

Disciplinary Removals for Students with Disabilities under the Individuals with Disabilities Education Act (IDEA)

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Desired Outcomes

1

Overview of longitudinal discipline data (SY 2018-2019 to SY 2022-2023) for students with disabilities (IDEA).

2

Subsequent Future Session(s):

- Examine discipline data to identify student equity and educational access for students with disabilities (IDEA) when compared with students without disabilities.
- Review the Department's discipline practices.



Discipline under IDEA

- IDEA does not define “discipline.”
- IDEA section 615(k) and the implementing regulations at 34 C.F.R. §§ 300.530 through 300.536 explain the rights of children with disabilities and the authority of school personnel when a child is suspended, expelled, or temporarily placed in an interim alternative educational setting (IAES) for disciplinary reasons.
- For our purposes, discipline is intended to mean the consequences a school imposes on a child who violates a school’s code of student conduct or a school rule as established in the [Hawai‘i Administrative Rules, Chapter 19.](#)



What is a Disciplinary Removal?

- Any instance in which a child with a disability (IDEA) is removed from his/her educational placement for violating a school rule or a code of conduct.
 - Examples: in-school suspensions, out-of-school suspensions, detentions, etc...



Generally, a removal is considered a Disciplinary Removal, unless:

- the child is afforded the opportunity to continue to appropriately participate in the general curriculum,
- the child continues to receive the services specified on the child's IEP, and
- the child continues to participate with children without disabilities to the extent they would have in their current placement.



Reporting IDEA Discipline Data

Section 618 of IDEA requires states to provide data regarding discipline of children with disabilities (IDEA). The data is captured into three types of removals:

1. In-school suspensions
2. Out-of-school suspensions/Expulsions
3. Unilateral removals to an interim alternative educational setting (IAES):
 - a. By school personnel for drugs, weapons, or serious bodily injury;
 - b. Based on a Hearing Officer finding regarding likely injury to the child or others.



Definitions in accordance with U.S. Department of Education

EDFacts File Specifications

Dangerous weapon

A weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of causing death or serious bodily injury; such a term does not include a pocket knife with a blade of less than 2 ½ inches in length. (18 USC Section 930(g)(2))

Drug offenses

The use, possession, sale, or solicitation of drugs as identified in 21 U.S.C. Section 812(c). These offenses do not include the use, possession, sale, or solicitation of alcohol or tobacco.

Expulsion

An action taken by the Department removing a child from his/her regular school for disciplinary purposes for the remainder of the school year or longer in accordance with local educational agency policy. Include removals resulting from violations of the Gun-Free Schools Act that are modified to less than 365 days.

In-School Suspensions

Instances in which a child is temporarily removed from his/her regular classroom(s) for disciplinary purposes but remains under the direct supervision of school personnel. Direct supervision means school personnel are physically in the same location as students under their supervision.

Interim alternative educational setting (IAES)

An appropriate setting determined by the child's IEP team or a hearing officer in which the child is placed for no more than 45 school days. This setting enables the child to continue to receive educational services and participate in the general education curriculum (although in another setting) and to progress toward meeting the goals set out in the IEP. As appropriate, the setting includes a functional behavioral assessment and behavioral intervention services and modifications to address the behavior violation so that it does not recur.

Out-of-School Suspensions

Instances in which a child is temporarily removed from his/her regular school for disciplinary purposes to another setting (e.g., home, behavior center). This includes both removals in which no IEP services are provided because the removal is 10 days or less as well as removals in which the child continues to receive services according to his/her IEP.

Removal by a hearing officer

Those instances in which an impartial hearing officer orders the removal of children with disabilities from their current educational placement to an appropriate alternative educational setting for not more than 45 school days based on the hearing officer's determination that maintaining the child's current placement is substantially likely to result in injury to the child or others. The IEP team is responsible for determining the interim alternative educational setting.

Serious bodily injury

A bodily injury that 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 faculty. (18 USC Section 1365(h)(3))

Unilateral removals

Instances in which school personnel (not the IEP team) order the removal of the children with disabilities from their current educational placement to an appropriate interim alternative educational setting for not more than 45 school days. The IEP team is responsible for determining the interim alternative educational setting. Unilateral removals do not include decision by the child's IEP team to change a student's placement.



Are students with disabilities (IDEA) who are parentally placed in private schools included in this data reporting?

No. 34 CFR § 300.644 requires states to report children with disabilities parentally placed in private schools only in the annual report on the number of children served.



