



**Teaching Student
Discipline:
Restorative, Reflective, and
Instructional Discipline
Picks Up When
Exclusionary Discipline
Falls Short**

—
GJ&A
—



Teaching Discipline & Addressing Behaviors

Who told you that we cannot
discipline students with disabilities?

Our Goal is to Get it Right

Total Disciplinary Removals Per 100 Children or Students with Disabilities, Ages 3 through 21, By Race/Ethnicity, Served Under IDEA, Part B, in the US, Outlying Areas, and Freely Associated States: SY 2018-19

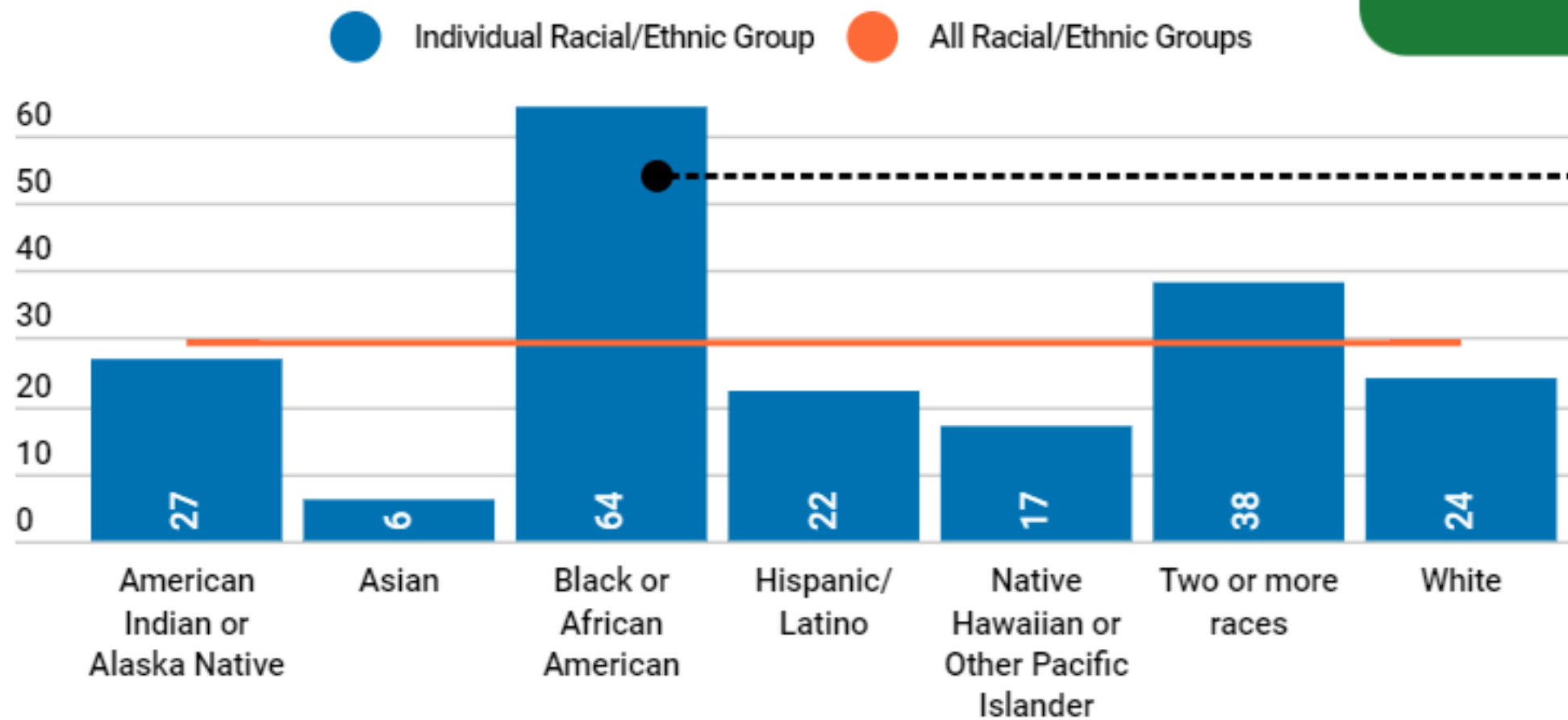
29

Number of disciplinary removals per 100 students with disabilities in the US, Outlying Areas, and Freely Associated States

2,138,492

Total Disciplinary Removals in the US, Outlying Areas, and Freely Associated States

A disciplinary removal is defined as any instance in which a child with a disability is removed from his/her educational placement for disciplinary purposes, including in-school suspension, out-of-school suspension, expulsion, removal by school personnel to an interim alternative educational setting for drug or weapon offenses or serious bodily injury, and removal by hearing officer for likely injury to the child or others. Children and students reported in these categories may be subject to multiple disciplinary removals.



