

National Autism Data Center Fact Sheet Series

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Life Course Outcomes
Research Program

Disciplinary action: special education and autism IDEA laws, zero tolerance in schools, and disciplinary action

The Individuals with Disabilities Education Act (IDEA) requires public schools to report on disciplinary actions taken against students with disabilities. This includes reporting the number of students who are placed on suspension in or out of school; removed from school for drugs,

weapons, or serious bodily injury; or removed to a temporary alternative education setting. This information is collected in part because federal law regulates some aspects of how disciplinary action is taken against students who receive services under IDEA. For example, if disciplinary action

results in a change of a student's placement, the school must review the student's file within 10 days, and the family has rights to participate in discussions on the action. A student who has been removed from their educational placement for more than 10 days must receive educational services.

Context and importance of this topic

Disciplinary action disproportionately affects certain students. Students who are minority, male, or who have disabilities are more at risk for disciplinary action than other students.^{1,2} Disciplinary action limits the amount of time a student spends accessing an appropriate education in the least restrictive environment, which is very important for students with disabilities. Students who are subject to disciplinary action may be referred to the juvenile courts if the action involved weapons, drugs, or bodily injury. Disciplinary action in school may be linked to criminal activity in adulthood, as school policies may inadvertently push students into the juvenile and criminal justice systems—sometimes referred to as the

“school to prison pipeline.” Race, sex, and disability status are important factors to consider when thinking about disciplinary policies, as these groups are more at risk, and more likely to enter the “school to prison pipeline.”

The 2014 case of an 11 year old boy with autism who was arrested in school showcases the topics studied here. The student was physically removed from his classroom by a campus police officer after misbehaving in class. The student resisted the officer and was sent to juvenile court for felony assault on a police officer. This case illustrates how a student with disabilities may be more likely to have unintended and misunderstood interaction with the school disciplinary action procedures.

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What this fact sheet covers



What is the law?

- I. What happens when a student with autism experiences a disciplinary removal?
- II. What is an educational placement, and when and how does it change?
- III. What is manifestation determination?
- IV. What trumps manifestation determination and IDEA law?



What do zero tolerance policies affect?

- I. How do zero tolerance policies affect students with disabilities and minority students?
- II. The school to prison pipeline.



How many student experience disciplinary action?

- I. How many students with autism experienced disciplinary action in the 2013/2014 school year?
- II. How many students with disabilities experienced disciplinary action?

Does the current way of doing things work?

Who collects information on disciplinary actions?

The US Department of Education collects information on suspension, expulsion, and other disciplinary actions taken against students in primary and secondary schools. The Office of Civil Rights (OCR) collects information on discipline for students with and without disabilities by type of disciplinary action, race/ethnicity, sex, and English language learner status. IDEA requires that information be collected on students with

disabilities by type of disability and type of disciplinary action. These two sources provide the most information about suspensions, expulsions, and other disciplinary action against students in the US. The most recent IDEA data comes from the 2013/2014 school year. The data for this factsheet comes from discipline files for the 2013/2014 school year under IDEA Section 618.

Definitions

Disciplinary removal

In this fact sheet, disciplinary removal means removal to an alternative educational setting, suspension or expulsion, removal by the school due to drug or weapon or serious injury

offenses, removal by a hearing officer for injury or likely injury, or other types of disciplinary removals. These actions may be taken by the school without involvement of the IEP team.

Educational placement

A student's education must take place in the least restrictive school environment that his disability allows. Possible environments include regular education classrooms, special education classrooms in a regular school, resource rooms, special

schools, residential facilities, and home or hospitals. The educational placement is the environment determined by the IEP team to be the best, and least restrictive, place for the student's education.

Manifestation determination

Special consideration must be given when disciplinary action is taken for a student who receives services under IDEA that results in the student changing placement. If the disciplinary action results in a change in placement, which is defined as an action that alters an educational program, this change must be discussed by the IEP team and the family within 10 days of the decision. This process is referred to as manifestation determination.

When the IEP team meets about the disciplinary action, they must determine whether the conduct that led to the disciplinary action was caused by or had a direct or substantial relationship to the student's

disability. Alternatively, the conduct may have been a result of the school's failure to implement the IEP. If either of these is true, the conduct can be deemed a manifestation, and steps must be taken to return the child to the original placement. These steps include a functional behavioral assessment and a behavioral intervention plan.

The IEP team may agree to change the student's placement even if the conduct was considered a manifestation. The student may be removed to a temporary educational environment for up to 45 days (see the definition of change of placement on page 4).

When is manifest determination overridden?

There are a few situations in which a child may not be returned to their original placement even when their conduct was deemed a manifestation. These include:

1. The student carried a weapon to school.
2. The student possessed, used, sold, or solicited illegal drugs.
3. The student inflicted serious bodily injury upon another person.

If a child was removed because any of the above occurred, the student may be removed from his educational placement for up to 45

days. The student must continue to receive educational services and the IEP goals must be addressed. If a student commits one of the acts mentioned above, a manifestation determination must still be conducted.

