • A <i>misdemeanor arrest or conviction in adult court</i> ? • An <i>arrest for adult felony</i> ?	Youth <u>cannot</u> be denied enrollment.	1. Review <i>Court Involvement and School Enrollment</i> overview. 2. Advocate with school/district to ensure they understand the difference between an “adjudication” and a “conviction.” 3. Refer to LANC if still unable to enroll.	pp24-25
Is the enrollment denial due to a <i>felony conviction in adult court</i> ?	If a youth convicted of a felony in adult court <i>has an IEP</i> , they <u>cannot</u> be denied enrollment. If a youth <i>does not have an IEP</i> , they <u>may</u> enroll in school, but access is not promised by law. They can appeal enrollment denial	1. Review <i>Court Involvement & School Enrollment</i> overview. Challenge any enrollment denial through the proper channel at your student’s school. 2. <u>For youth with IEPs</u> , review special education resources. 3. <u>For youth with disabilities who don’t have but may need IEPs</u> , review/share <i>Special Education Eligibility</i> overview. 4. Refer to LANC if still unable to enroll.	pp24-25 pp35-46 pp32-34

ATTENDANCE STRUGGLES

Is a youth struggling to attend school regularly?

Issue-spotting	What does the law say?	What steps can you take?	Toolkit
Are the attendance struggles related to <i>housing instability</i> ?	Youth who are homeless (including having unstable housing) have extra protections to ensure they can attend school regularly. Those include school choice (school they were attending before instability or school where they are now), transportation, immediate enrollment, and appeal rights.	1. Review <i>Enrollment Rights</i> overview. 2. Connect with McKinney-Vento (M-V) liaison for enrollment and/or transportation assistance if needed to address attendance hurdles. 3. Refer to LANC if required M-V protections are denied.	pp22-23
Are the attendance struggles related to <i>underlying disabilities</i> ?	Schools must address disability-related barriers to a student's ability to access the school environment and curriculum. <i>For youth with 504 Plans or IEPs</i>, this should include conducting a functional behavioral assessment (FBA) and behavior intervention plan (BIP) to understand and address the root cause of the school avoidance. It could also include accommodations (access to class recordings, etc.). Students with IEPs may also receive specialized instruction to address the underlying cause of the school avoidance. <i>If a youth without an IEP</i> has attendance struggles that are suspected to be disability-related, they should be referred for an evaluation to assess eligibility for an IEP.	1. <u>For youth with IEPs</u>: Review special education advocacy resources. Encourage parent to request an IEP Team meeting and an FBA/BIP. 2. <u>For youth with disabilities who don't have but may need IEPs</u>: Review <i>Special Education Eligibility</i> overview and templates. Consider submitting a written evaluation request to determine whether your student may be eligible for special education supports. 3. <u>For all other youth</u>: Review <i>General Education Interventions and 504 Plans</i> overview. Consider requesting an FBA/BIP and any accommodations or other supports needed. 4. Refer to LANC if needed services are requested and then denied by the school.	pp35-46 pp32-34 pp26-31
Is the student avoiding school/class because of <i>unaddressed bullying</i> ?	Schools must take steps to investigate, address, and remediate the harms of bullying in schools. IEP and 504 Teams must update students' IEP and 504 plans if needed to address related harms of bullying.	1. <u>For all youth</u>: Review the <i>Bullying</i> overview. Put your bullying concerns in writing and submit to the principal. As needed, consider filing a grievance if the school fails to properly address the bullying. 2. <u>For youth with IEPs or 504 Plans</u>: Consider requesting an IEP or 504 Team meeting to implement extra supports to address bullying harms. 3. Refer to LANC if schools, IEP Teams, or 504 Teams fail to properly address reported patterns of bullying.	pp51-54 IEP: p37 504: p29

ACADEMIC STRUGGLES

Is a youth struggling to keep up with and pass their classes?