Number of disciplinary removals per 100 Black or African American students with disabilities by State, Outlying Area, and Freely Associated State

< US, Outlying Areas, an... >

64

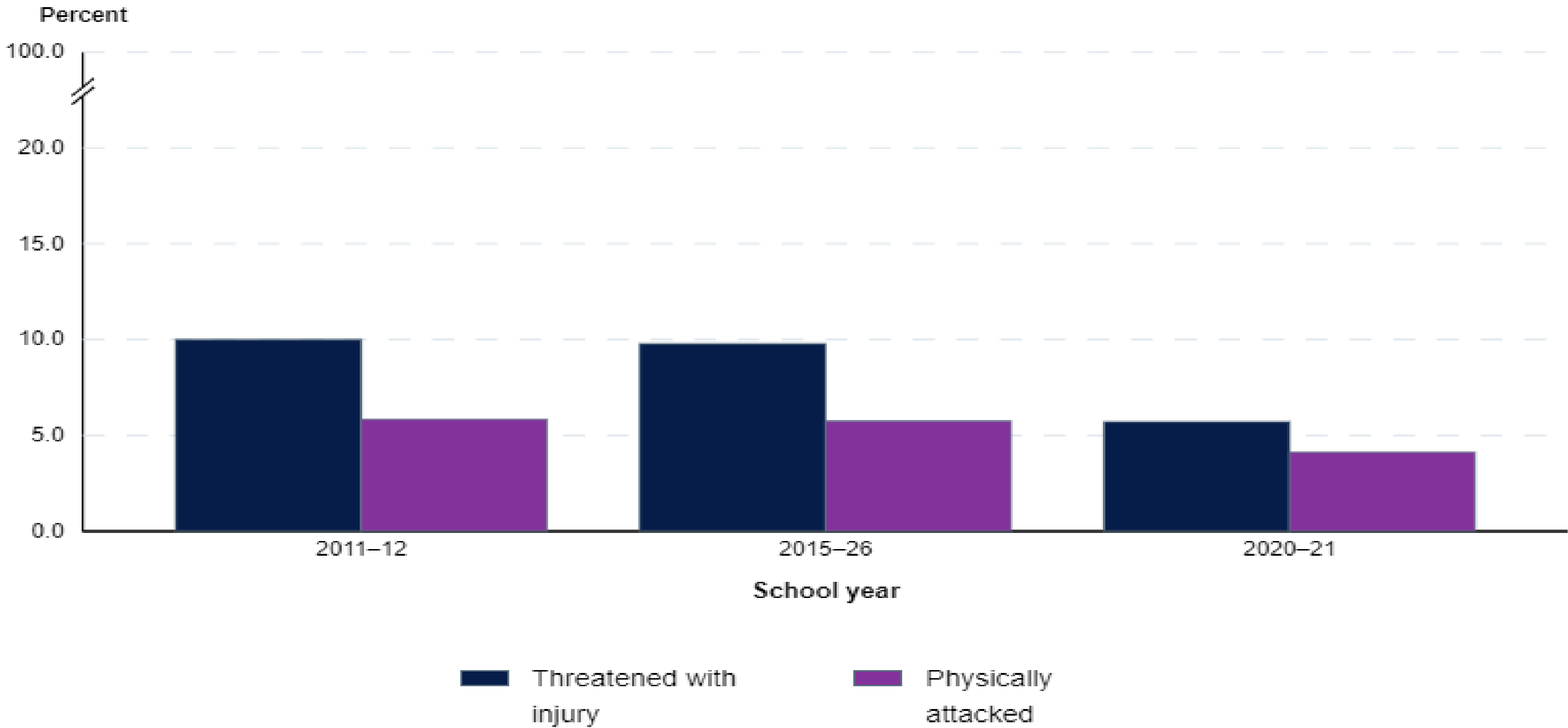
Source: U.S. Department of Education, EDFacts Data Warehouse (EDW): "IDEA Part B Discipline Collection," 2018-19. <https://www2.ed.gov/programs/osepidea/618-data/state-level-data-files/part-b-data/discipline/bdiscipline2018-19.csv>. Children and students reported in these categories may be subject to multiple disciplinary removals.

