

SUSPENDED EDUCATION:

The Over-Suspension of Students with Disabilities
in Rhode Island

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EXECUTIVE SUMMARY

Across Rhode Island, students with disabilities are suspended from school at rates more than twice as high as their representation in the student population, even as federal law requires schools to provide behavioral supports to help children with disabilities adhere to behavioral norms. Often – and, in recent years, predominantly – these suspensions are issued for minor behavioral issues rather than being reserved as punishment for the most serious school offenses. Distressingly, the disproportionate suspension rates begin in elementary school, leading children who have only just begun to learn the rules out of the classroom and down the school-to-prison pipeline.

An examination by the ACLU of Rhode Island of school discipline data collected by the Rhode Island Department of Education between the 2005-2006 and 2013-2014 school years finds that suspensions are overused against all of Rhode Island's children, but that the impact on students with disabilities is particularly high, and almost certainly deleterious.

Over nine years, the ACLU has found:

- Despite a growing consensus that out-of-school suspensions carry significant risks and should be used only as discipline for the most serious school offenses, 101,724 students lost a combined 405,658 school days to suspensions.
- Students with disabilities comprised 32.90% of all suspensions over nine years – more than twice what is expected, given that they made up just 16.11% of the student body population. Students without disabilities, however, were suspended less than would be expected based on their population.
- Suspensions are increasingly issued generally, and against students with disabilities in particular, for low-risk behavioral infractions. During the 2013-

2014 school year, these low-risk infractions accounted for 60% of all suspensions issued. Nearly 36% of suspensions for subjective offenses over the years studied were given to children with disabilities, 2.23 times the rate expected given their representation in the population.

- The suspension of students with disabilities begins – and disparities are at their highest – in the earliest grades. Students with disabilities made up 38% of suspended *elementary* school students, 2.58 times higher than expected given their representation in the population. Disparities decrease somewhat by the time students reach high school, but high school suspension rates for these students remain close to twice as high as expected.
- The labels assigned to the behavior of even the youngest students call into question the overreliance on suspensions for normal childhood roughhousing. During the 2013-2014 school year, 266 suspensions for fighting or assault were issued to students between kindergarten and the second grade; 21.05% of these suspensions were issued to students with disabilities.
- High suspension rates for students with disabilities exist statewide – across urban, rural and suburban districts. Every school district and all but two charter schools over-suspended students with disabilities in the 2013-2014 school year alone. Twenty school districts and eight charter schools suspended students with disabilities at rates twice or more than twice as high as expected.
- Altogether, 14.45% of students with disabilities were suspended at least once between 2005 and 2014, compared to just 6.65% of students without disabilities.

In light of these results, and in order to ensure students with disabilities are given the same opportunities as students without disabilities, the ACLU proposes a few modest, but important, recommendations, including:

- The General Assembly should enact legislation clarifying that out-of-school suspensions are not to be issued except in circumstances where the student poses a demonstrable risk of physical injury, or is a serious disruption to others and cannot be dealt with by other means.
- The Rhode Island Department of Education should examine annually the suspension data reported to them by the schools, identify those districts with high disparities, and work with the districts to determine mitigating solutions.
- School districts should examine their own suspension rates annually to determine if any discipline disparities against students with disabilities exist, consult with educators to develop a plan to reduce these disparities, and share this data and the resulting recommendations with parents and the public.
- Parents should be aware that they have the right to appeal suspensions they believe are doled out unfairly, and should contact community organizations like the ACLU if they believe their child has received a suspension when other responses may have been appropriate.

Rhode Island's children with disabilities deserve more than to be written off as uncontrollable or as troublemakers and sent down the school-to-prison pipeline. Yet even as federal law requires students with disabilities be given particular behavioral supports, they are all too often removed from the classroom as a first, instead of a last, effort at discipline. By bringing these disparities to light, the ACLU of Rhode Island hopes that school districts statewide will examine their response to students with – and without – disabilities, and take affirmative steps to keep more students in the classroom, with their studies, where they belong.

SUSPENSION CULTURE NATIONALLY AND IN RHODE ISLAND

For the past three years, the ACLU of Rhode Island has reported extensively on the overuse of out-of-school suspensions against Rhode Island's students, and the particularly disproportionate use of suspensions against students of color.¹ Respected national research has demonstrated time and again that out-of-school suspensions carry serious unintended consequences and little corrective benefit, and that damage can stem from even a single suspension. As a consequence, one difficult moment in a child's life can have an adverse impact that follows them into adulthood.

Very often, it is the children already most in need of educational intervention and support who are instead removed from school. Children of color are not alone in this disproportionality; children with special needs are also at high risk of suspension. Nationwide, 13% of students with disabilities were suspended during the 2009-2010 school year, contrasted with just 7% of students without disabilities.²

For these singled-out students, the consequences can be long lasting and disastrous. Students who receive out-of-school suspensions are up to ten times as likely as other students to drop out of school³ or repeat a grade,⁴ and can consequently be burdened with the low-income status, inferior health, and lower life expectancy a high-school dropout can generally expect.⁵ Despite their stated goal, suspensions generally do not appear to correct behavior, and in fact are correlated with higher rates of misbehavior and lower academic achievement not only for the suspended student,⁶ but for all students at high-suspending schools.⁷ Distressingly, students who are removed from school are significantly more likely to become involved in the juvenile justice system, either because of the behaviors they engage in when they are excluded from school,⁸ or because of the increasing referral of unruly students to school resource officers or other law enforcement personnel.⁹ Once a youth becomes involved in the juvenile justice system, it can be very difficult for them to disentangle themselves from it, and this involvement can lead to time in the adult justice system – including jails and prisons – later on.

The counterproductive nature of suspensions is so widely recognized that experts in diverse fields have long recommended that suspensions be used only as a last resort, when the physical safety of other students is threatened or the child cannot be controlled by any other means. In January 2014, the U.S. Department of Education and the Department of Justice issued joint guidance to school districts calling “on state, district, and local school leaders to rethink school discipline,” acknowledging that “most exclusionary disciplinary actions are for non-violent student behaviors, many of which once meant a phone call home. Suspending and expelling students for nonviolent behaviors comes at a great cost to both students and their communities.”¹⁰ This guidance followed years of input from a wide range of experts and agencies, including the Centers for Disease Control, the Office of Juvenile Justice and Delinquency Prevention, the American Psychological Association, the American Academy of Pediatrics, and the National School Boards Association. In 2013, the National Education Association joined the chorus of voices, noting: “Far too many of our most vulnerable students are excluded from class for minor, non-violent behavior, putting them at risk for academic failure and an unnecessary journey down the school-to-prison pipeline.”¹¹

Children with disabilities are particularly affected by these suspensions, even as state and federal law attempts to ensure that they have equal access to education, as well as supports that enable them to remain in school. Under the Individuals with Disabilities Education Act (IDEA), children with disabilities cannot be suspended for more than 10 days in a school year if their behavior is as a result of their disability. Yet, one suspects that many of the behaviors that result in suspensions are not being recognized as related to a child’s disability. Students with disabilities report higher rates of depression, more involvement in physical fights, and more bullying than their peers.¹² Yet, when students exhibit behavior such as fighting or disorderly conduct that may be related to these issues, it appears they may often be suspended from school instead of given the opportunity to have the root issues addressed.

