

Special Education Information Checklist

STEP	QUESTIONS	√
I. REVIEW THE PETITION AND POLICE REPORT	Alleges a school-related offense?	
	Particulars of the offense	
	Do the allegations indicate behavior that may be/have been identified as stemming from a disability? (For example: assault on a government official attempting to redirect/modify a juvenile's behavior, disorderly conduct by school disruption, affray with other students, etc.?)	
II. REVIEW THE JUVENILE'S COURT FILE	A. Is the offense school related? Any similar prior allegations? (school offenses, assaults, etc.) Any similar prior adjudications? Any prior suspension history? With or without delinquent allegations? Any prior mental health history? Is the juvenile receiving medication?	
	B. Is the offense not school related? Any prior allegations/adjudications arising out of school conduct? Any prior suspension history? With or without delinquent allegations? Any prior learning disability or behavioral problems at school? Any prior mental health history? Is the juvenile receiving medication?	
III. QUESTIONS FOR INTAKE OR PROBATION COUNSELOR	A. Is the juvenile currently receiving special education services? If yes: What is the disability? Is there an IEP? What services is the juvenile receiving? If the charge was school related, was the juvenile disciplined? What was the nature of the discipline? Was the juvenile suspended? If suspended, was there a manifestation determination review? If there was a review, was the determination that the offense was related to the disability? Has the juvenile been suspended on other occasions from school during the current school year, and if so, for how many days? Did the juvenile receive any school services during the Suspension? Has the juvenile been retained (i.e. "held back") in the past?	
	B. If the juvenile is not currently receiving special education services: Has the juvenile been evaluated in the past for special education services? If yes, when was the evaluation? If the evaluation was not done within the last three years, then does the juvenile's school behavior/academic performance warrant a new evaluation? If the juvenile has not been evaluated for special education services, then does the juvenile's school behavior warrant an evaluation?	
	C. Has the court counselor received any additional information regarding the juvenile's behavior at school?	
	D. Is the juvenile receiving any mental health services outside of the school setting?	

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IV. QUESTIONS FOR THE JUVENILE	What is the juvenile's version of the facts?	
	Are there possible mitigating circumstances? For example: "I didn't understand what the teacher was saying" "They kept making fun of me" "I told the assistant principal to keep her hands off of me"	
	What is the juvenile's opinion of his/her school performance? Does the juvenile like/dislike school and why?	
	Has the juvenile received prior suspensions from school during the current school year, and if so, for how many days? Did the juvenile receive any school services during the suspension? Does the juvenile have an IEP?	
	Does the juvenile learn in a special setting, have a one-on-one, etc.?	
	Does the juvenile have a BIP and has the plan been implemented?	
V. QUESTIONS FOR THE PARENT/ GUARDIAN	What does the parent/guardian know about the facts?	
	Are there possible mitigating circumstances the parent/guardian is aware of?	
	What is the parent/guardian's opinion of his/her child's school performance? Does the juvenile like/dislike school and why?	
	Has the juvenile received prior suspensions from school during the current school year, and if so, for how many days? Did the juvenile receive any school services during the suspension?	
	Has the juvenile been retained (i.e. "held back") in the past?	
	Does the juvenile have an IEP?	
	Does the juvenile learn in a special setting, have a one-on-one, etc.?	
	Does the juvenile have a BIP and has the plan been implemented?	
	Does the juvenile have a history of learning disability issues or behavioral problems?	
	Is the juvenile receiving any medication?	
	Is the juvenile receiving any mental health services?	
	How do problems at home compare with the problems the juvenile is having at school?	
VI. FURTHER INVESTIGATION	A. Interviews Alleged victims, co-juveniles, other witnesses School officials, SRO(s) or other law enforcement officers IEP team members Mental health therapist Non-attorney advocates or parties (parent advocate, mental health caseworker, DSS caseworker, etc.)	
	B. Records School records (evaluations, disciplinary records, IEPs, BIPs, etc.) Mental health records	

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VII. POTENTIAL ACTIONS OR STRATEGIES	<p>A. Consult with other advocates:</p> <ul style="list-style-type: none"> • Carolina Legal Assistance • Legal Aid of North Carolina • Duke Children’s Education Law Clinic • Governor’s Advocacy Council on Persons with Disabilities • private attorneys who specialize in the field • Exceptional Children’s Assistance Center • local advocacy groups 	
	<p>B. Case Strategies:</p> <p>1. Pre-trial</p> <ul style="list-style-type: none"> • file motion to contest juvenile’s capacity to proceed based on severe learning disabilities, such as cognitive functioning • file motion to suppress juvenile’s statement because juvenile’s learning disability impairs his/her ability to understand Miranda warnings and therefore renders juvenile incapable of making a “knowing and intelligent” waiver of rights <p>2. Negotiations</p> <ul style="list-style-type: none"> • present information to district attorney and request a dismissal, deferred adjudication, reduction in charge or less restrictive disposition for reasons such as: <ul style="list-style-type: none"> ○ intent to commit the offense was vitiated or mitigated by juvenile’s learning or cognitive disability ○ IEP team found the offense was the result (or “manifestation”) of disability, and therefore court should not be involved ○ “but for” the lack of identification and therefore lack of appropriate services, offense may not have occurred <p>3. Adjudicatory hearing</p> <ul style="list-style-type: none"> • present information as evidence at the adjudication hearing for mitigation of juvenile’s culpability or to convince judge that juvenile court should not be involved: <ul style="list-style-type: none"> ○ there exists a lack of criminal intent due to juvenile’s learning or cognitive disability ○ the school (teacher, one-on-one, administrator or administration, SRO) is responsible for juvenile’s actions due to knowledge of juvenile’s disability, or should have known about the disability and not evaluate the juvenile/provide services ○ court should not find juvenile responsible if IEP team found that the offense was a manifestation of juvenile’s disability <p>4. Dispositional hearing</p> <ul style="list-style-type: none"> • present information at disposition to advocate for a less restrictive punishment to comport with juvenile’s lack of culpability stemming from his/her disability • ensure a more tailored disposition by focusing the court on juvenile’s disability issues <p>5. Reducing or preventing incarceration</p> <ul style="list-style-type: none"> • if juvenile is in detention, in danger of being detained, or in danger of being committed, use juvenile’s IEP to argue that the juvenile will not receive mandated services if detained or committed 	

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