U.S. Department of Education, EDFacts Data Warehouse (EDW): "IDEA Part B Child Count and Educational Environments Collection," 2018-19.

<https://www2.ed.gov/programs/osepidea/618-data/state-level-data-files/part-b-data/child-count-and-educational-environments/bchildcountandedenvironments2018-19.csv>.

Data for Wisconsin was excluded and data for the Iowa was not available.

Figure 1. Percentage of public school teachers who reported that they were threatened with injury or physically attacked by a student from their school during the previous 12 months: School years 2011–12, 2015–16, and 2020–21



NOTE: Includes teachers in both traditional public schools and public charter schools. Excludes teachers who taught only prekindergarten students. Although rounded numbers are displayed, the figures are based on unrounded data.

SOURCE: U.S. Department of Education, National Center for Education Statistics, Schools and Staffing Survey (SASS), "Public School Teacher Data File," 2011–12; and National Teacher and Principal Survey (NTPS), "Public School Teacher Data File," 2015–16 and 2020–21. See *Digest of Education Statistics 2022*, table [228.70](#).

It should be noted that the 2020 calendar year was the first year of the coronavirus pandemic, and many schools shifted instruction from in-person classes to online-only or hybrid education. Thus, in-person interactions between students and teachers may have been limited.

Unique Circumstances:

Addressing Code
of Conduct Violations

34 CFR § 300.530 Authority of school personnel.

(a) Case-by-case determination.

School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the other requirements of this section, is appropriate for a child with a disability who violates a code of student conduct.

Addressing Special Education & Section 504 Behavior

A graphic consisting of two overlapping rounded rectangles. The background rectangle is purple, and the foreground rectangle is dark blue with a green border. The text "Behavior Support Plan" is centered in white.

Behavior
Support
Plan

A graphic consisting of two overlapping rounded rectangles. The background rectangle is purple, and the foreground rectangle is dark blue with a green border. The text "Behavior Intervention Plan" is centered in white.

Behavior
Intervention
Plan

A graphic consisting of two overlapping rounded rectangles. The background rectangle is purple, and the foreground rectangle is dark blue with a green border. The text "Crisis Plan" is centered in white.

Crisis Plan

Special Education Crisis Plan

Each school district must establish a plan for addressing mental health emergencies, behaviors and crisis for special education students in crisis.

Manifestation Determination Review

Manifestation Determination Review

For Section 504 and IDEA Special Education

When the district proposes the removal of a student that would exceed ten school days due to violation of the code of conduct, the district, parent, and relevant members of the IEP team/504 committee shall meet to conduct MDR within ten school days of the district's decision.

Relevant members of IEP team/504 committee shall be determined by parent and district.

Behavior and Discipline Under Section 504

In the same manner as we consider behavior and discipline under IDEA special education during an IEP meeting and through the evaluation, we **MUST** consider behavior and discipline during the Section 504 meeting.

The District's offer of FAPE under Section 504 should include a decision regarding discipline processes if the District has a reason to suspect that the student's disability causes directly or indirectly the student to exhibit inappropriate conduct or actions that violate the student code of conduct.

The Student Code of Conduct
Applies to All Students

34 C.F.R. Section 300.536

Change of placement because of disciplinary removals.

- (a) For purposes of removals of a child with a disability from the child's current educational placement under 300.530 through 300.535, a change of placement occurs if -
 - (1) The removal is for more than 10 consecutive school days; or
 - (2) The child has been subjected to a series of removals that constitute a pattern -
 - (i) Because the series of removals total more than 10 school days in a school year;
 - (ii) Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and
 - (iii) Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.
- (b)
 - (1) The public agency determines on a case-by-case basis whether a pattern of removals constitutes a change of placement.
 - (2) This determination is subject to review through due process and judicial proceedings.

What Constitutes a Removal?

In other words, "What counts as a day?"