Despite the increasing national outcry against suspensions and the actions of some states and municipalities to limit suspension use, Rhode Island’s children remain routine victims of this punishment. Between the 2005-2006 and 2013-2014 school years, 101,724 students lost a total of 405,658 instruction days to suspensions. While experts increasingly call for the use of

suspensions only in the most serious discipline cases, suspensions in Rhode Island are increasingly issued for low-risk, subjective behavioral infractions such as “Disorderly Conduct” and “Insubordination/Disrespect.” In the 2013-2014 school year, 60% of all suspensions were issued for these minor infractions. In that same year, 14.58% of Rhode Island’s students with disabilities were suspended from school, compared to just 6.66% of children without disabilities.

In order to determine the extent to which Rhode Island’s children with disabilities are funneled out of the classroom and potentially into the school-to-prison pipeline, the ACLU of Rhode Island examined the data for every school suspension that occurred between the 2005-2006 and 2013-2014 school years. This data is already collected by each school district annually, and is a public record available to those who request it. Once examined, the data shows a troubling picture of the disproportionate use of suspensions against students most in need of support.¹³

THE LAW REGARDING STUDENTS WITH DISABILITIES

State and federal laws have for decades recognized the particular educational needs of, and barriers facing, children with disabilities, and have attempted to provide these students with the intervention and individualized attention needed to allow them to flourish. Under the IDEA, students with disabilities are ensured a free, appropriate public education that is cognizant of and designed to accommodate their particular needs. Each child determined to be eligible for special education services must be given an Individualized Education Plan (IEP), which addresses the particular needs of that student, setting out both goals for the student to meet and service requirements by which the school must abide to help the student achieve those goals. In many cases, this specifically includes appropriate behavioral intervention and support.

In fact, under the IDEA, schools are required to take a child's disability into account before doling out any disciplinary action. Generally, if a student's behavior is determined to be related to their disability, a child cannot be suspended or expelled from school for more than ten days in any school year. Under Rhode Island special education law, if the behavior is directly and substantially related to the child's disability, the child's IEP should be amended to update the student's behavioral intervention plan as necessary, to ensure that the school is best meeting the child's behavioral needs and is best helping the child learn to manage his or her own behavior.

Researchers often identify discrimination by determining whether a particular group is affected at a rate 10 percent higher or lower than another group. For example, since 14.71 percent of Rhode Island's student body had IEPs during the 2013-2014 school year, we could normally expect to see such students make up anywhere between 13.24 and 16.18 percent of suspensions (14.71 ± 1.471). Yet, during the 2013-2014 school year, students with IEPs comprised an astounding 31.25% of suspensions – almost twice as often (1.93 times) as would be expected.

Federal law acknowledges that some children with disabilities may need specialized supports to help them adhere to behavioral norms. Were disability not a factor in these children's suspensions, we would expect to see suspension rates similar to those of students without

disabilities. Yet, students with disabilities are suspended at rates disproportionately higher than their peers who do not have IEPs.

Instead of keeping students with disabilities inside the classroom, as federal law and best practices dictate, Rhode Island's schools are removing students with disabilities from instruction, exacerbating the barriers these students already face. As the rest of this report will show, these students are too often removed for low-risk behavioral infractions that could have been better dealt with by other means – and, according to the law, probably should have.

For the purposes of this report, the term “students with disabilities” refers to those students who have active IEPs at the time of their suspension. It is important to note that, with the discipline records currently available, we can only discern the extent to which students with active IEPs are suspended from school. In fact, even as diagnoses for learning disorders, autism and other disabilities are on the rise, the number of students with IEPs in Rhode Island's schools is decreasing. This strongly suggests that some children's disabilities are going undiagnosed and being ignored, and their needs, consequently, misunderstood. As a result, the suspension disparities against students with disabilities may be much higher than we can identify using the data available.¹⁴

GENERAL DISPARITY OF SUSPENSIONS

Over the nine school years examined for this report, students with disabilities comprised, on average, 16.11% of the student population but 32.90% of the suspensions – more than twice what is expected given their representation in the student body. In contrast, students without disabilities made up an average 83.89% of the student body but just 67.05% of the suspensions, or just .80 times what is expected. Figure 1 examines the ratio of a group's representation in the student body to their representation among all suspensions.

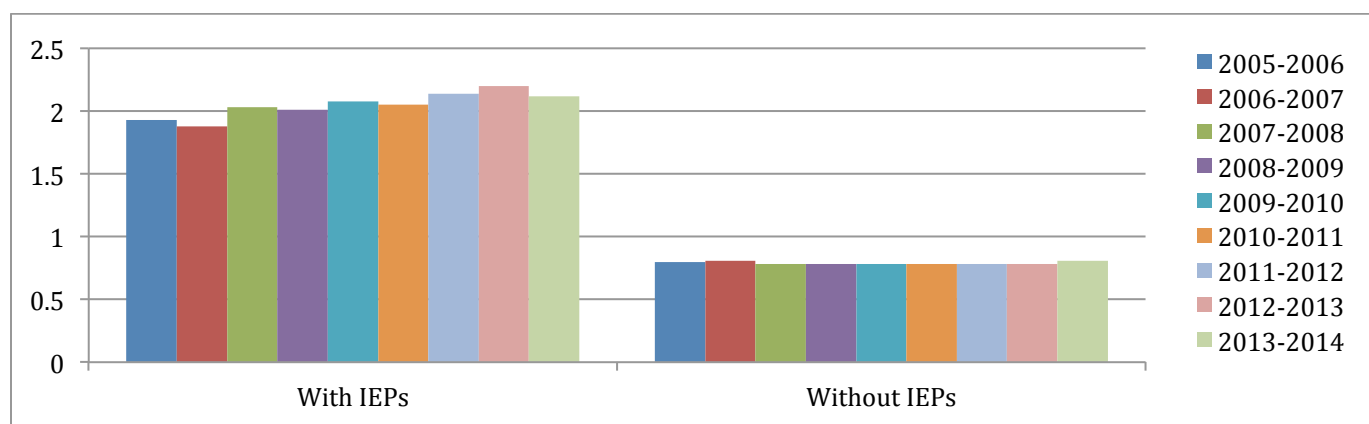


Figure 1. Ratio of Percentage of Suspensions to Percentage of Student Body

As noted previously, any ratio above 1.1 (a 10% difference) can be a sign of over-suspension, and is cause for concern. If there were a perfect relationship between a group's representation among suspensions to their representation in the student body, we would expect to see ratios fall between .90 and 1.10. When charted, the disparate suspension rates of students with and without disabilities become immediately clear.