Issue-spotting	What does the law say?	What steps can you take?	Toolkit
(For students <i>without an IEP or 504 Plan</i>) Is the student receiving any individualized support at school? Is there reason to believe they may have a disability that is causing their academic struggles?	Every district in NC is required to implement Multi-Tiered Systems of Support (MTSS), which includes individualized regular intervention supports for struggling students. Parents who suspect their children may be in need of special education services can request that they be evaluated to better understand the scope of their needs and eligibility for special education services. Schools also have an affirmative duty to identify students who may have a disability.	1. Review <i>General Education Interventions and 504 Plans</i> overview. 2. Request a copy of the MTSS plan and consider requesting a team meeting to discuss additional assessments and supports for the student. 3. <u>If disability is suspected</u>, review <i>Special Education Eligibility</i> overview and templates. Consider submitting a written evaluation request if you suspect your student needs special education services. 4. Refer to LANC if a school refuses to evaluate a student or if the parent disagrees with an IEP Team's decision to find the student ineligible for special education services.	pp26-31 pp32-34
(For students with <i>504 Plans</i>) Does the student's 504 Plan properly address all areas of their disability-related need?	Schools must provide all necessary accommodations to remove a student's disability-related barriers to the school environment and school curriculum.	1. Review <i>General Education Interventions and 504 Plans</i> overview. 2. Request a copy of the 504 plan and consider requesting a team meeting to discuss additional evaluations and accommodations for the student. 3. Refer to LANC if a 504 Team refuses to conduct requested evaluations or provide necessary accommodations.	pp26-31
(For students with <i>IEPs</i>) Does the student's IEP properly address all areas of their disability-related need?	Schools must ensure that students with disabilities receive all necessary accommodations, related services, specialized instruction, and other supports needed to make progress on their IEP goals and in the general curriculum. Schools must also ensure that these services are provided in settings with non-disabled peers to the greatest extent possible.	1. Review special education advocacy resources. 2. Consider requesting an IEP Team meeting to discuss the need for reevaluations and additional services and supports to address unmet academic needs. 3. Refer to LANC if an IEP Team refuses to conduct requested evaluations or provide necessary accommodations and services.	pp35-46

SCHOOL DISCIPLINE

Is a youth facing a school suspension?

Issue-spotting	What does the law say?	What steps can you take?	Toolkit
Is the student being suspended from riding the school bus ?	Riding the bus is considered a privilege rather than a right, and so in general there are not strong legal protections or due process rights tied to bus suspensions. However, schools must still ensure that students' disability related behaviors – including those that occur on the bus – are being therapeutically addressed and accommodated.	1. Review <i>School Discipline</i> overview. Consider requesting a meeting with the principal to ask for a different consequence. 2. <u>For youth with IEPs/504 Plans</u>: Review relevant toolkit resources. Consider requesting an IEP or 504 Team meeting, an FBA/BIP, and, if needed, transportation as a related service. 3. <u>For youth with disabilities who don't have but may need IEPs</u>: Review <i>Special Education Eligibility</i> overview and templates. Consider submitting a written evaluation request if you suspect your student needs special education services. 4. <u>For all other youth</u>: Review/share the <i>Behavior Interventions for All Students</i> overview. 5. Refer to LANC if needed disability-related services and accommodations are requested and denied.	pp47-48 pp35-46 (IEP) pp26-31 (504) pp32-34 pp30-31
Is the student facing in-school suspensions (ISS) ?	In general, students do not have significant legal protections or due process rights related to in-school suspensions. However, schools must still ensure that disability-related behaviors do not interfere with a student's ability to access the school environment or curriculum. For students with IEPs, schools must conduct manifestation determination reviews (MDR) if a student is excluded from the services in their IEP for more than 10 cumulative days. Placements in ISS without providing special education services count towards that cumulative 10-day total.	1. Review <i>School Discipline</i> overview. Consider requesting a meeting with the principal to ask for a different consequence. 2. <u>For youth with IEPs</u>: Review <i>Special Education and School Discipline</i> overview. Consider requesting an IEP Team meeting and an FBA/BIP. If the student's suspension total (ISS and OSS) is more than 10 days, ensure an MDR is held. 3. <u>For youth with disabilities who don't have but may need IEPs</u>: Review <i>Special Education Eligibility</i> overview and templates. Consider submitting a written evaluation request if you suspect your student needs special education services. 4. <u>For all other youth</u>: Review <i>General Education Interventions and 504 Plans</i> overview. Consider requesting an FBA/BIP and any accommodations or other supports needed to therapeutically address misbehavior. 5. Refer to LANC if needed disability-related services and accommodations are requested and denied.	pp47-48 pp40-42 pp32-34 pp26-31