How is data disaggregated when is reported to the US Department of Education, Office of Special Education Programs?

- Disability Category
- Racial Ethnic
- Sex (Membership)
 - An indication that students are either female or male
- English Learner Status
- Removal Type
 - See next slide
- Removal Length
 - Less than or equal to 10 days
 - Greater than 10 days



We will look at the data based on the following five metrics per IDEA requirements:

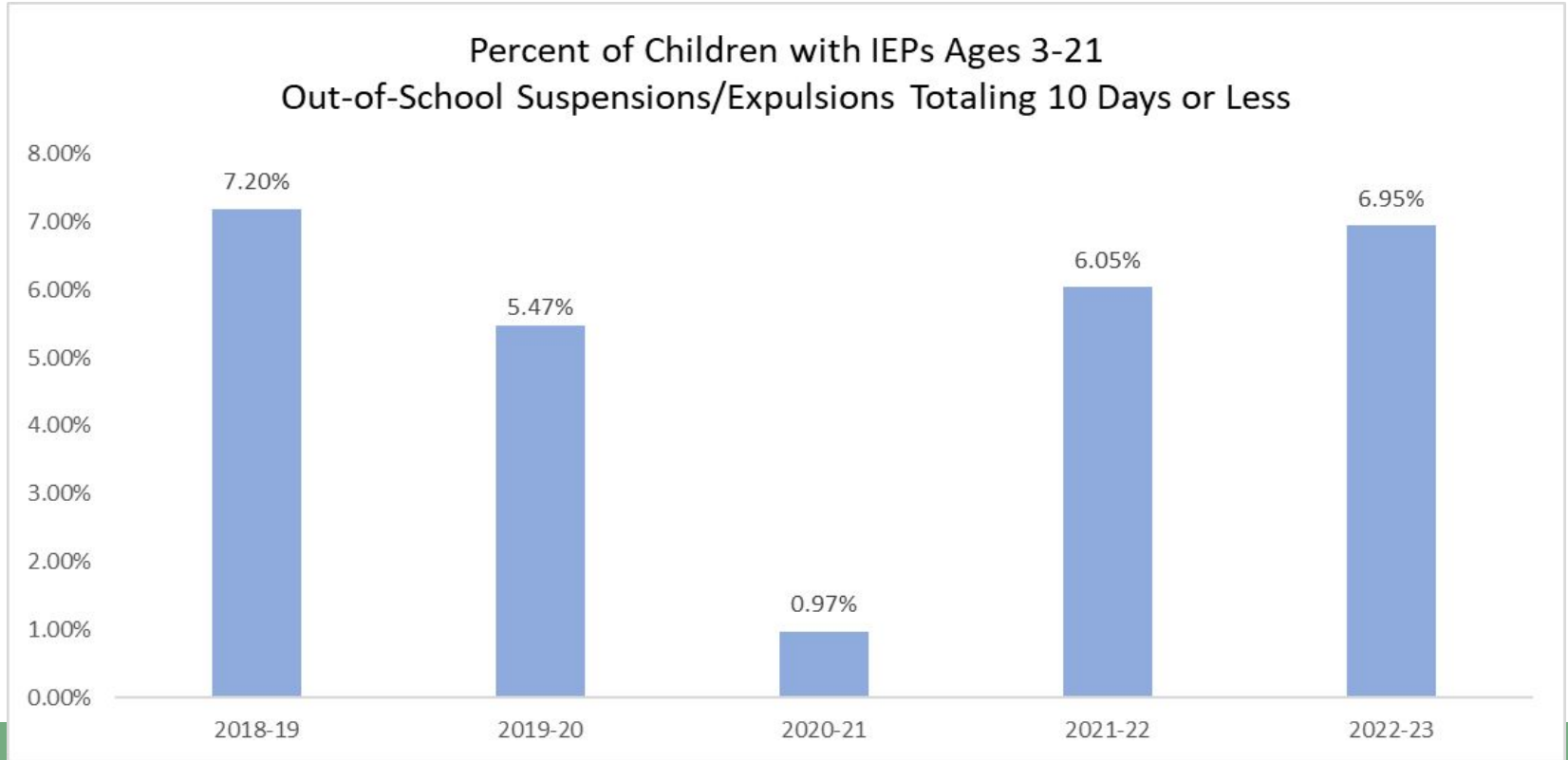
- Percent of children with disabilities (IDEA) ages 3 through 21:
 - Out-of-school suspensions/expulsions of 10 days or less
 - Out-of-school suspensions/expulsions of greater than 10 days
 - In-school suspensions of 10 days or less
 - In-school suspensions of greater than 10 days
 - Unilateral removals to an IAES:
 - By school personnel for drugs, weapons, or serious bodily injury
 - Based on a Hearing Officer finding regarding likely injury