SUBJECTIVE VS. CONCRETE OFFENSES

Despite the general limitation on suspensions for students with disabilities, IDEA permits removal of students to another program for up to 45 days if they bring a weapon to school, are involved in certain drug offenses, or cause serious bodily injury to another person. These three offenses are included among the 35 offenses for which Rhode Island's schools may discipline a child that we have classified as "concrete" offenses; these are the violations of school rules (or the law) where the behavior is generally more serious, clear-cut, and subject to little interpretation.¹⁵ Were students with disabilities being suspended for these more serious offenses and not for minor misbehavior, we would expect to see these students comprise a much larger portion of suspensions for these offenses.

Instead, students with disabilities are more likely to be suspended for low-risk behavioral offenses that are dependent at least in part on the interpretation of the people involved, or what we have classified as "subjective" offenses. Subjective offenses include the following: disorderly conduct,¹⁶ harassment (verbal or physical),¹⁷ insubordination/disrespect,¹⁸ and obscene or abusive language toward a teacher or student.¹⁹

During the 2013-2014 school year, these subjective offenses were responsible for 60% of all suspensions, a statistic that is alarming on its own regardless of any disparities. Despite national calls for limiting suspensions to the most serious offenses, Rhode Island's schools instead dole out suspensions most often for the *least* serious offenses and the ones that are not likely to be uniformly applied in the classroom setting. In fact, during the same school year, 52% of all suspensions were issued for the offenses of disorderly conduct or insubordination/disrespect alone. The incredible overuse of suspensions for these offenses is cause for alarm on its own.

The disparity in suspensions between students with and without disabilities only grows when we examine suspensions just for subjective offenses. Over the nine years studied, 35.91% of suspensions for subjective offenses were imposed upon children with disabilities, 2.23 times the rate expected given their representation in the population. Students without disabilities, on

the other hand, were suspended for subjective offenses just three-quarters of the rate expected given their representation in the population.

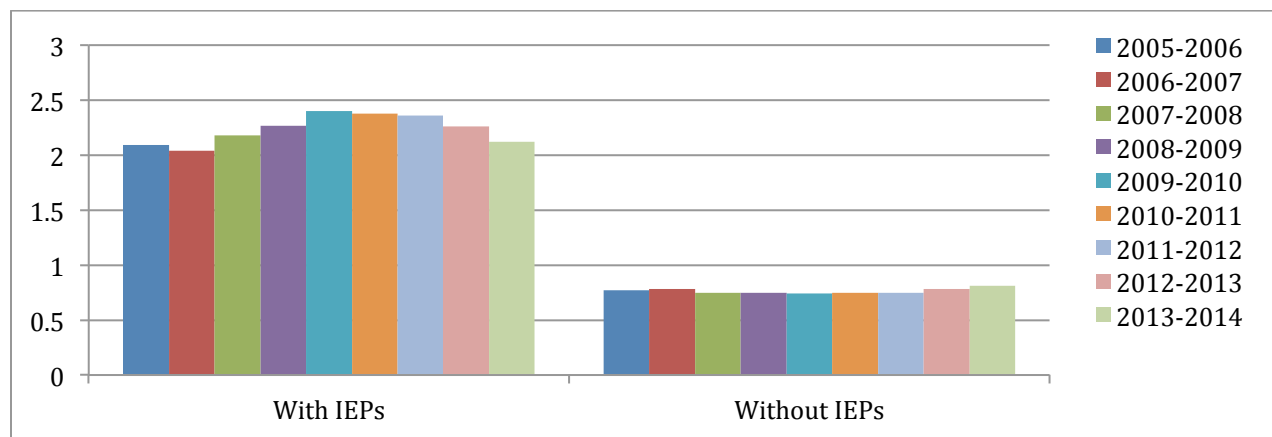


Figure 2. Ratio of Percentage of Subjective Offenses to Representation in the Student Body

These disparities lessen only somewhat when the more serious concrete offenses are taken into account. Students with disabilities still comprise 30.81% of concrete offense suspensions on average, 1.91 times what is expected. Students without disabilities, on the other hand, make up 69.14% of the suspensions, or .82 times what is expected.

In any given year, as the following chart shows, students with disabilities are more likely than students without disabilities to be suspended for subjective offenses and less likely to be suspended for concrete offenses.²⁰ All this indicates that students with disabilities are largely removed from the classroom because of relatively minor and non-violent behavioral offenses, and not because they pose a risk of harm or significant disruption to the students around them that cannot be addressed by other means.

	2005-2006		2006-2007		2007-2008	
	Concrete %	Subjective %	Concrete %	Subjective %	Concrete %	Subjective %
With IEPs	54.97%	45.03%	55.45%	44.55%	55.48%	44.52%
Without IEPs	60.18%	39.82%	60.79%	39.21%	60.29%	39.71%
All	58.41%	41.59%	59.01%	40.99%	58.58%	41.42%
	2008-2009		2009-2010		2010-2011	
With IEPs	55.51%	44.49%	54.79%	45.21%	56.09%	43.91%
Without IEPs	63.13%	36.87%	63.74%	36.26%	65.03%	34.97%
All	60.70%	39.30%	60.83%	39.17%	62.19%	37.81%
	2011-2012		2012-2013		2013-2014	
With IEPs	53.78%	46.22%	37.77%	62.23%	40.16%	59.84%
Without IEPs	60.34%	39.66%	40.27%	59.73%	39.98%	60.02%
All	58.20%	41.80%	39.45%	60.55%	40.05%	59.95%

Table 1. Percentage of Suspensions Served for Concrete or Subjective Offenses

ELEMENTARY SCHOOL VS. HIGH SCHOOL

Given the potential lifetime of consequences faced by children who are suspended, it is particularly alarming that suspensions are so cavalierly issued to Rhode Island's youngest children. During the 2013-2014 school year, 1,371 elementary school students were suspended from school; of these, 145 children were in just the first grade. These children are removed from the classroom almost before they have learned how the classroom works, and any suspension of very young children should be met with very serious concern.

Even in their earliest school years, children with disabilities are more likely to be removed from school than children without disabilities. On average, based on nine years of data, students with disabilities made up 38% of those elementary school children suspended from school, an incredible 2.58 times higher than the rate expected, given that they comprise just 14.75% of the elementary school population.