Services are generally only provided after the student has been removed from his original placement for more than 10 school days. If it has been 10 days or fewer, services only need be provided if a student without disabilities would be provided services in a similar situation.

The zero tolerance approach to discipline in schools

School zero tolerance policies alter the manifestation determination process mandated in IDEA. When a student has a weapon in school, has or uses illegal drugs, or threatens or inflicts injury on another, a school's zero tolerance policy is enacted. Schools and school districts have zero tolerance policies that enable them to immediately act if a student commits one of the actions listed above. The disciplinary action for violation of a zero tolerance policy may be suspension, expulsion, or

something determined by the school, and it can occur immediately without regard to the specific considerations of each student's case.

The use of zero tolerance policies is hotly debated, and some believe they are overused or inappropriate in schools. Suspension and expulsion increase the amount of time a student spends outside of school, which may give a student more opportunity to get into criminal trouble.

What constitutes a change of placement?

When a student is removed from a educational environment due to disciplinary action, a change of placement occurs if

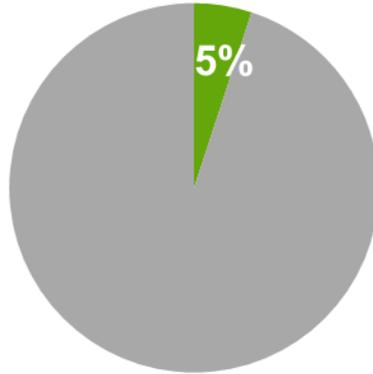
1. The student is removed for more than 10 school days in a row.
2. The student has been removed repeatedly in a way that constitutes a pattern: the repeated removals sum to more than 10 days, the behavior in

each incident is very similar, and the removals are close to one another.

If there is no change in services provided, even if the location of services changes, it is not considered a change of placement. However, if a change of location reduces interaction with non-disabled peers, it is likely a change of placement.

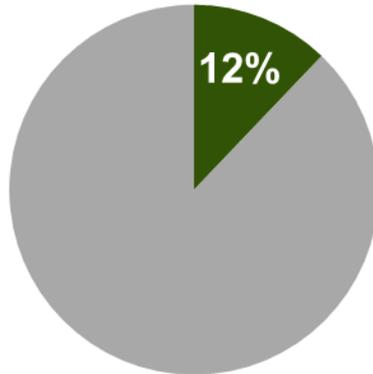
How many students experience disciplinary action?

Five percent of students with **autism** were subject to disciplinary action in the 2013/2014 school year.



of students were suspended, expelled, or removed from their placement.

One in 10 special education students were subject to disciplinary action in the 2013/2014 school year.



of students with any disability were suspended, expelled, or removed from their placement.

There were a total of

56,039

disciplinary removals of students **with autism** in the 2013/2014 school year.

This count includes the number of times children with autism experienced any type of disciplinary removal. A student may be counted more than once if he experienced more than one disciplinary removal.

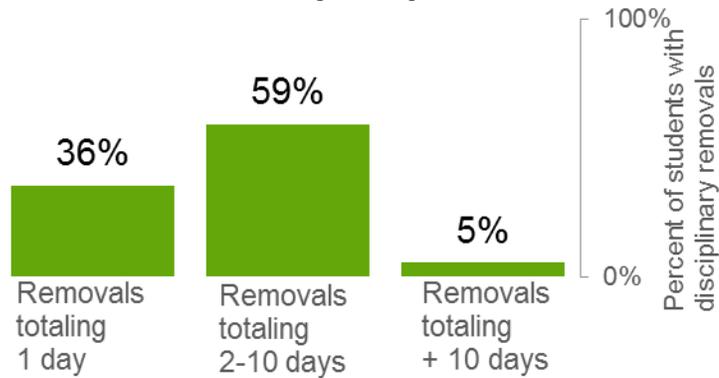
During the 2013/2014 school year, there were 575,796 students with autism age 3-21 counted in the 50 states and the District of Columbia.*

How long are students displaced as a result of discipline over the course of the school year?

Fewer students with autism are displaced

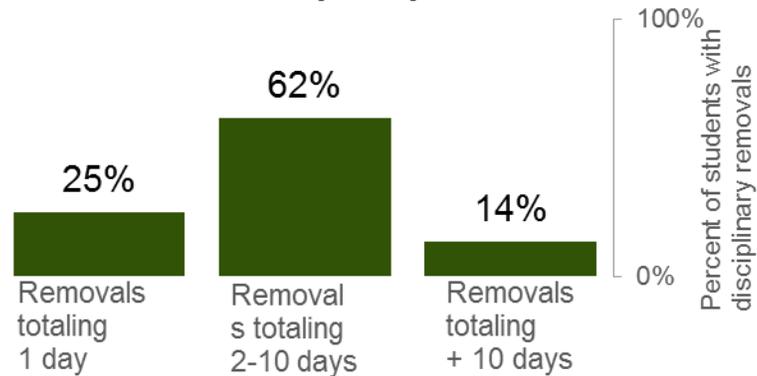
Students with autism spend less time removed from their placement than students with other disabilities.