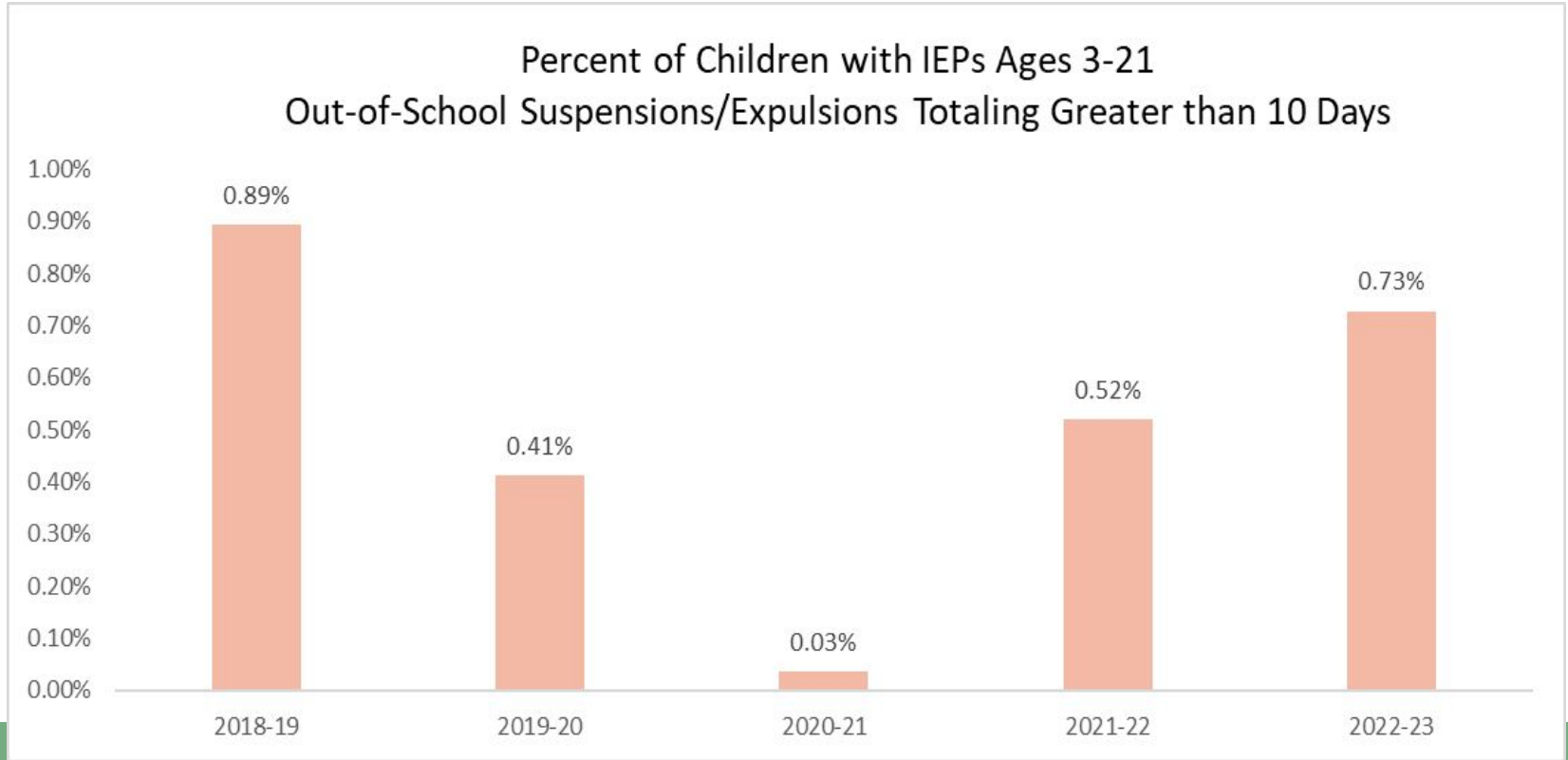
Longitudinal Data (with respect to the five metrics)