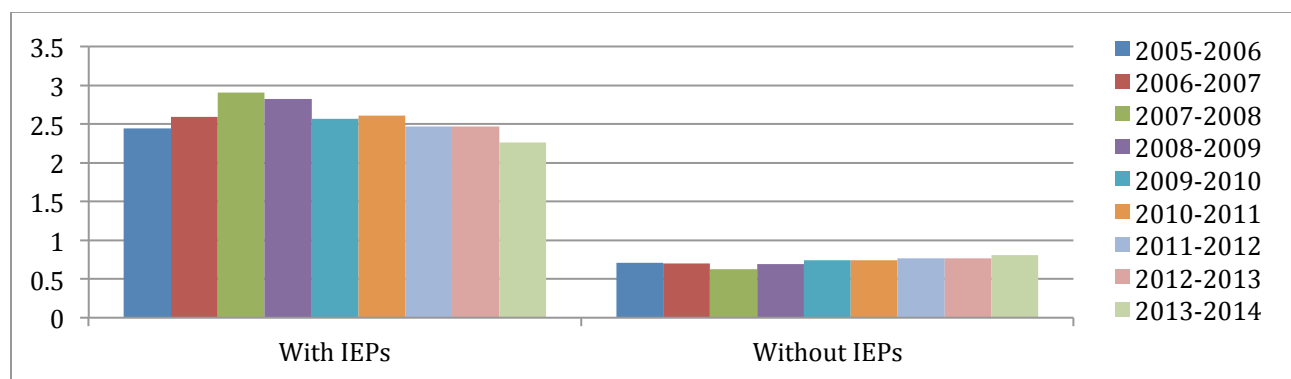


Figure 3. Ratio of K-5 Suspensions to K-5 Student Body Population

That the ratio appears to be on a slight downswing is no cause for celebration. Even in the 2013-2014 school year – the year with the lowest suspension rate of elementary school children with disabilities – they were still suspended 2.26 times more often than expected.

Examining just the subjective offense suspensions of children in kindergarten through the fifth grade paints the grimmest picture yet. For these young children with disabilities – many of whom have only just begun receiving educational services and supports – the normal, immature outbursts young children have often land them with a suspension, labeling them as difficult or

troublemakers in their earliest years. On average over nine years, elementary school children with disabilities were suspended from school 2.69 times more often than expected, comprising an average 39.71% of suspensions while making up just 14.75% of the student body. Students without disabilities, in contrast, made up 85.14% of the population but only 59.19% of the suspensions, or 0.70 times what would be expected.

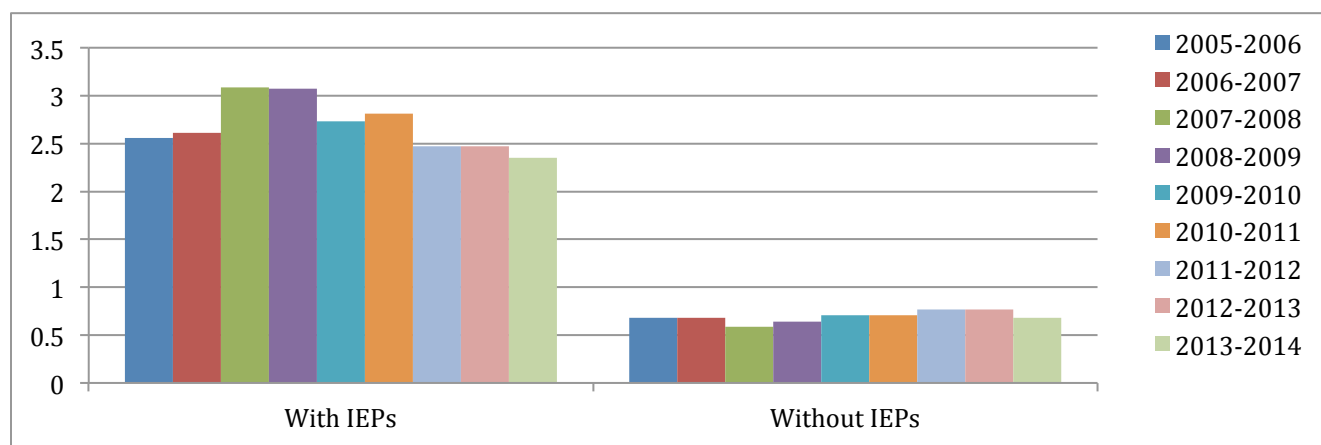


Figure 4. Ratio of K-5 Subjective Suspensions to Student Body Representation

Again, the disparities decrease slightly when discussing children suspended for concrete offenses, but only slightly. Children with disabilities were suspended for concrete offenses, on average, 2.49 times what is expected, compared to 0.74 times for students without disabilities.

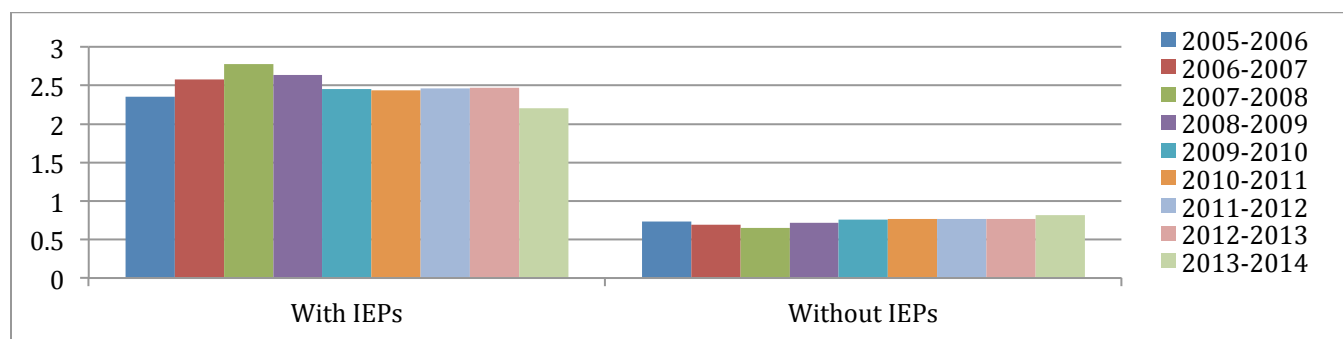


Figure 5. Ratio of K-5 Concrete Suspensions to Student Body Representation

The major concrete offenses for which elementary school students were suspended during the 2013-2014 school year were assault of a student, and fighting. Combined, these two offenses accounted for 62.52% of the concrete offense suspensions that year. While in some circumstances the children involved may have posed a risk to each other that could not be

otherwise dealt with, one must question the overreliance of such a serious punishment on such young children for conduct that – although it may deserve some type of sanction – may often constitute the type of roughhousing that young children engage in. Further, many of the schoolyard fights that children become embroiled in may be the end result of tensions that have been simmering for quite some time. During the 2013-2014 school year, 266 suspensions for assault and fighting were issued to students *between kindergarten and the second grade*, and, astonishingly, there were nearly the same number of assault and fighting suspensions in elementary school as there were in high school. Students with disabilities are particularly affected; 21.06% of suspensions for assault or fighting issued to children in kindergarten through the second grade were issued to a student with disabilities.

The disparities lessen by the time students with disabilities reach high school, but only slightly. High school students with disabilities were suspended, on average, 1.80 times the rate expected. They comprise 17.16% of the student body, but 30.89% of the suspensions.

