My Child Has Received “Designated Instruction and Services” (DIS) Counseling for Some Time, but He is Still Getting in Trouble in Class

My child has a hard time with school work. He gets mostly Ds and Fs. He has problems concentrating in class and does things that disturb other students and cause problems with his own education. He has received DIS counseling on his Individualized Education Program (IEP) for several years, but there has been no change. He is falling even more behind. What can I do?

The law says: A child at a public school is entitled to a “free and appropriate public education” (FAPE). That means that if his disability makes it too hard for him to get the most out of school, he may be able to get special education services through an IEP. If your child has an IEP, one way to figure out if he’s getting FAPE is to look at his progress in school. Your child’s special education services must be personalized to meet his educational needs to make sure that he makes significant progress. If your child is making little or no progress or is falling further behind, he is not getting FAPE.

Your child’s mental health disability may include attention deficit/hyperactivity issues and emotional and behavioral problems. If he continues to fail in school even with DIS counseling services, he may not be getting FAPE. You have the right to ask for more assessments to find out if your child’s services are right. These additional assessments can include an assessment for “educationally-related mental health services” (ERMHS).

What to do: If your child has an IEP and is receiving DIS counseling services, these services alone may not be enough to provide FAPE for your child. You may need to ask for an ERMHS assessment to figure out the right program of mental health-related services your child needs to make progress in school.

To ask for an ERMHS assessment:

- Write a simple letter asking that the school evaluate your child for ERMHS.
- Take two copies of the letter to the school office and ask that they be date-stamped received.
- Take your copy home and keep it in a safe place.
- No later than 15 days from the date you delivered your letter, the school must give you:
  1. An assessment plan that should include assessment for ERMHS, or
  2. A written refusal, saying why they refuse to evaluate your child and a notice of your appeal rights.
- Once you sign the plan, the school must finish the testing in 60 days and hold an IEP meeting to agree upon a program of services, including ERMHS.

Still have questions? Call Mental Health Advocacy Services at 213-389-2077, or Disability Right California at 800-776-5746 (voice) or 800-719-5798 (TTY)