

**THERE ARE NO BAD CHILDREN,
ONLY SCHOOL CHALLENGES:**

SPECIAL EDUCATION DISCIPLINE

**Erika Perrone Tatum
Attorney**





Dunder Mifflin High School



**Principal
Michael
Scott**



**Assistant
Principal
Stanley
Hudson**



Parent Dwight Schrute



**Parent
Kelly
Kapoor**



Student Angela has
ADHD and Autism.

Angela is involved in a
fight in the school
cafeteria.

Angela tells everyone
she hates them and
wants to kill them.



Student Angela



Principal's Reaction

SHORT TERM REMOVALS

Removals for 10 days or less
in one school year.

What is a removal from school?

Suspension/partial day suspension

Bus removal

(if transportation is related service in IEP)

In school suspension

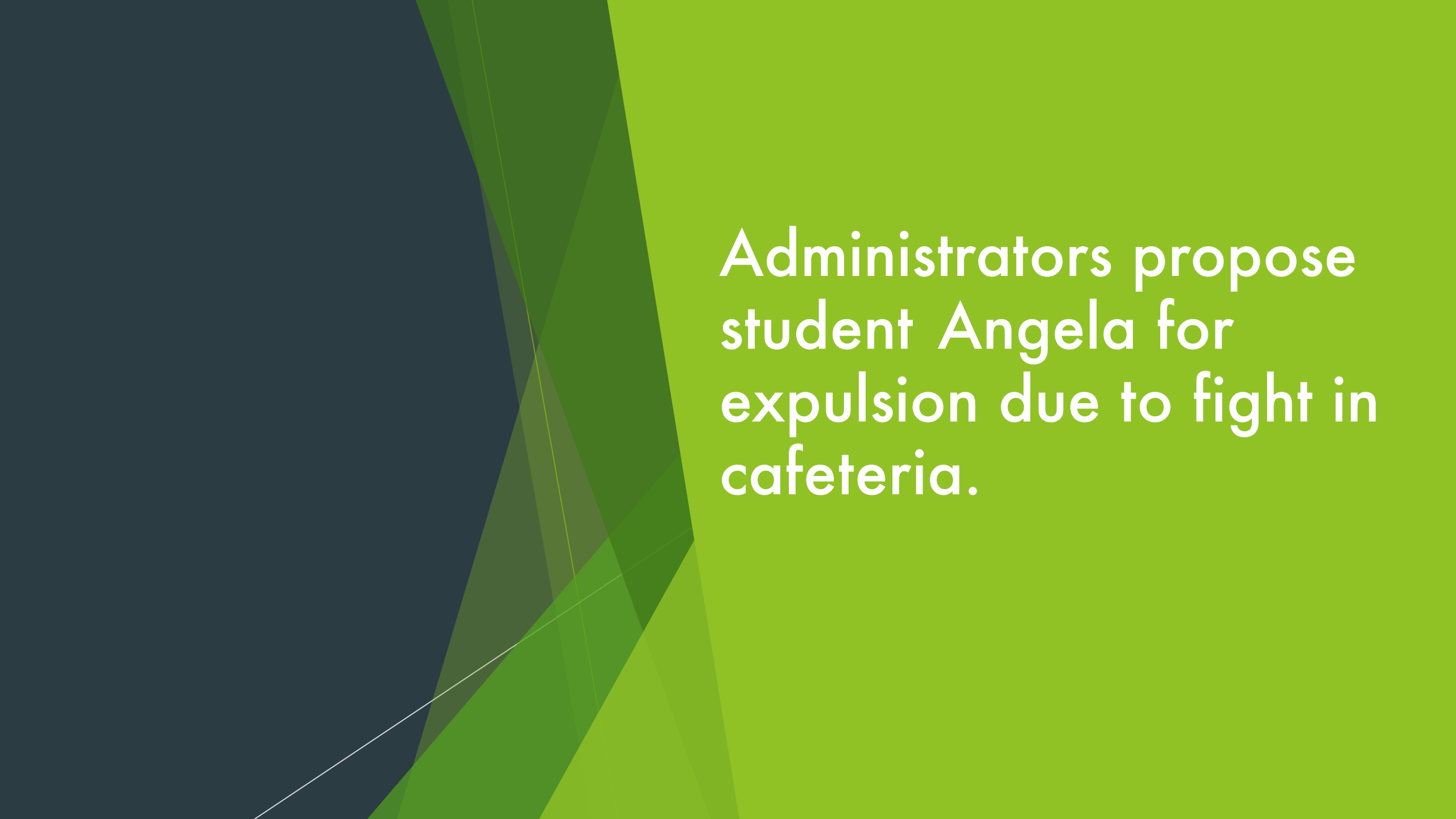
(unless student receives services in IEP)