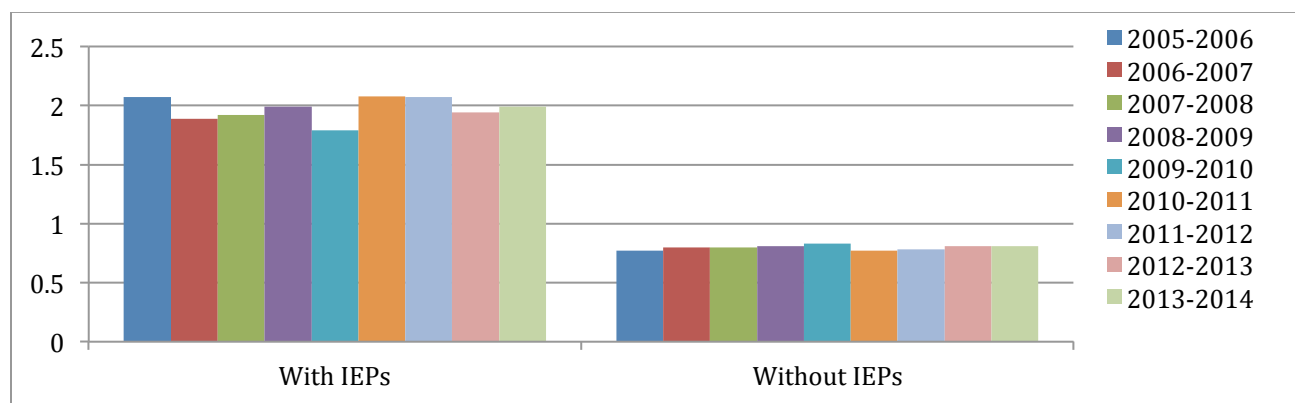


Figure 6. Ratio of High School Suspensions to Representation in Student Body

Yet again, the disparity increases when examining subjective offense suspensions in high school. On average over the nine years reviewed, high school students with disabilities made up 17.16% of the student body but 33.83% of the suspensions, a rate 1.97 times higher than expected. Students without disabilities, on the other hand, made up 82.84% of the student body but 66.12% of suspensions, a disparity of 0.80.

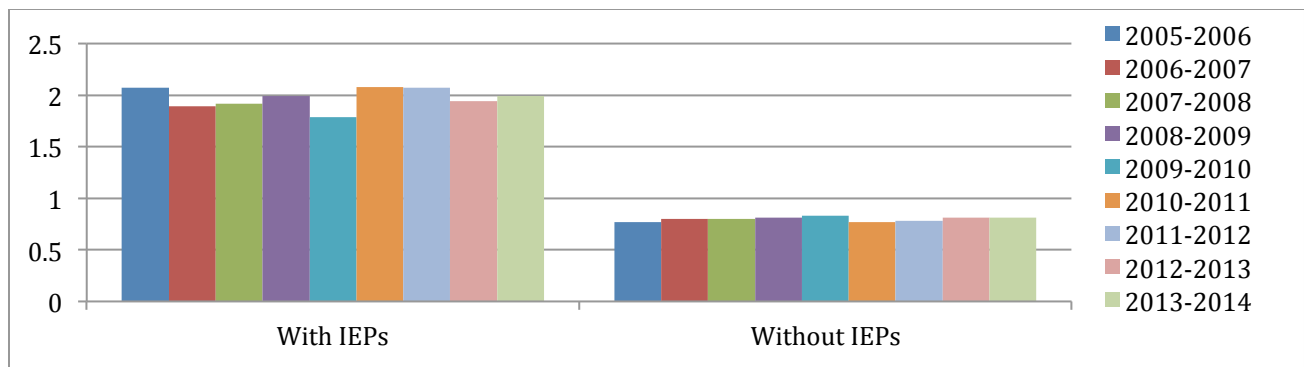


Figure 7. Ratio of High School Subjective Suspensions to Student Body

THE PICTURE IN EACH DISTRICT

The over-suspension of youth with disabilities occurs across school districts and charter schools, regardless of the percentage of the student body possessing an IEP, or whether the district is urban, suburban, or rural.²¹ Distressingly, disparities appear to have risen since 2005, even as consensus has grown that suspensions carry a lifetime of avoidable consequences. At the same time, while reported cases of autism and other learning disorders are on the rise,²² Rhode Island's schools are actually identifying fewer students as in need of IEPs.

During the 2013-2014 school year, every single school district in Rhode Island over-suspended students with disabilities. With only two exceptions, charter schools also over-suspended students with disabilities. Further, twenty-eight school districts and six charter schools suspended students *without* disabilities at lower-than-expected rates.²³ Only the MET School reported suspending students with disabilities within a normal range, while Trinity Academy for the Performing Arts suspended no students with disabilities.

For this most recent year, charter schools such as the Segue Institute and Urban Collaborative possessed some of the highest disparity rates. However, many public school districts produced just as troubling results. Students with disabilities made up more than 40% of suspensions in Central Falls, Cumberland, Johnston, Narragansett, North Kingstown, Portsmouth, and West Warwick. Even the school districts with the lowest disparity rates, including Barrington and Woonsocket, still suspended children with disabilities 1.41 times higher than expected, which is nothing to celebrate.

