



The Center for
Learner Equity



National
Center for
Learning
Disabilities



Disproportionate Discipline and COVID-19

A Call for Change

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This summer in Moreno Valley, California, [the family of an eleven-year-old with a disability filed suit](#) against the school district because their son was handcuffed numerous times and physically restrained by sheriff's deputies, on video, in the fall of 2019. In Orlando, Florida, this past February, [a nine-year-old girl with cognitive and developmental disabilities was threatened with a ten-day suspension and a recommendation for expulsion](#) for getting into an exchange with other students in the lunchroom. The suspension and expulsion threats were later withdrawn. In May, [a 15-year-old girl with ADHD and a mood disorder was placed in juvenile detention](#) for failing to complete her schoolwork, which a judge ruled a probation violation. The child, referred to as Grace, had an active Individualized Education Program that detailed the special education services and supports she required in school—services and supports that were not provided during remote learning.

Before COVID—A Simmering Crisis

Sadly, these stories are not unique. In fact, the discipline rates for students with disabilities in America's public schools before the COVID-19 pandemic could justifiably be labeled a crisis. [Students with disabilities have historically been suspended more than twice as frequently as their nondisabled peers](#), despite additional protections contained in federal special education laws. The use of restraint and seclusion, practices in which student's movements are restricted by physical or mechanical force and/or by forced isolation, was also at a crisis level. With no federal standards, policies related to restraint and seclusion vary greatly between states and even between districts within states. Even so, there is no question that students with disabilities have been disproportionately restrained and secluded. Of the [124,500 cases reported nationwide in 2015-16](#), 71% of students who were physically restrained and 66% of students who were secluded were identified as students with disabilities, despite the fact that students with disabilities comprised only 12% of total student enrollment. In Michigan in 2003, 15-year-old [Michael Renner Lewis](#), a student with autism and a seizure disorder, died on the first day of school after being restrained face-down when he became agitated following a seizure. In 2015, a [15-year-old student with a developmental disability](#) was secluded 57 times in three months by staff at his Maryland school, despite a written medical report warning that seclusion would be unacceptable and traumatizing," including an incident where the child was discovered slumped over in a pool of his

own blood. Sadly, reports like these involving [students being injured and even dying](#) during restraint or seclusion, are common.

Adding to the inequity, amongst all students with disabilities, [Black students with disabilities experience the greatest rates of discipline of any student subgroup](#).

While only 19% of students with disabilities are Black, they represent over a third of those suspended. Students at the intersection of these identities face a disproportionate application of discipline that results not only in the loss of critically necessary instructional minutes but also in broken trust in students' relationships with their educators.

Over the past several years, the debate over the discipline of students with disabilities gained national momentum. The United States Commission on Civil Rights issued a [report](#) in July 2019 highlighting the connection between discipline policies and the school to prison pipeline that specifically focused on the disproportionate suspension and expulsion of students of color with disabilities. Congress held a [hearing](#) in February of 2019 on restraint and seclusion, and the reintroduction of the [Keeping All Students Safe Act](#), which would create federal limitations on those practices, became a topic of consideration among policymakers and educators.

A New Reality

In 2020, with education—and the world—as we know it turned upside down by the COVID-19 pandemic, the issue shifted to the back burner as educators across the country have turned their full attention to reaching the nation's 50 million public school students in new ways.

Now, as many schools reopen their school buildings, the issue of disproportionate disciplinary practices has the potential to resurface with even higher stakes. Most school reopening plans incorporate public health-related safety requirements, including the wearing of masks and the implementation of social distancing, which are critical to helping control the spread of COVID-19. Student compliance with these new safety requirements will present new challenges and heightened scrutiny in an environment in which many educators are particularly anxious about their health as they return to the classroom. Applying this new paradigm of school rules

to students with disabilities demands intentional planning to avoid a tidal wave of harsh discipline in the name of preventing the spread of the virus.

How will schools balance the needs of these students with the need to provide a safe learning environment for all?

How will schools accommodate students with disabilities who struggle with the mask requirement? Students with sensory needs and students with cognitive challenges may have a hard time wearing masks. Students with emotional or behavioral disabilities may take off their masks when they are triggered. For some students, medical conditions will further complicate the mask requirement. What will schools do to address social distancing for students with disabilities who have a difficult time complying? Students who are prone to elopement are usually kept close for safety reasons. Social distancing will be implausible for students with higher needs, such as feeding, toileting, or hand-over-hand prompting. How will schools balance the needs of these students with the need to provide a safe learning environment for all?

Key Recommendations

Given the disproportionate discipline of students with disabilities pre-pandemic, raising the bar on student expectations feels like a recipe for disaster. However, schools can actually embrace this challenge as an opportunity to rethink their approach to discipline. Schools will need to prioritize professional development and intentional staff coaching in order to make important shifts school-wide. By investing in the capacity of their staff, schools will be better prepared to implement strategies that support the diverse needs of families and students. We suggest that schools employ three proactive strategies to ensure that students with disabilities are able to thrive in school in our new reality: robust communication, collaborative planning, and a commitment to a holistic approach to behavior.

Robust Communication

While parents and guardians of students with disabilities are legally recognized as equal members of the student's educational team, the relationship between families and the school community is often strained by poor communication. These past several months have shown us that educators must embrace families as valued partners in order to deliver quality education. The partnership will be critical to ensuring that students with disabilities are able to excel in the "new normal." This is an opportune moment to build that partnership. As students return for in-person learning, educators should reach out to parents to both listen and to share information. How has the student responded to the pandemic over the summer? Have they stayed home or gone out into the community? When out, have they practiced wearing a mask? If so, what worked for them? Do they understand the concept of social distancing and why it is important? What tips might the family have for helping maintain the proper distancing?

