

LEGAL MAILBAG – JUNE 11, 2026



By Attorney Thomas B. Mooney, Neag School of Education, University of Connecticut

The “Legal Mailbag Question of the Week” is a regular feature of the CAS Weekly NewsBlast. We invite readers to submit short, law-related questions of practical concern to school administrators. Each week, we will select a question and publish an answer. While these answers cannot be considered formal legal advice, they may be of help to you and your colleagues. We may edit your questions, and we will not identify the authors. Please submit your questions to: legalmailbag@casciac.org.

Dear Legal Mailbag,

As administrators at a middle school, we implemented a code of conduct policy this past spring that we thought would be an effective deterrent to student misbehavior as the school year winds down.

Essentially, it's a “three strikes” policy, whereby a student would lose the privilege of attending one or both of two field trips scheduled in May and June. Throughout April, three formal disciplinary write-ups would equal “strike three,” and the student so disciplined would then be ineligible for a trip off school grounds in early May. The slate would then reset, and three new write-ups during May would be “strike three” for an in-school field trip (a class field day) in June.

Despite our good intentions, we are getting pushback from one vocal parent in particular whose son earned “strike three” for both the May and June excursions. Her gripes are as follows:

1. She believes her child experienced “double jeopardy” punishments because he served individual consequences for each of the write-ups as they were received.
2. She feels the school should have conducted a manifestation determination prior to the trips based on his 504 plan for an ADHD diagnosis.
3. Our Board policy on field trips states, “Any exclusion must be approved by the principal and discussed with the parents/guardians before the trip.” The parent claims our email informing her of her son's third “strike” prior to the June event did not comply with Board policy because an email is not a “discussion.”

Again, we implemented this policy with the best of intentions and feel it helped students set a goal for positive behavior. Did we hit the strike zone, or were we “just a bit outside”?

Signed,
Pitching for a Shutout

Dear Pitching:

It seems that this parent has been watching Law & Order, but her claim of double jeopardy is not valid. Otherwise, Legal Mailbag has a suggestion and a question.

“Double jeopardy” is a principle of criminal law, which does not apply to a disciplinary exclusion from a field trip. The Fifth Amendment to the United States Constitution provides in relevant part, “nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb.” That said, punishing a student for the same offense twice would raise due process issues. However, Legal Mailbag does not buy the parent’s argument that such is the case. Specifically, in publicizing the “three-strikes” policy, the district has communicated that the third disciplinary offense carries with it the described consequence of exclusion from the field trip. Imposing that more significant consequence (write-up and exclusion from the field trip) on the third offense is a form of progressive discipline, and the two elements of the consequence for the third disciplinary infraction should not be considered separate punishments for the same offense.

The parent has a better argument that the email notifying the parent of the exclusion from the trip does not comply with the policy you described, i.e., that “[a]ny exclusion must be approved by the principal and discussed with the parents/guardians before the trip.” What is or is not a “discussion” can be debated, but generally a “discussion” is an exchange of information, not a notification. A potential purpose of a “discussion” with a parent before excluding a student from a field trip as provided by Board policy would be to hear whether there are extenuating circumstances that should be considered before excluding the student from the trip. Legal Mailbag suggests that future implementation of the “three strikes” policy you have adopted include a telephone conversation with the parent about the application of the policy to his or her child to exclude the student from the trip.

Finally, the parent’s claim that you should have held a “manifestation determination” meeting does not apply to this situation. The requirement for a manifestation determination applies when there is a change in placement, and exclusion from a year-end field trip would not be a change in placement. However, Legal Mailbag would need more information before deciding whether imposing the “three strikes” policy on this student raises any other issues under Section 504. Has there been a Section 504 team meeting and does the student have a Section 504 plan? Has the district made accommodations related to the student’s disability? What was the nature of the disciplinary offenses? Were they planned or were they the result of impulsive action that could be attributed to ADHD?

Depending on the answers to these questions, applying the policy to the student may have been appropriate. But if the facts were to show a close connection between the various incidents of misconduct and the student’s ADHD, further discussion by the Section 504 team would have been appropriate before excluding the student from the field trip.