2013-2014						
School District or Charter School	% of Student Body with IEPs	% of Suspended Students with IEPs	Ratio of Suspensions to Population	% of Student Body Without IEPs	% of Suspended Students Without IEPs	Ratio of Suspensions to Population
Achievement First	7.72%	16.67%	2.31	92.78%	83.33%	0.90
Barrington	11.08%	15.63%	1.41	88.92%	84.38%	0.95
Beacon Charter	16.30%	23.08%	1.42	83.70%	76.92%	0.92
Blackstone Academy	16.67%	66.67%	4.00	83.33%	33.33%	<i>0.40</i>
Blackstone Valley Prep	9.83%	11.76%	1.20	90.17%	88.24%	0.98
Bristol Warren	11.23%	23.63%	2.10	88.77%	76.37%	<i>0.86</i>
Burrillville	14.19%	30.53%	2.15	85.81%	69.47%	<i>0.81</i>
Central Falls	19.66%	51.95%	2.64	80.34%	48.05%	<i>0.60</i>
Chariho	10.87%	22.46%	2.07	89.13%	77.54%	<i>0.87</i>
Coventry	12.38%	32.41%	2.62	87.62%	67.59%	<i>0.77</i>
Cranston	12.64%	23.68%	1.87	87.36%	76.32%	<i>0.87</i>
Cumberland	15.37%	42.49%	2.76	84.63%	57.51%	<i>0.68</i>
East Greenwich	10.31%	34.48%	3.35	89.69%	65.52%	<i>0.73</i>
East Providence	15.76%	26.11%	1.66	84.24%	73.89%	<i>0.88</i>
Exeter-West Greenwich	11.99%	35.00%	2.92	88.01%	65.00%	<i>0.74</i>
Foster-Glocester	8.59%	18.03%	2.10	91.41%	81.97%	0.90
Highlander Charter	11.47%	38.46%	3.35	88.53%	61.54%	<i>0.70</i>
Johnston	21.57%	46.15%	2.14	78.43%	53.85%	<i>0.69</i>
Learning Community	13.80%	32.61%	2.36	86.20%	67.39%	<i>0.78</i>
Lincoln	13.62%	29.25%	2.15	86.38%	70.75%	<i>0.82</i>
MET School	15.75%	14.29%	0.91	84.25%	85.71%	1.02
Middletown	15.70%	35.14%	2.24	84.30%	64.86%	<i>0.77</i>
Narragansett	17.86%	42.42%	2.38	82.14%	57.58%	<i>0.70</i>
Newport	17.33%	28.95%	1.67	82.67%	71.05%	<i>0.86</i>
North Kingstown	10.68%	48.94%	4.58	89.32%	51.06%	<i>0.57</i>
North Providence	16.70%	27.27%	1.63	83.30%	72.73%	<i>0.87</i>
North Smithfield	14.10%	25.00%	1.77	85.90%	75.00%	<i>0.87</i>
Paul Cuffee Charter	19.12%	25.00%	1.31	80.88%	75.00%	0.93
Pawtucket	13.73%	23.54%	1.71	86.27%	76.46%	<i>0.89</i>
Portsmouth	14.54%	46.15%	3.17	85.46%	53.85%	<i>0.63</i>
Providence	15.62%	24.71%	1.58	84.38%	75.29%	<i>0.89</i>
RI Nurses Institute	6.02%	33.33%	5.54	93.98%	66.67%	<i>0.71</i>
Segue Institute	16.09%	100.00%	6.22	83.91%	0.00%	<i>0.00</i>
Scituate	10.04%	28.57%	2.85	89.96%	71.43%	<i>0.79</i>
Smithfield	9.61%	37.88%	3.94	90.39%	62.12%	<i>0.69</i>
South Kingstown	11.79%	33.80%	2.87	88.21%	66.20%	<i>0.75</i>
The Greene School	14.81%	40.00%	2.70	85.19%	60.00%	<i>0.70</i>
Tiverton	17.52%	32.18%	1.84	82.48%	67.82%	<i>0.82</i>
Trinity Academy	6.87%	0.00%	<i>0.00</i>	93.13%	100.00%	1.07
Urban Collaborative	3.65%	26.47%	7.25	96.35%	73.53%	<i>0.76</i>
Warwick	17.92%	37.27%	2.08	82.08%	62.73%	<i>0.76</i>
West Warwick	16.55%	41.10%	2.48	83.45%	58.90%	<i>0.71</i>
Westerly	15.38%	30.19%	1.96	84.62%	69.81%	<i>0.83</i>
Woonsocket	20.06%	28.23%	1.41	79.94%	71.77%	0.90
Ratio of <.90 = <i>Under-suspension</i>						
Ratio between .90 and 1.10 = Normal Range						
Ratio > 1.10 = Over-suspension						

Table 2. District-Specific Suspension Rates, 2013-2014

Altogether during the 2013-2014 school year, twenty districts and eight charter schools suspended students with disabilities at rates more than twice as often as expected. The North Kingstown school district, Blackstone Academy, the Rhode Island Nurses Institute and the Segue Institute topped the disparity list, suspending students with disabilities at rates four or more times higher than expected.

The suspension rates faced by students during the 2013-2014 school year are by no means the results of one anomalous year. During the 2012-2013 school year, eighteen districts and three charter schools suspended students with disabilities more than twice as often as expected. The previous year, eighteen districts and three charter schools met that grim benchmark.

Throughout nine years of data, the number of districts and charter schools over-suspending students with disabilities appears only to have been on the rise. For example, while virtually every district and charter school over-suspended youth with disabilities during the 2005-2006 school year, most managed to stay below suspension rates double or more what is expected. That year only ten districts and two charter schools suspended students at rates twice, or more than twice, as high as expected, and only the Paul Cuffee Charter School broke the four-fold mark.

Of course, even those earlier lower numbers from the 2005-2006 school year should raise serious concern. In fact, the suspension rates of that school year came after significant changes were made to the IDEA in 2004. It is difficult to know how those changes immediately affected the identification of students with disabilities or the services given to them. As schools and school districts were navigating new changes in the law, it is possible that these earlier numbers do not accurately reflect either the numbers of children with disabilities, or the numbers of children with disabilities who were subsequently suspended.

2005-2006						
School District or Charter School	% of Student Body with IEPs	% of Suspended Students with IEPs	Ratio of Suspensions to Population	% of Student Body Without IEPs	% of Suspended Students Without IEPs	Ratio of Suspensions to Population
Barrington	15.24%	50.00%	3.28	84.76%	50.00%	0.59
Beacon Charter	18.26%	22.22%	1.22	81.74%	77.78%	0.95
Blackstone Academy	8.23%	8.70%	1.06	91.77%	91.30%	0.99
Bristol Warren	14.54%	17.37%	1.20	85.46%	82.63%	0.97
Burrillville	20.55%	35.92%	1.75	79.45%	64.08%	0.81
Central Falls	23.65%	38.43%	1.63	76.35%	61.57%	0.81
Chariho	14.08%	28.44%	2.02	85.92%	71.56%	0.83
Coventry	12.47%	35.23%	2.83	87.53%	64.77%	0.74
Cranston	18.09%	29.68%	1.64	81.91%	70.32%	0.86
Cumberland	20.51%	0.00%	0.00	79.49%	100.00%	1.26
Davies Career & Tech	14.38%	24.85%	1.73	85.62%	75.15%	0.88
East Greenwich	14.04%	27.08%	1.93	85.96%	72.92%	0.85
East Providence	21.67%	39.60%	1.83	78.33%	60.40%	0.77
Exeter-West Greenwich	16.95%	45.30%	2.67	83.05%	54.70%	0.66
Foster-Glocester	4.07%	0.00%	0.00	95.93%	100.00%	1.04
Highlander Charter	15.38%	27.78%	1.81	84.62%	72.22%	0.85
International Charter	10.11%	23.81%	2.36	89.89%	76.19%	0.85
Jamestown	17.82%	53.33%	2.99	82.18%	46.67%	0.57
Johnston	24.16%	31.79%	1.32	75.84%	68.21%	0.90
Lincoln	15.98%	30.00%	1.88	84.02%	70.00%	0.83
MET Career & Tech	10.85%	21.05%	1.94	89.15%	78.95%	0.89
Middletown	20.89%	39.78%	1.90	79.11%	60.22%	0.76
Narragansett	16.61%	31.82%	1.92	83.39%	68.18%	0.82
Newport	23.56%	34.02%	1.44	76.44%	65.98%	0.86
North Kingstown	15.60%	34.76%	2.23	84.40%	65.24%	0.77
North Providence	17.93%	26.19%	1.46	82.07%	73.81%	0.90
North Smithfield	17.67%	57.14%	3.23	82.33%	42.86%	0.52
Paul Cuffee Charter	9.07%	41.94%	4.62	90.93%	58.06%	0.64
Pawtucket	16.60%	24.78%	1.49	83.40%	75.22%	0.90
Portsmouth	17.17%	29.41%	1.71	82.83%	70.59%	0.85
Providence	18.34%	27.73%	1.51	81.66%	72.27%	0.89
Scituate	13.74%	20.00%	1.46	86.26%	80.00%	0.93
Smithfield	11.98%	23.97%	2.00	88.02%	76.03%	0.86
South Kingstown	18.61%	46.40%	2.49	81.39%	53.60%	0.66
Tiverton	17.68%	6.77%	0.38	82.32%	93.23%	1.13
Urban Collaborative	8.15%	14.00%	1.72	91.85%	86.00%	0.94
Warwick	18.32%	26.64%	1.45	81.68%	73.36%	0.90
West Warwick	21.54%	39.26%	1.82	78.46%	60.74%	0.77
Westerly	16.55%	34.30%	2.07	83.45%	65.70%	0.79
Woonsocket	24.46%	39.10%	1.60	75.54%	60.90%	0.81
Ratio of <.90 = <i>Under-suspension</i>						
Ratio between .90 and 1.10 = Normal Range						
Ratio > 1.10 = Over-suspension						