Many families have also experienced intense trauma during these past several months, including but certainly not limited to illness, job loss, and food and housing insecurity. Students will carry these stressors with them when they return to the classroom. Therefore, it is vital that educators connect with families and get as much information about students' experiences as possible. This sensitive outreach must be done in a culturally responsive, trauma-informed manner, and schools should support their staff by providing ongoing professional development and coaching in those areas.

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When out, have they practiced wearing a mask?

If so, what worked for them?

Do they understand the concept of social distancing and why it is important?

What tips might the family have for helping maintain proper distancing?

Educators also need to share information about the “new normal” at school with families so they can help reinforce and model expectations. Letting them know what to expect in the classroom—from changes in the physical environment to daily schedules to how the new policies will be implemented—will help students prepare for and adjust to re-entry. While there are still unknowns, just letting them know that schools are committed to problem-solving will help to ease the anxiety that most families and students are experiencing. Many districts are offering families the option to choose distance learning if they are not comfortable returning to the building. However, we know distance learning can be particularly challenging for many students with disabilities, for whom in-person instruction may have no equal. Authentically engaging families of students with disabilities will build deeper trust and set shared expectations so that families feel safe as they make education decisions for their children with disabilities.

Collaborative Planning

Robust communication is the foundation for a successful transition, but it is just the beginning. Once educators have a holistic understanding of the student’s experiences over the last many months, they can develop a plan for the student’s return to school. Working with the family, they can map out the first few days of school and make sure that everyone is on the same page about safety requirements. Sending home a “snapshot” of what the school day will look like and how it will differ from the pre-COVID-19 experience will help students know what to expect and instill a sense of confidence that school personnel have taken the time to plan for their return.

Educators should also embrace thorough functional behavior assessments and behavior intervention planning as they prepare to return. While these practices have always been instrumental in planning for and accommodating students’ known behavioral triggers at school, they will be even more critical now for students who might struggle with or be triggered by a whole new set of school rules. Schools should elevate the expertise of school psychologists and behavioral interventionists who can conduct necessary analyses, reflect on existing plans and implementation data, and develop new plans to appropriately prevent and respond to behaviors that might violate new safety requirements. Thoughtful upfront planning and reflection on potential challenges for students will mitigate knee-jerk reactions and prevent harsh discipline for noncompliance. Once behavior plans are developed, schools

should conduct student-specific training sessions with staff and parents to ensure proper implementation. Everyone who interacts with the student should be aware of the student-specific needs and challenges, be fully committed to the plan, and be trained on their respective role in its implementation.

Commitment to a Holistic Approach

Great communication and collaborative planning will be the core of successful re-entry for students with disabilities. However, even the best communication and the most detailed plans will fail if school staff do not handle these situations in a positive, student-centered, and trauma-informed manner. School leaders should commit to employing discipline policies that seek to understand the function of behavior and incentivize the behaviors they wish students to model, rather than practices that are merely punitive. We suggest that schools reject the urge to rely on suspensions, expulsions, or restraint and seclusion and commit to **not** authorizing any of these discipline practices for violations of the new safety rules. We know that suspensions don't address the root cause of the behavior and therefore won't function as an effective method of encouraging student compliance with safety rules. In fact, [exclusionary discipline practices are actually correlated with lower academic achievement and increased risk of school disengagement](#). Likewise, restraint and seclusion will do little to address the origin of the behavior and will only exacerbate the trauma already caused by the pandemic. Given that this entire generation of students has experienced an enormous disruption in their educational opportunities, we cannot afford to inflict more trauma or further disengage them. Rather, the focus should be on giving students the support they need to understand the new rules, and investing in those supports should be a priority.

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We know that evidence-based alternative practices to suspensions [like Positive Behavioral Interventions and Supports \(PBIS\), restorative justice practices, and social-emotional learning curricula](#) not only decrease the number of student disciplinary referrals, but are correlated with improved academic outcomes and

improved school climate for students and staff alike. Imagine a restorative circle for a student who refused to comply with safety requirements, and a fellow student explaining how it made them feel in light of the anxiety they have around being able to come to school and still safely return to the home they share with a high-risk family member. That would afford a more compelling opportunity to address the harm and build a relationship than a two-day suspension at home. The COVID-19 pandemic presents an opportunity for schools to embrace these sorts of creative, holistic solutions. While the new reality hasn't changed what we know to be true about best practices for educating students with disabilities and creating safe, inclusive school environments, it has dramatically increased the urgency of adopting these practices now to help students heal from the trauma and disruption of this global pandemic.

Conclusion

No one wants to read yet more stories about students with disabilities being harshly disciplined, especially as we all work to undo the damage already done by the COVID-19 pandemic. Instead, our hope is to be inundated with success stories of students thriving because their schools approached behavior challenges with robust communication, collaborative planning, and a commitment to a holistic approach. At the February 2019 Congressional hearing on restraint and seclusion, Renee Smith, a Rhode Island mother of a child with a disability, [shared her son's story](#). Ms. Smith gave a passionate statement about her son, a first-grader, recounting how he had been repeatedly restrained and secluded at school, and how “[t]he more he was restrained and secluded, the less he was interested in school work, which resulted in more restraint and seclusion, a constant downward spiral.” Ms. Smith shared that she and her husband transferred their son, in the middle of first grade, to a school where there was a school-wide positive behavior supports program and where “[t]eachers provide positive reinforcement in their classrooms and individualized one-on-one with their students.” According to Ms. Smith’s statement, “[a]s a result, Dillon is now doing really well at school. With the proper supports, he has blossomed as a student.” By committing to authentic communication, collaboration, and a holistic approach to behavior, our nation’s schools can ensure that all students with disabilities thrive, like Dillon, even in these challenging times.