- Portions of the day?
- School Bus Suspension?
- In-School Suspension?

2006 Interpretive comments related to 34 CFR Section 300.530 regarding change of placements

Portions of a school day that a child had been suspended may be considered as a removal in regard to determining whether there is a pattern of removals as defined in § 300.536.

Federal Register, Vol. 71, p. 46715 (August 2006)

MDR Questions

34 C.F.R. 300.530(e)

Group shall determine:

- Was the conduct in question caused by, or did it have a direct and substantial relationship to, the child's disability?
- Was the conduct in question the direct result of the district's failure to implement the IEP?

34 C.F.R. 300.530(e)

Consideration of Information at MDR Meeting

Group shall review all relevant information in student's file, including:

- IEP
- Evaluations
- Prior discipline
- Attendance
- IEP Goals/supports/BIP
- Disciplinary records from the incident
- Any teacher observations
- Any relevant information provided by parents
- Accommodations

Who Decides if the Conduct is a Manifestation?

Is it Willful Conduct

or

A Manifestation of the Disability?

Students Not Yet Identified

A student who has not been determined to be eligible for special education and related services and who has engaged in behavior that violated a code of student conduct may assert any of the protections provided for in the IDEA if a district had knowledge that the student had a disability before the behavior that precipitated that disciplinary action occurred. 20 U.S.C. 1415(k)(5)(A); 34 C.F.R. 300.534(a)

Students Not Yet Identified

A district shall be deemed to have knowledge that a student has a disability if, before the behavior that precipitated the disciplinary action occurred:

The parent of the student expressed concern in writing to supervisory or administrative personnel of the district, or to the teacher of the student, that the student was in need of special education and related services;

The parent requested an evaluation of the student for special education and related services; or

The student's teacher, or other district personnel, expressed specific concerns about a pattern of behavior demonstrated by the student directly to the special education director or other district supervisory personnel.

20 U.S.C. 1415(k)(5)(B); 34 C.F.R. 300.534(b)

Exception

A district shall not be deemed to have knowledge that the student had a disability if:

- The parent has not allowed an evaluation of the student;
- The parent has refused services; or
- The student has been evaluated and it was determined that the student did not have a disability.

Exception

If a district does not have knowledge (as described above), before taking disciplinary measures, that a student has a disability, the student may be subjected to the same disciplinary measures applied to students without disabilities who engaged in comparable behaviors.

However, if a request is made for an evaluation during the time period in which the student is subjected to disciplinary measures, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

20 U.S.C. 1415(k)(5)(D); 34 C.F.R. 300.534(d)

Special Circumstances (The BIG 3)

Special circumstances. School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability if the child—

- (1) Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of a SEA or an LEA;
- (2) Knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA; or
- (3) Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA.

34 CFR § 300.530(i) Definitions

1. Controlled substance means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).
1. Illegal drug means a controlled substance but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.
1. Serious bodily injury has the meaning given the term “serious bodily injury” under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code. (4) Weapon has the meaning given the term “dangerous weapon” under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.

Serious Bodily Injury Defined by Federal Law

Serious bodily injury as bodily injury which involves:

- a substantial risk of death;
- extreme physical pain;
- protracted and obvious disfigurement; or
- protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

71 Fed. Reg. 46,722 (2006).

Federal Law states that neither the state education agency nor the school district may not modify this definition.

Returning Students

34 C.F.R. Section 300.532 Appeal.

(a) General.

The parent of a child with a disability who disagrees with any decision regarding placement under §§ 300.530 and 300.531, or the manifestation determination under § 300.530(e), **or an LEA that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others**, may appeal the decision by requesting a hearing. The hearing is requested by filing a complaint pursuant to §§ 300.507 and 300.508(a) and (b).

34 C.F.R. Section 300.533

Placement during appeals.

When an appeal under § 300.532 has been made by either the parent or the LEA, **the child must remain in the interim alternative educational setting** pending the decision of the hearing officer or until the expiration of the time period specified in § 300.530(c) or (g), whichever occurs first, unless the parent and the SEA or LEA agree otherwise.

Re-Entry Procedures

Paradigm Shift in Thinking

Section 504 & the IDEA requires a school district to meet the needs of students with disabilities as adequately as their typically developing peers.

This includes the need for student to benefit from and learn through discipline.