More than a third of students with **autism** who were subject to a disciplinary action were removed for only a day.



Number of days of disciplinary removal accumulated over the 2013/2014 school year.

A quarter of **special education students** with any disability who were subject to disciplinary action were removed for only a day.



Number of days of disciplinary removal accumulated over the 2013/2014 school year.

State Rankings

States range from 1%-11% of students with autism experiencing a disciplinary action in the 2013/2014 school year.

<i>State</i>	<i>Percent of students with autism who had a disciplinary action</i>	<i>Total number of disciplinary actions*</i>	<i>Number of students with autism</i>
Iowa	11%	196	721
Missouri	10%	2109	9951
Mississippi	9%	729	4027
Nebraska	9%	523	3068
Arkansas	8%	641	4078
Georgia	8%	2606	16032
Indiana	8%	2340	14737
South Carolina	8%	1445	6680
Tennessee	8%	1388	8652
West Virginia	8%	286	1848
Alabama	7%	915	6333
Alaska	7%	194	1201
Kentucky	7%	1077	5793
Montana	7%	110	680
Nevada	7%	836	5946
North Carolina	7%	2636	16930
Oregon	7%	1270	9391
Virginia	7%	2465	16933
Washington	7%	1699	11626
Arizona	6%	1133	10512
Colorado	6%	654	5781
Florida	6%	3915	31133
Kansas	6%	448	3838
Louisiana	6%	563	4690
Michigan	6%	1891	17218
Texas	6%	7071	51330
Vermont	6%	69	1004
Wisconsin	6%	1239	10825
Illinois	5%	1822	21837
Ohio	5%	984	21213
Oklahoma	5%	266	4885
Rhode Island	5%	204	2248
South Dakota	5%	115	978
Connecticut	4%	637	8278
District Of Columbia	4%	30	854
Maryland	4%	642	10472
Minnesota	4%	1248	16984
Pennsylvania	4%	2205	29273
Utah	4%	183	5193
California	3%	4273	90541
Delaware	3%	47	1441
Hawaii	3%	72	1598
Massachusetts	3%	762	17493
New Hampshire	3%	189	2573
New Mexico	3%	104	2477
North Dakota	3%	31	939
New York	2%	1404	32116
Idaho	1%	24	2566
Maine	1%	66	3076
New Jersey	1%	283	17803
Wyoming**	--	--	--

*The total number of disciplinary actions is a duplicative count, meaning that students who had more than one disciplinary action are counted more than once.

**Reporting for the state of Wyoming was not complete, so it is not included in these counts.

Who is included in these numbers?

A student is included in this count if he or she was age 3-21 and included in the school year 2013/2014 IDEA counts and experienced one of the following: was removed by school personnel other than the IEP team for weapon, drugs, or serious bodily injury; was removed by a hearing officer's determination (in instances in which others safety is at risk); was suspended pending an IEP team meeting; was

removed by school personnel to an interim educational placement; or experienced any other disciplinary removal including suspension and expulsion.

The following students were not included in these counts: students who were removed from their educational placement after determination from the IEP team that their current environment was not the least restrictive

environment; students who were suspended for less than half of a school day; and students who were placed in a private school by parents. *Counts from Wyoming are not included in this fact sheet, as counts for students in the autism category age 6-21 were not present for the 2013/2014 school year.

Limitations and moving forward

We have very little data and insights on the reasons behind disciplinary action in students with autism. We have talked about the need for more and better data for outcomes for individuals on the autism spectrum in general [[take a look at our data blog](#)], but this is one in particular where the need is very great. Information about specific disabilities, including autism, broken down by race, ethnicity, and gender would be a great place to start, as these

factors are closely related to disciplinary action in students.

Stories like those of the 11 year-old student with autism facing felony charges show that the effect of disciplinary actions in school can be very serious. Data to substantiate these stories may help change school policies on disciplining students, particularly students with autism.

In the forward to the 2014 Department of Education Guiding

Principles, Secretary of Education Arne Duncan discusses the importance of re-imagining "exclusionary discipline practices that disproportionately impact students of color and students with disabilities." Duncan emphasizes the importance of using data to ensure fairness and equality for students through the way schools carry out disciplinary action. These suggestions may be difficult to carry out but represent next steps to being inclusive of students with disabilities including autism.

Sources:

1. Bradshaw, C. P., Mitchell, M. M., O'Brennan, L. M., & Leaf, P. J. (2010). Multilevel exploration of factors contributing to the overrepresentation of black students in office disciplinary referrals. *Journal of Educational Psychology*, 102(2), 508.
2. Losen, Daniel J.; & Gillespie, Jonathan. (2012). *Opportunities Suspended: The Disparate Impact of Disciplinary Exclusion from School*. UCLA: The Civil Rights Project / Proyecto Derechos Civiles. Retrieved from: <http://escholarship.org/uc/item/3g36n0c3>

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Life Course Outcomes
Research Program

The Life Course Outcomes Research Program is building a base of knowledge about the things other than clinical interventions that promote positive outcomes for people on the autism spectrum and their families and communities.