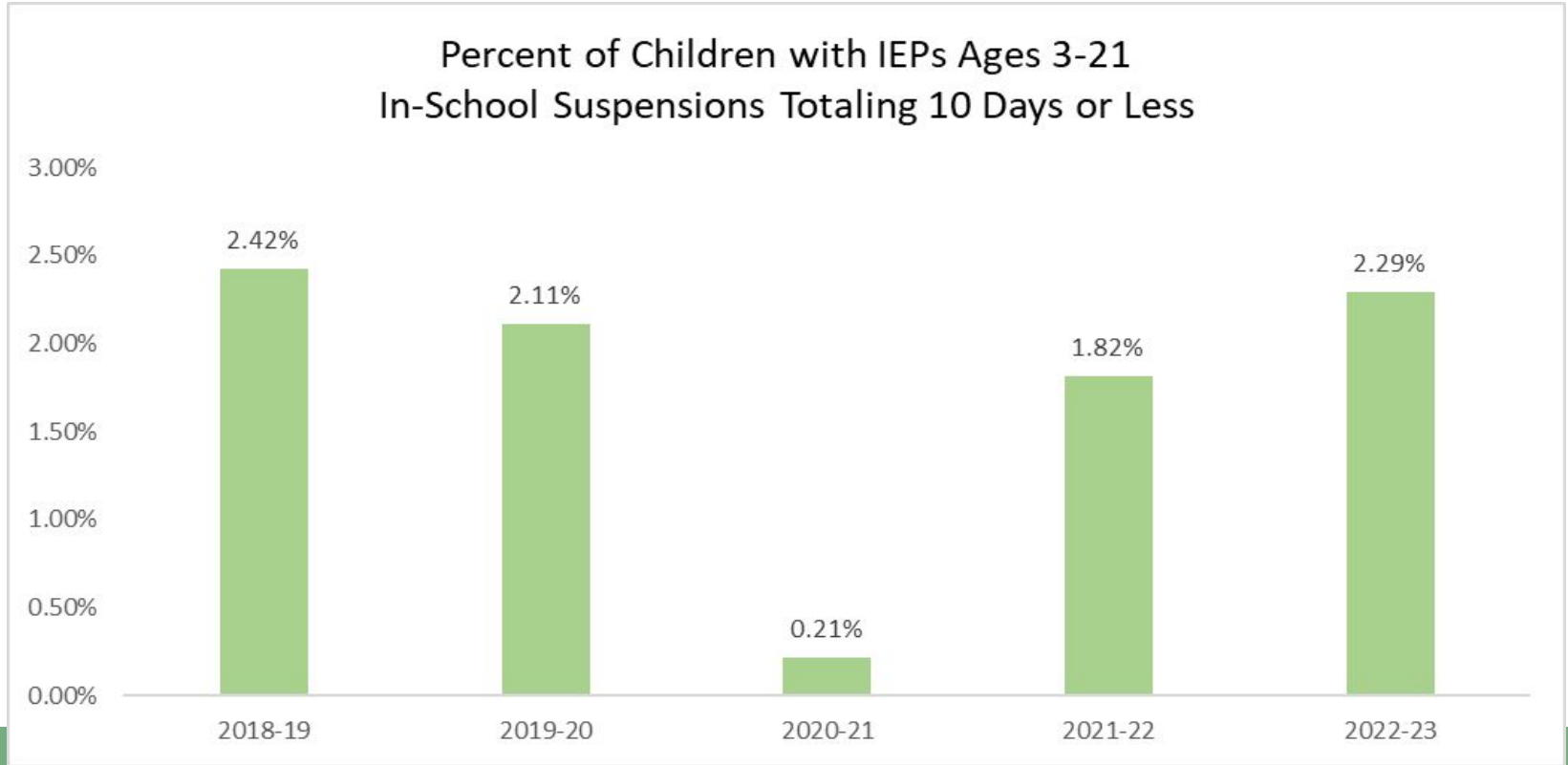
Out-of-School Suspensions/Expulsions 10 Days or Less