Are your Section 504 and IDEA students receiving benefits from the disciplinary procedures?

If not, your Section 504 plan and IEP should identify effective discipline tools.

Addressing Behavior through Student Discipline

How We Learned Discipline

Standard Disciplinary Processes

- Office referrals
- Detention
- In-school suspension
- Out-of-school suspension
- Disciplinary placements
- Expulsion

Out-of-school suspensions do not serve as a deterrent for future problem behavior and can lead to school dropout.

Exclusionary School Discipline

Exclusionary school discipline practices, defined as any discipline that removes students from their classroom or school environment (e.g., referrals, suspensions, and/or expulsions), are used across U.S. schools, with 5 percent to 6 percent of public school students in the U.S. receiving one or more suspensions in 2017-18.

Office of Special Education and Rehabilitative Services Blog

*Discipline Discussions: The Impact and Harm of Exclusionary
Discipline*

“We cannot suspend our way to better behavior, but
we can invest in what works.”

Valerie C. Williams
Director, Office of Special Education Programs

Federal Statistics for Exclusionary Discipline

- Over three million missed days from school due to out-of-school suspension.
- School-age students with disabilities served under IDEA represented 13.2 percent of total student enrollment but received 20.5 percent of one or more in-school suspensions and 24.5 percent of one or more out-of-school suspensions.
- During the 2019-20 school year, Black children with disabilities made up 17.2 percent of children with disabilities aged 3 to 21 served under IDEA, yet they made up 43.5 percent of all children with disabilities aged 3 to 21 served under IDEA who were suspended out of school or expelled for more than 10 school days.

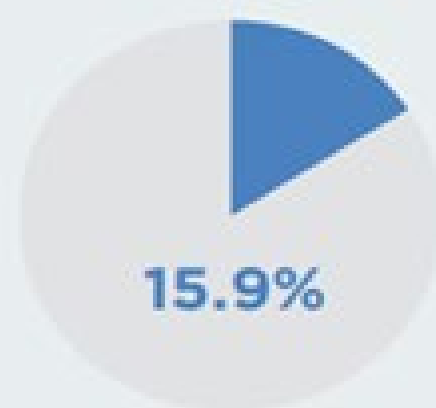
Office for Civil Rights, U.S. Education Department. (2022). *Suspensions and Expulsions in Public Schools* [PDF File]. Retrieved from: https://dataserver.lrp.com/DATA/servlet/DataServlet?fname=Suspensions_and_Expulsion_Part2.pdf.

2017-18 OVERVIEW OF STUDENT DISCIPLINE K-GRADE 12

Students with disabilities include students served under the Individuals with Disabilities Education Act (IDEA) and students served only under Section 504 of the Rehabilitation Act of 1973 (Section 504).

50,922,024

OVERALL STUDENT ENROLLMENT

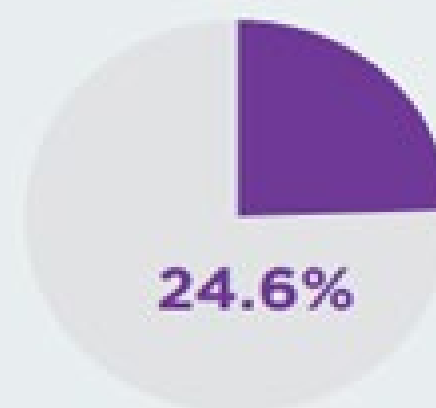


Enrollment of Students with Disabilities

N=8,108,190

8,108,190

STUDENTS WITH DISABILITIES, 6,728,046 SERVED UNDER IDEA AND 1,380,144 SERVED UNDER SECTION 504

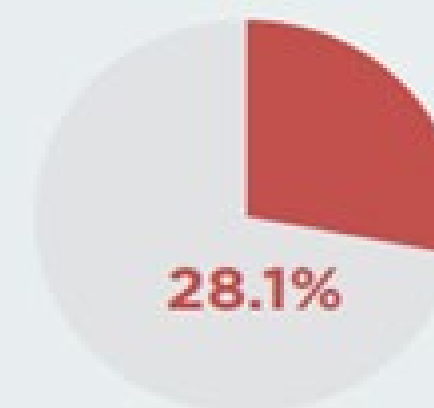


In-School Suspensions of Students with Disabilities

N=645,987

3,145,559

MISSED DAYS OF SCHOOL BY STUDENTS WITH DISABILITIES DUE TO OUT-OF-SCHOOL SUSPENSIONS



Out-of-School Suspensions of Students with Disabilities

N=704,523



Expulsions of Students with Disabilities

N=25,414

Educators Educate

We teach discipline

Alternative Disciplinary Options

- Restorative Discipline
- Reflective Discipline
- Restitution
 - Financial
 - Repairs
 - Community/Campus Service
- Parent Collaboration
- Saturday School
- Instructional Discipline
- Withdraw Privileges: extra-curricular activities