LONG TERM REMOVALS

Removals for more than 10 school days in one school year.

Manifestation determination meeting must be held.

School district has continuing obligation to provide a free appropriate public education (FAPE).



Administrators propose
student Angela for
expulsion due to fight in
cafeteria.



Assistant Principal's Reaction



Student Reaction

MANIFESTATION DETERMINATION

**Must be conducted ANY TIME
the removal of a student
for a code of conduct
violation constitutes a**

CHANGE IN PLACEMENT

**What is a change of placement?
Removal from school for more than 10 days.**

MANIFESTATION DETERMINATION REQUIREMENTS

Behavior IS a manifestation of student's disability if the conduct was:

- 1. CAUSED BY or had a DIRECT and SUBSTANTIAL RELATIONSHIP, or**
- 2. DIRECT RESULT of school district's failure to implement IEP.**

WHEN BEHAVIOR IS A MANIFESTATION OF STUDENT'S DISABILITY

1. Student must be returned to placement from which removed.
2. Reconvene IEP meeting.
3. Conduct functional behavior assessment and implement, review or modify behavior intervention plan.



Call to Board Attorney



Potential IEP Meeting



Potential IEP Meeting

WHEN BEHAVIOR IS NOT A MANIFESTATION OF STUDENT'S DISABILITY

- 1. Student may receive same discipline as nondisabled students.**
- 2. Student continues to receive FAPE.**
- 3. IEP team determines appropriate placement and educational services for student.**