Issue-spotting	What does the law say?	What steps can you take?	Toolkit
Is the student facing a short-term suspension (STS)(less than 10 consecutive days)?	Students facing an STS have the right to:	1. Review <i>School Discipline</i> overview. Consider requesting a meeting with the principal to ask for a different consequence. If school policies weren't followed or rights were violated, consider filing a grievance.	pp47-50
	1. An explanation of why they are being suspended (what school rule they broke and the evidence the school has); 2. An opportunity to tell their side of the story, which can be a very informal conversation between a student and administrator; and 3. An opportunity to, upon request, take books home, get homework and make up missed tests.	2. <u>For youth with IEPs or 504 Plans:</u> Review <i>Special Education & School Discipline</i> overview. Consider requesting an IEP Team meeting and an FBA/BIP. If the student's suspension total (ISS and OSS) is more than 10 days, ensure an MDR is held and an FBA/BIP completed. Ensure uninterrupted education access provided for students with IEPs for any disciplinary removals beyond the 10 th <i>cumulative</i> days of suspension/removal.	pp40-42
	Students can only appeal STS in limited situations via a school grievance process if school policies weren't followed or rights were violated.	3. <u>For youth with disabilities who don't have but may need IEPs:</u> Review <i>Special Education Eligibility</i> overview and templates. Consider submitting a written evaluation request if you suspect your student needs special education services. Ask for the evaluation to be expedited if the student is under a suspension.	pp32-34
	Students with IEPs and 504 Plans <u>and</u> students with disabilities who the school knows or should know are in need of an IEP or 504 Plan have extra protections when facing STS. They cannot be STSed for more than 10 <i>total</i> days in a school year for disability-related behavior. Once they surpass 10 total days of exclusion, schools must hold a manifestation determination review (MDR). Schools should, and in some cases must, conduct FBAs and create BIPs to prevent future misbehavior.	4. <u>For all other youth:</u> Review <i>General Education Interventions and 504 Plans</i> overview. Consider requesting an FBA/BIP and any accommodations or other supports needed to therapeutically address misbehavior.	pp26-31
	Students with IEPs have the additional right to continued educational access during any suspension beyond 10 cumulative days of suspension, regardless of manifestation.	5. Refer to LANC if needed disability-related services and accommodations are requested and denied.	

Issue-spotting	What does the law say?	What steps can you take?	Toolkit
Is the student facing a long-term suspension (LTS)(more than 10 consecutive days)?	Students facing a long-term suspension have the right to <u>all</u> the same rights that students facing STS have (see above) They have the additional rights to: 1. Receive alternative education services during the suspension, unless the school provides an important reason. (NOTE: students with IEPs <u>cannot</u> be denied alternative education services) 2. Formal due process rights that include written notice and the right to formal hearings to appeal the LTS to the superintendent (may be a hearing panel), the board of education, and to Superior Court.	1. Review <i>School Discipline</i> overview. Appeal LTS according to board policies. 2. <u>For youth with IEPs or 504 Plans:</u> Review <i>Special Education & School Discipline</i> overview. Ensure an MDR is held and FBA/BIP completed if needed. 3. <u>For youth with disabilities who don't have but may need IEPs:</u> Review <i>Special Education Eligibility</i> overview and templates. Consider submitting a written evaluation request if you suspect your student needs special education services. Ask for the evaluation to be expedited. 4. Refer to LANC for assistance appealing LTS.	pp47-48 pp40-42 pp32-34
Is the student facing a 365-day suspension ?	Schools can only issue 365-day suspensions for incidents involving firearms on campus. Students facing 365-day suspensions have <u>all</u> the same rights as students facing long-term suspensions (see above). They have the additional right to request a reconsideration of their suspension after they have served 180 days.	1. Review <i>School Discipline</i> overview. Appeal 365-day suspension according to board policies. If unsuccessful, submit request for readmission after 180 days of suspension. 2. <u>For youth with IEPs or 504 Plans:</u> Review <i>Special Education & School Discipline</i> overview. Ensure an MDR is held and FBA/BIP completed. 3. <u>For youth with disabilities who don't have but may need IEPs:</u> Review/share <i>Special Education Eligibility</i> overview and templates. Consider submitting a written evaluation request if you suspect your student needs special education services. Ask for the evaluation to be expedited. 4. Refer to LANC for assistance appealing 365-day suspensions and/or petitioning for readmission.	pp47-48 pp40-42 pp32-34

Issue-spotting	What does the law say?	What steps can you take?	Toolkit
Is the student facing alternative school/program placement ?	Local board policy generally governs the appropriateness of alternative placement decisions. A student placed at an alternative school/program for disciplinary reasons may appeal to the board of education if the placement decision is made in violation of state or federal law or local board policy. An appeal of right brought before the board of education may be further appealed to the superior court if (1) the board of education's placement decision • is made in violation of constitutional provisions, • is in excess of the statutory authority, • is made upon unlawful procedure, • is affected by other error of law, • is unsupported by substantial evidence, or • is arbitrary or capricious; Or (2) if the alternative school/program placement • is part-time, • does not allow the student to make timely progress towards graduation and grade promotion, or • fails to meet the academic requirements of the standard course of study. Students with IEPs and 504 Plans and students with disabilities who the school knows or should know are in need of an IEP or 504 Plan have extra protections when facing reassignment. Within 10 school days	1. Review <i>School Discipline</i> overview. Appeal alternative school/program placement decisions according to board policies if you disagree with the placement. 2. <u>For youth with IEPs or 504 Plans:</u> Review <i>Special Education & School Discipline</i> overview. Ensure an MDR is held and FBA/BIP completed if the placement is being made for disciplinary reasons. The student should not be placed in an alternative learning program/school solely because she has a disability. 3. <u>For youth with disabilities who don't have but may need IEPs:</u> Review <i>Special Education Eligibility</i> overview and templates. Consider submitting a written evaluation request if you suspect your student needs special education services. Ask for the evaluation to be expedited if the student is under a suspension. 4. Refer to LANC for assistance appealing wrongful alternative school placements.	pp47-48 pp40-42 pp32-34

