

Guidance on Discrimination in School Discipline

Spotlight on Discriminatory Processes

Schools violate the LAD when school officials' process for disciplining students is discriminatory (i.e., when school officials follow a different disciplinary process for students of one protected class than they do another, unless a difference in procedure is required by applicable statutes or regulations).

Such violations can occur when school officials **fail to follow federal or state procedural requirements** when disciplining students of a certain race, national origin, gender, disability, or other protected characteristic, **but follow those requirements when disciplining students of another race, national origin, gender, disability, or other protected characteristic.**

For example:

If school officials typically provide the required written notice and/or manifestation determinations to white students with disabilities, but neglect to provide written notice and/or manifestation determinations to Black students with disabilities, that may constitute discrimination based on race.

If a school typically provides non-Black students with an opportunity to present their version of events prior to deciding whether to impose a suspension, but does not provide such an opportunity to Black students, that may constitute discrimination based on race.

Moreover, a student's protected characteristic cannot factor into the decision as to whether a student's conduct meets an exception to federal or state procedural requirements.

For example:

If a Black student or a student with a disability is denied an informal hearing prior to a suspension on the basis that their presence posed a "continuing danger" or an "ongoing threat of disrupt[ion]," but the objective circumstances do not provide a basis for such a finding, the school's conduct may constitute discrimination based on race or disability.

If a school suspends a Black preschooler for conduct that neither endangered others nor violated the Zero Tolerance for Guns Act, that may constitute discrimination based on race because state law generally prohibits suspensions for preschoolers in those circumstances.



For More Information

Read DCR's new [Guidance on Discrimination in School Discipline](#) or access our series of one-pagers.