Table 3. District-Specific Suspension Rates, 2005-2006

Altogether, the evidence indicates that Rhode Island's school districts have fallen into a pattern of suspending, rather than supporting, children with disabilities. Action is clearly needed in order to keep students with disabilities in school where they need to be.

THE COMPLETE PICTURE

From the 2005-2006 to the 2013-2014 school year, 30,248 students with disabilities lost a combined 136,332 school days to suspensions. Altogether, 14.45% of students with disabilities were suspended from school at least once during this time, with an unacceptable portion of these suspensions served for low-risk behavioral infractions that could have been addressed by other means. In contrast, just 6.65% of students without disabilities were suspended.

Despite state and federal laws set up to keep students with disabilities in the classroom, they are frequently removed and sent home for minor behavioral infractions that may be addressed by other means – including by the plans and tactics that should be laid out in each child’s IEP or 504 plan.

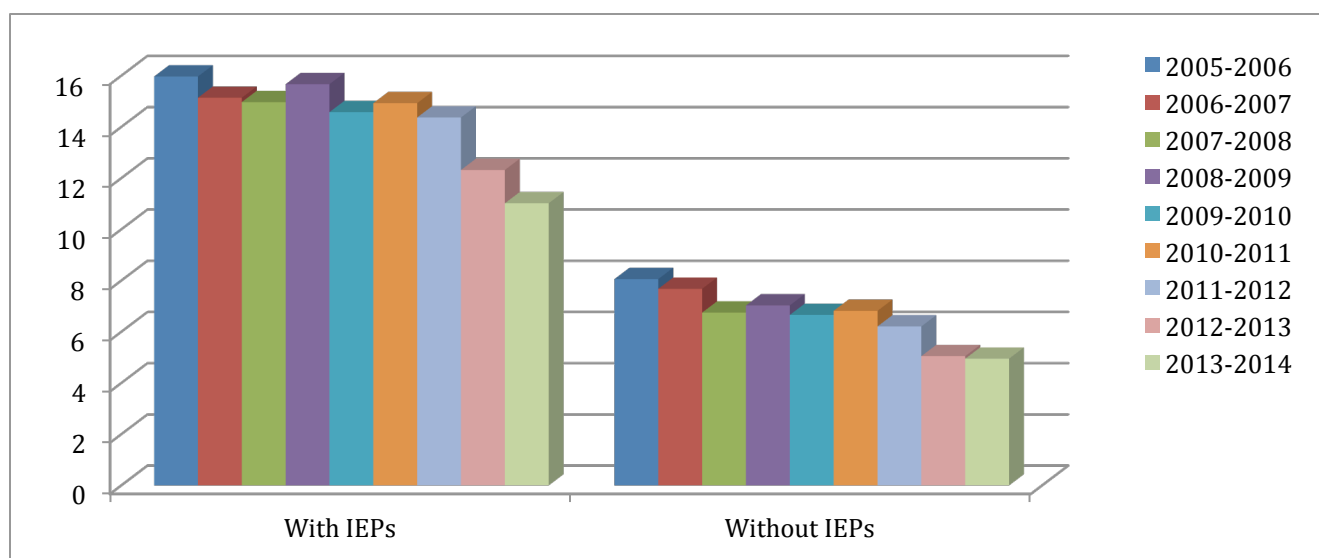


Figure 8. Percentage of Student Body Suspended by School Year

Children with disabilities are more likely to be suspended, and are more likely than children without disabilities to serve their suspensions for low-risk, subjective offenses rather than the more serious concrete offenses. The end result is that students who are known to their schools and teachers to need increased intervention and support are in fact removed from the classroom and sent home, where they can fall farther behind than their peers who do not need this intervention – and who are not promised intervention and protection by law.

CONCLUSION AND RECOMMENDATIONS

No student should be removed from school for behavior that does not endanger the safety of others around them or pose an unmanageable disruption to the classroom, and yet Rhode Island's schools increasingly remove students for exactly those low-risk, manageable behaviors. The figures suggest that, while students with disabilities are supposed to be given myriad services, they are being removed from school not because of their behavior, but because of the failure of schools to meet their needs. Worse, they are being disproportionately suspended for relatively minor, and often subjective, infractions.

The use of suspensions provides little to no positive changes in behavior. For students with disabilities and others already facing barriers, the imposition of suspensions is particularly damaging. Children with disabilities are already at higher risk of dropping out of school, and make up a disproportionately large proportion of children involved in the juvenile justice system.²⁴ That Rhode Island's schools contribute to or exacerbate these issues by suspending exactly those children who are supposed to be receiving enhanced behavioral supports and understanding is nothing short of disturbing.

In short, Rhode Island has a suspension problem, and it has the greatest impact on those students most in need of support. Rhode Island's children do not have to face these burdens. States and school districts nationwide are beginning to restrict the use of suspensions; Rhode Island should not lag behind.

In examining the significant racial disparities in suspensions in Rhode Island, the ACLU offered a series of recommendations to address the issue. They have just as much force in considering how to mitigate the differential treatment that students with disabilities face in being suspended.

In particular, the ACLU recommends the following actions be taken to address these significant suspension disparity problems:

- The General Assembly should enact legislation clarifying that out-of-school suspensions are not to be issued except in circumstances where the student poses a demonstrable risk of physical injury or serious disruption to others and cannot be dealt with by other means.
- The Rhode Island Department of Education should examine annually the suspension data reported to them by the schools, identify those districts with high suspension rates for students with disabilities, and work with the districts to determine mitigating solutions. Such information should be posted annually on the Department's website.
- School districts should examine their suspension rates annually to determine if any discipline disparities exist, consult with educators to develop a plan to reduce these disparities, and share this data and the resulting recommendations with parents and the public.
- School districts should make their policies and procedures regarding discipline of students easily accessible, ensuring that punishments are clearly and evenly established for various offenses and that suspensions are not presented as a discipline option for incidents involving minor behavioral misconduct.
- School districts should, in collaboration with the school community, investigate alternative evidence-based disciplinary methods.
- Parents should be aware that they have the right to appeal suspensions they believe are doled out unfairly, and should contact community organizations like the ACLU if they believe their child has received a suspension when other responses may have been appropriate.