	of deciding to place the student, the school must hold a manifestation determination review (MDR). Schools should, and in some cases must, conduct FBAs and create BIPs to prevent future misbehavior.		
Is the student facing an expulsion (permanent exclusion)?	Students facing expulsions have <u>all</u> the same rights as students facing long-term suspensions (see above), <u>except</u> schools are not legally required to offer alternative education services to expelled youth <i>without</i> disabilities. In addition to demonstrating that a student violated the alleged code of conduct provision, the school must also show that allowing the student to attend any school or program in the district would threaten the safety of others. Expelled students can petition for readmission every 180 days.	1. Review/share <i>School Discipline</i> overview. Appeal expulsion according to board policies. If unsuccessful, submit a request for readmission after 180 days of suspension. 2. <u>For youth with IEPs or 504 Plans:</u> Review <i>Special Education & School Discipline</i> overview. Ensure an MDR is held and FBA/BIP completed. 5. <u>For youth with disabilities who don't have but may need IEPs:</u> Review <i>Special Education Eligibility</i> overview and templates. Consider submitting a written evaluation request if you suspect your student needs special education services. Ask for the evaluation to be expedited. 3. Refer to LANC for assistance appealing expulsion and/or petitioning for readmission.	pp47-48 pp40-42 pp32-34

BULLYING

Is a youth facing bullying in school

Issue-spotting	What does the law say?	What steps can you take?	Toolkit
<u>For all students</u> Is the student facing bullying at school that is severe and/or persistent enough to create a hostile environment and/or make them reasonably fear for their safety?	North Carolina law requires that every school district have a formal, written policy governing the procedures for promptly investigating and, as appropriate, taking action to address reports of bullying. School staff who are made aware of incidents of bullying are required to report the bullying to the proper officials in the school/district. Students who report bullying have the right to be free from retaliation.	1. Review the <i>Bullying</i> overview. 2. If you have not already done so, put your bullying concerns in writing and submit to the principal. 3. Consider filing a grievance if the school fails to properly address the bullying. 4. <u>For youth with IEPs or 504 Plans</u>: Consider requesting an IEP or 504 Team meeting to implement extra supports to address bullying harms. 5. Refer to LANC if a complaint is needed to address a school's, IEP Team's, and/or 504 Team's failure to properly address reported patterns of bullying.	pp51-54 pp35-46 (IEP) pp26-31 (504)
<u>For all students</u> Is the bullying on the basis of the student's race, color, national origin, sex, disability, or religion?	Federal civil rights law protects students from bullying on the basis of a protected class: race, color, national origin, sex, disability and religion.	1. Review the <i>Bullying</i> overview. 2. If you have not already done so, put your bullying concerns in writing and submit to the principal. 3. <u>For youth with IEPs or 504 Plans</u>: Consider requesting an IEP or 504 Team meeting to implement extra supports to address bullying harms. 4. Refer to LANC if a complaint is needed to address bullying based on a protected class and/or if IEP or 504 Teams fail to address reported patterns of bullying.	pp51-54 pp35-46 (IEP) pp26-31 (504)
<u>For students with IEPs and 504 plans</u> Is the bullying impacting the student's ability to learn or access the services and accommodations in their IEP or 504 Plan?	If the bullying is causing academic or emotional harm that impacts a student with a disability's educational access or progress, their IEP or 504 Team must meet to discuss whether changes to their Plan are needed to address barriers. Changes should not remove the student from their placement or setting, unless it would not be their best interest to remain in that setting and their needs can't otherwise be met there with accommodations and extra services.	1. Review the <i>Bullying</i> overview. 2. If you have not already done so, put your bullying concerns in writing and submit to the principal. 3. <u>For youth with IEPs or 504 Plans</u>: Consider requesting an IEP or 504 Team meeting to implement extra supports to address bullying harms. 4. Refer to LANC if a complaint is needed to address a school's, IEP Team's, and/or 504 Team's failure to properly address reported patterns of bullying.	pp51-54 pp35-46 (IEP) pp26-31 (504)