- Instructional
- Reflective
- Restorative

Preventative Discipline

You can only prevent when you know the cause.

- Observation
- Evaluation
- The adults need to ask, “Why?”
 - Do you know this kiddo?

Preventative Discipline

Start with the student as a person

- **Behavior contracts setting clear expectations**
 - Handing a kiddo the code of conduct or saying “don’t do that” is not sufficient.
- **Be collaborative with the student.**
- **Stop making assumptions – what are you not seeing?**

Happy kids don't punch you
in the face

Just trying to get a need met

Preventative Discipline

Develop behavior supports

Preventative Discipline

Develop behavior interventions

Reflective Discipline

Teaching student discipline

- Social-emotional learning
- Self-awareness
- Coping skills instruction
- Conflict resolution skills

Reflective Discipline

- **Guided self-identification**
 - What behavior did I engage in?
 - What prompted my action/response?
 - How was I feeling?
 - Were my feelings valid?
 - Who did I hurt or disappoint?
 - What is a better solution?

Do not forget that we are in the real world

Be realistic & relevant

Now You Have Data

Educators and students have a starting place for learning and support.

- Can the student identify why their conduct was problematic?
- Can the student articulate the cause of the conduct?
- Determine if there are any misidentified feelings.
- Learn that feelings are valid, but the action/reaction was harmful.
- Teach the student how to understand the impact of their actions.
- Can the student identify alternatives?
- Can the student take responsibility for their conduct?

Restorative Discipline

- Focuses on the human and social factors.
- Teaches why the code of conduct or rules are necessary.
- Requires teaching accountability.
- Seeks collaboration with those who are harmed.
- Gives the student the opportunity to take responsibility for their choices and to learn or grow from the experience.
- Teaches students how to take responsibility, make amends, and repair harm.
- Teaches students how to forgive.

Reparations

Teaches that the student responsible for the damage/harm takes responsibility for fixing it.

This is a logical consequence that teaches the student how to solve a problem he or she has caused.

“No, no ... I need a minute.”

Teaching students to self-advocate

Building a relationship

It's about trust

Restrictive Discipline

- **Saturday school**

- *A Study of the Effectiveness of a Saturday School in Reducing Suspension, Expulsion, and Corporal Punishment*

John Douglas Winborn
U.S. Education Department
ED355663

- **Loss of privileges such as: extracurricular activities, dance, fine arts, campus assemblies/pep rallies, classroom free time, and parking spots.**

Use of Law Enforcement

34 C.F.R. Section 300.535

Referral to and action by law enforcement and judicial authorities.

(a) Rule of construction. Nothing in this part prohibits an agency from reporting a crime committed by a child with a disability to appropriate authorities or prevents State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

Law Enforcement

School districts cannot use law enforcement in lieu of implementing behavior plans.



School districts cannot use law enforcement as disciplinary alternative.



Unnecessary involvement of law enforcement may violate a student's right to FAPE and constitute a violation of Section 504.



Unnecessary involvement of law enforcement may traumatize the special education student.

Reporting Crimes

Federal law does not prohibit a district from reporting a crime committed by a student with a disability to appropriate authorities. If a district reports a crime, the district shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom the district reported the crime. A district may transmit records only to the extent permitted by the Family Educational Rights and Privacy Act (FERPA).

34 C.F.R. 300.535

34 C.F.R. Section 300.535

(b) *Transmittal of records.*

(1) An agency reporting a crime committed by a child with a disability must ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime.

(2) An agency reporting a crime under this section may transmit copies of the child's special education and disciplinary records **only to the extent** that the transmission is permitted by the Family Educational Rights and Privacy Act.

Question & Answer



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