For nine years, Rhode Island's students with disabilities have too often been punished instead of supported. By addressing suspension rates in a positive and permanent manner, we may be able to keep more children in school and out of the juvenile justice system, allowing them the opportunities we tell them they always have.²⁵

ENDNOTES

¹ During the 2013-2014 school year, black students in Rhode Island were suspended 2.18 times more often than would be expected given their representation in the population. This represented the second highest suspension rate disparity faced by black students over ten years of data. Hispanic and Native American students experienced their highest disparity on record, at 1.59 and 2.67 times higher than expected, respectively. Black elementary school students were suspended at a rate nearly three times what was expected given their representation in the population, while white elementary school students were suspended just half as often as expected. For more information, see “Blacklisted: Racial Bias in School Suspensions in Rhode Island,” “Blacklisted: An Update,” and “Blacklisted 2013-2014” at <http://riaclu.org/know-your-rights/reports>.

² Rich, Motoko. 2012. “Suspensions Are Higher for Disabled Students, Federal Data Indicate.” *The New York Times*. August 7, 2012. Accessed February 11, 2015. http://www.nytimes.com/2012/08/08/education/analysis-examines-disabled-students-suspensions.html?_r=3&smid=tw-share&

³ American Academy of Pediatrics. “Policy Statement: Out-of-School Suspension and Expulsion.” *Pediatrics*: Volume 131. March 2013.

⁴ Fabelo, Tony, Michael D. Thompson, Martha Plotkin, et. al. *Breaking Schools’ Rules: A Statewide Study of How School Discipline Relates to Students’ Success and Juvenile Justice Involvement*. Justice Center: The Council of State Governments and Public Policy Research Institute. July 2011.

⁵ American Academy of Pediatrics.

⁶ American Psychological Association Zero Tolerance Task Force. “Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations.” *American Psychologist*: December 2008. Accessed May 8, 2015. <https://www.apa.org/pubs/info/reports/zero-tolerance.pdf>

⁷ Klein, Rebecca. “To Increase Test Scores, Schools Should Stop Suspending Students, Says Study.” *Huffington Post*. January 14, 2015. Accessed May 8, 2015. http://www.huffingtonpost.com/2015/01/14/suspension-impact-students_n_6466520.html

⁸ American Academy of Pediatrics. “Out-of-School Suspension and Expulsion: Committee on School Health.” *Pediatrics*: Volume 112, Number 5. November 2004.

⁹ Cregor, Matt and Damon Hewitt. “Dismantling the School-to-Prison Pipeline: A Survey From the Field.” *Poverty and Race*: Volume 20. January/February 2011.

¹⁰ U.S. Department of Education. “ED-DOJ School Discipline Guidance Package.” January 8, 2014. Accessed May 8, 2015. <http://www2.ed.gov/policy/gen/guid/school-discipline/index.html>

¹¹ National Education Association. “Let’s Stop the School-to-Prison Pipeline.” August 2013. Accessed May 28, 2015. <http://www.nea.org/home/60137.htm>

¹² Rhode Island KIDS COUNT. 2014. “Children With Special Needs.” *Rhode Island KIDS COUNT Factbook*.

¹³ Our previous reports examining school suspension use also covered the 2004-2005 school year. The file containing this data was subsequently corrupted, and is therefore not included in this analysis.

¹⁴ There are also discrepancies in the data as to exactly how many students with disabilities there are in Rhode Island. For instance, the Rhode Island KIDS COUNT Factbook notes that 23,985, or 17%, of Rhode Island's public school students during the 2012-2013 school year received special education services. The enrollment data available through the Rhode Island Department of Education website indicates that 22,566, or 15.78% of students, had IEPs. This may be because of flaws in the data available online, or because we have excluded from analysis some charter schools and preschool-aged children. For consistency, we use the numbers contained in our data, but recognize there may be more children at-risk of over-suspension than we note.

¹⁵ Concrete offenses include: Alcohol, Arson, Assault of Student, Assault of Teacher, Bomb threat, Breaking and Entering, Communication/Electronic Devices, Controlled Substances – Sale, Controlled Substances – Possession, Controlled Substances – Possession with Intent, Extortion, Fighting, Fire Regulations Violation, Forgery, Gambling, Gang Activity, Harassment – Stalking, Harassment – Sexual, Hate Crimes, Hazing, Kidnapping/Abduction, Larceny, Other, Technology – Unauthorized Use, Threat/Intimidation, Tobacco – Possession or Use, Trespassing, Vandalism, and Weapon Possession. Concrete offenses also include several attendance-related offenses – cutting class, cutting detention, leaving school grounds, tardiness, and truancy – but Rhode Island state law now prohibits suspensions for these offenses.

¹⁶ Disorderly conduct is defined as “Any act which substantially disrupts the orderly conduct of a school function, behavior which substantially disrupts the orderly learning environment or poses a threat to the health, safety and/or welfare of students, staff or others.”

¹⁷ Harassment – Verbal/Physical is defined as “Verbal or physical conduct relating to an individual's membership in a class (including, but not limited to, perceived race, religion, color, sexual orientation, ethnicity, ancestry, national origin, political beliefs, marital status, age, social and family background, linguistic preference, or disability) that creates an intimidating, hostile, or offensive working or learning environment.”

¹⁸ Insubordination/Disrespect is defined as “Refusing a directive of a teacher, administrator, or other staff member.”

¹⁹ Obscene/Abusive Language is defined as “To direct pornographic images, gestures, or obscene language.”

²⁰ Beginning in the 2012-2013 school year, all students became more likely to be suspended from school for subjective rather than concrete offenses. This is in large part because state law newly prohibited suspending students for attendance issues. In the 2011-2012 school year these offenses accounted for 4,729 suspensions, the majority of which affected children without disabilities.

²¹ For the purposes of this report, the term “charter schools” refers to charter schools, mayoral academies, specialized schools, or schools created by General Assembly decree. These schools operate independently from the rest of the district, and report their discipline data individually to the Rhode Island Department of Education.

²² Cornish, Audie. "What's Behind the Stark Rise in Children's Disabilities." *All Things Considered*. August 19, 2014. Accessed May 12, 2015. <http://www.npr.org/2014/08/19/341674577/whats-behind-the-stark-rise-in-childrens-disabilities>

²³ School districts that reported no suspension data have been excluded. Charter schools shown in each chart are those that were open during that school year, and reported at least one child with disabilities and one suspension.

²⁴ PACER Center. "Students with Disabilities & the Juvenile Justice System: What Parents Need to Know." 2005. Accessed June 1, 2015. <http://www.pacer.org/jj/pdf/jj-8.pdf>

²⁵ This report was prepared by ACLU of Rhode Island policy associate Hillary Davis. Additional data used in this report can be found online at the ACLU of RI's website: www.riaclu.org.



This report was prepared by the American Civil Liberties Union of Rhode Island. The ACLU of Rhode Island is a private, non-profit organization dedicated to preserving and protecting the civil liberties guarantees found in the Bill of Rights.