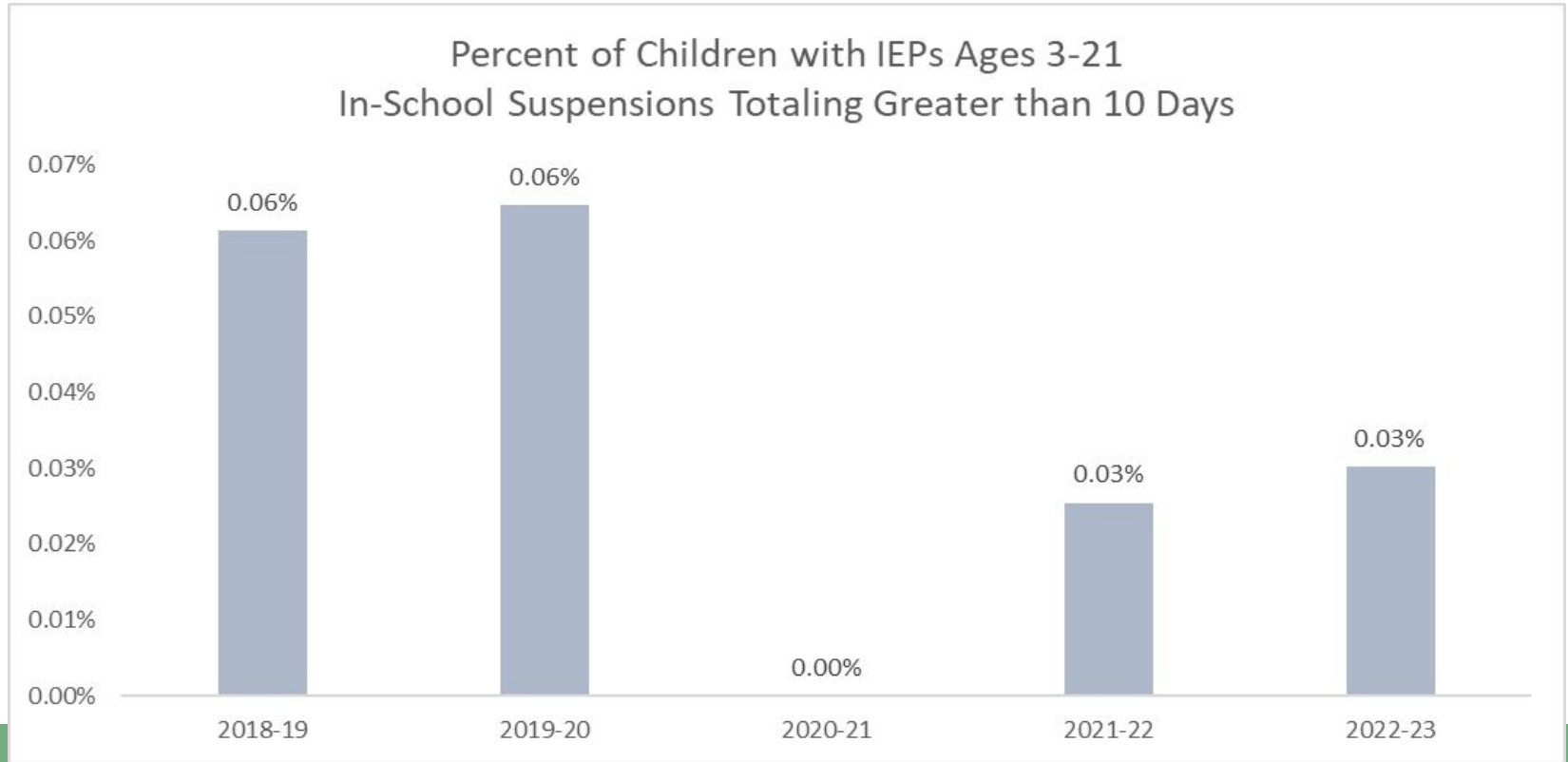
Out-of-School Suspensions/Expulsions Greater than 10 Days



In-School Suspensions 10 Days or Less



In-School Suspensions Greater than 10 Days



Unilateral Removals to an IAES by School Personnel and a Hearing Officer

- The trend of percent of students with disabilities (IDEA) who were removed by **school personnel** ranges between **0.01% to 0.14%**, with most of the removals being related to drugs.
- The trend of percent of students with disabilities (IDEA) who were removed based on a **Hearing Officer finding** regarding likely injury ranges between **0.00% to 0.01%**.



Future Session(s)...

- Comparison of discipline data of students with disabilities (IDEA) to students without disabilities.
- Comparison of Hawaii's discipline data to the U.S. states and territories.
- A review of discipline data by Race and Ethnicity, Disability Category, English Learner status, Sex Membership and Number of Times removed.
- Review of Department's discipline practices.
- Solicit feedback from educational partners, parents, and community on discipline practices.



Resources

- [Hawai'i Administrative Rules, Chapter 19](#)
- [Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions](#), 81 IDELR 138 (OSERS 2022)