**No IEP meeting held
for Student Angela.**

**Administrator
decided Angela
would go to the
alternative school.**



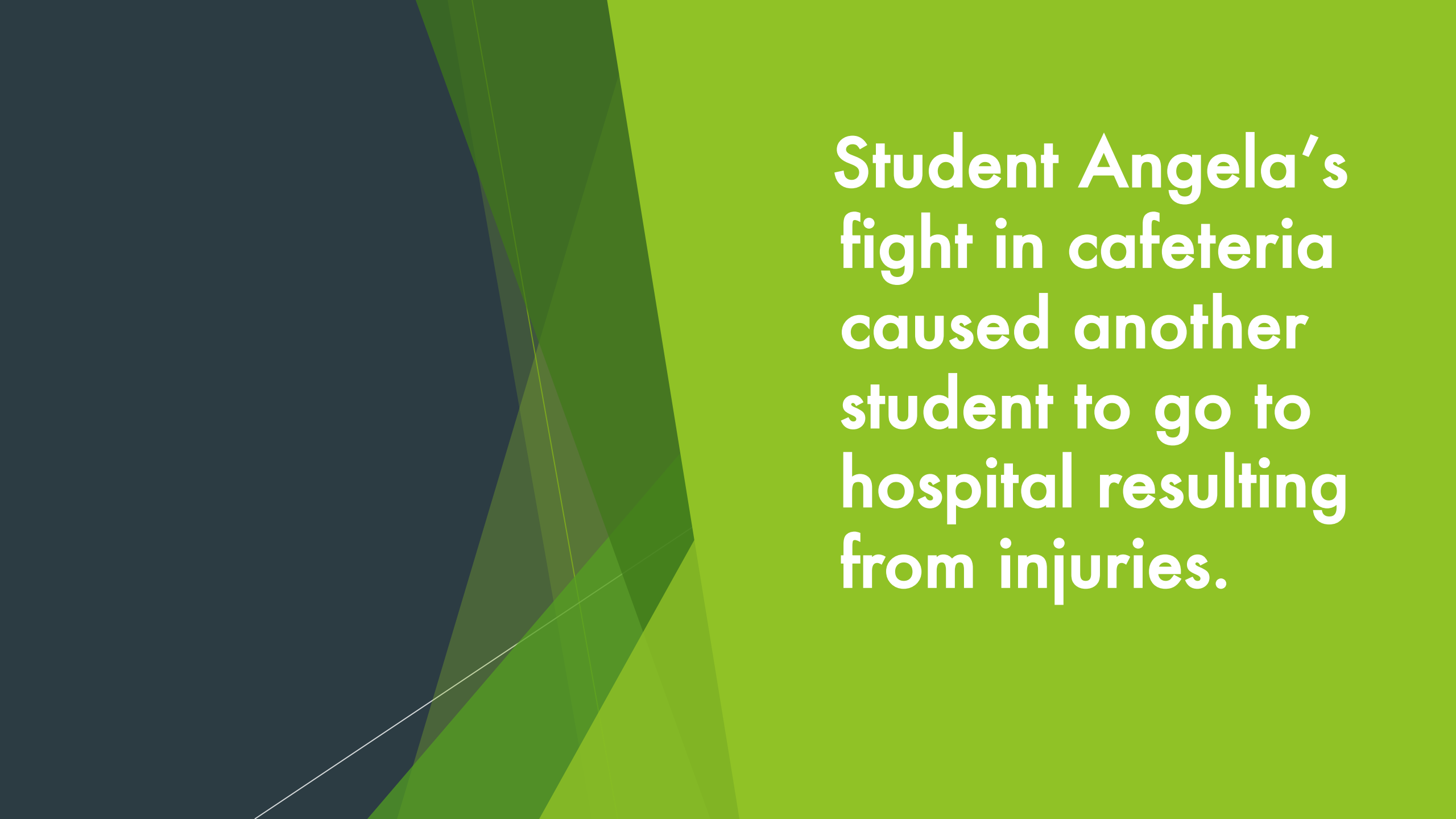
Parent Reaction

45 DAY REMOVALS

Special education student
may be removed from school
for up to
45 SCHOOL days:

Regardless of whether behavior is a
manifestation of student's disability

For DRUGS, WEAPONS and
SERIOUS BODILY INJURY.



**Student Angela's
fight in cafeteria
caused another
student to go to
hospital resulting
from injuries.**

SERIOUS BODILY INJURY CASE LAW

Bisbee Unified School District, No.2
54 IDELR 39 (SEA AZ 2010)

Special education student with autism exhibited aggressive behaviors and violence towards teachers and students.

Student's behaviors continued to escalate. Principal restrained student. During restraint, student kicks principal in knee, causing a sharp pain.

SERIOUS BODILY INJURY CASE LAW

Principal had a swollen knee and hurt his shoulder due to incident. Principal drove 200 miles the next day for doctor appointment where he received a cortisone injection.

Hearing officer found evidence did not show that the principal suffered extreme physical pain. Principal did not “cry out in pain, drop to the floor, become unconscious, call for an ambulance or do anything else that one would expect when a person is in ‘extreme’ physical pain.”



**IEP team determines
Student Angela's behavior
is a manifestation of her
ADHD and Autism.**

**IEP team finds serious bodily
injury to other student.**

**IEP team changes Angela's
placement to alternative
school for 45 school days.**



Parent Reaction



THANK YOU FOR LISTENING!!