My Child Has Missed School Because of His Disability

My son gets mostly B and C grades in school. He is good at school, but he hurts himself, and he's been in the hospital more than once. He missed a lot of school when he was in the hospital. I can't keep him safe. 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. These services may include support with schoolwork and related services that are designed to meet your child’s educational needs.

If your child missed school because of his mental disability, because he was in the hospital, he couldn't leave home, or he had trouble staying in class when he was at school, then his disability interferes with his ability to take advantage of the instruction that is provided by the school. He may be entitled to special education services.

What to do: Sometimes a child's disability shows itself by challenging behaviors at school, so it may be easy to see that his behavior interferes with learning, and the school may be more willing to admit a relationship between the behavior and progress in class. But if his disability results in his absence from school or class, and he is not a problem when he is at school, school officials may not see the problem as their responsibility. They may not see it as their responsibility to provide special education services.

If your child does not have special education services:

• Ask in writing, by a simple letter, that the school evaluate your child for special education services.
• Specifically ask for an evaluation for “educationally-related mental health services” (ERMHS). Your child’s disability may be serious enough that he needs special mental health services and treatment so he can go to school and get the most from his education.
• 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 when you delivered your letter, the school must provide you with a plan that should include assessment for ERMHS.
• Once you sign the plan, the school must complete the testing in 60 days and hold an Individualized Education Program (IEP) meeting to agree the services for your child.

If your child has an IEP:

• Request in writing (the same as above) that your child be assessed for ERMHS.
• Keep a copy of your request.
• The school must respond within 15 days and complete the testing within 60 days.
• When the IEP meeting is held, you will discuss what ERMHS services should be included in the IEP to make sure that your child receives a FAPE.

Note: School breaks over 5 days long are added to the timelines described above.

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)