



Violence in Schools and Students with Disabilities

Maintaining safety for students and staff is the single most important endeavor for every public school in the Commonwealth and across the nation. When students with disabilities demonstrate behaviors of concern, IEP teams must act expediently to reduce the likelihood of harm and to ensure that all regulatory requirements have been implemented with supporting documentation. Schools and districts access outside community resources for students and families when behaviors of concern are beyond that which can be addressed adequately in the school setting.

Disciplinary exclusion of a student with disabilities is considered a change in educational placement if the exclusion is for more than ten consecutive school days, exceeds 15 school days over the school year, or involves a student with an intellectual disability.

In general, a student with a disability may not be removed to an alternative education placement for disruptive youth if their behavior is a manifestation of their disability. However, several exceptions exist.

Students with disabilities can be removed from a current placement, without parent permission, for up to 45 days under the following exceptional circumstances:¹

1. The student carries a weapon or possesses a weapon at school, on school premises, or at a school function.
2. The student 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.
3. The student inflicts serious bodily injury upon another person while at school, on school premises, or at a school function.
4. A hearing officer orders the change in placement after determining that maintaining the student's current placement is likely to result in injury to the student or others.

Historically, disciplinary exclusions due to *serious bodily injury* have posed substantial difficulty for educators because of the lack of caselaw within the special education context.² A recent decision by the Office for Dispute Resolution (ODR) in Pennsylvania assists with building a preliminary understanding of

¹ [Disciplinary Exclusions of Students Who Are Eligible for Special Education \(pa.gov\)](#)

² The IDEA refers to the definition of "serious bodily injury" in criminal law which is as follows: *The term "serious bodily injury" means bodily injury which involves— A. a substantial risk of death; B. extreme physical pain; C. protracted and obvious disfigurement; or D. protracted loss or impairment of the function of a bodily member, organ, or mental faculty. (See 20 USC §1415(k)(1)(G), 20 USC §1415(k)(7)(D), and 18 USC §1365(h)(3)).* Application of this definition within the special education context is limited.

at least one circumstance that constitutes *serious bodily injury*.³ In summary, the hearing officer found that a violent student rendered serious bodily injury to a school counselor as she sustained injuries related to a concussion including brain fog, confusion, and concussion-related pain. The hearing officer concluded that the pain and concussion symptoms together met the threshold of serious bodily injury in this particular case. The hearing officer noted, however, that this was a close case, and the determination was based on the particular facts present in this matter.

It is important to recognize that one ODR decision does not establish a precedent or clarify a precise definition of serious bodily injury within the special education context. However, it does provide a preliminary roadmap moving forward as educators experience violence in public schools throughout the Commonwealth.

When staff experience any injury because of violence perpetrated by a student, it is important to immediately notify administration and association leadership as well as seek documentation of injuries provided by a physician, certified school nurse, or other health provider. PSEA members should seek support from their UniServ representative, when needed, to facilitate discussion regarding district plans to act.

³ The decision: [Hearing Officer Decisions - Office for Dispute Resolution \(odr-pa.org\)](https://odr-pa.org) can be referenced at number [26467-21-22](#) and was issued [5/26/22](#).