

A PEATC

Do You Know....



Factsheet for Virginia's Parents Students with Disabilities and the Justice System

Students with Disabilities and the Justice System: The Data

Research shows that **youth with disabilities are at greater risk of being involved with the juvenile justice system**. Studies show that students in special education and those with emotional, behavioral, or learning disabilities find themselves arrested and jailed at a much higher rate than their peers without disabilities.

Virginia Department of Juvenile Justice (DJJ) 2019 data show that the majority of their direct care admissions (youth who are in the DJJ facilities vs. being served in a community alternative) have a mental health or treatment need. **DJJ found that 94.9 percent appeared to have significant symptoms of attention deficit hyperactivity disorder, conduct disorder, oppositional defiant disorder, or substance use disorder. 66.9 percent appeared to have significant symptoms of other mental health disorders.**

The National Evaluation and Technical Assistance Center (NDTAC) for the Education of Children and Youth who are Neglected, Delinquent, or At-Risk, found that in 2012, **more than three times as many youth in custody were eligible for special education as youth in public schools**. Yet these students are **less likely to receive the special education and related services to which they are entitled** while in custody, and their parents may not have the information or support needed to pursue services. Youth who are properly identified as having a disability and who receive appropriate educational services and supports may have **improved long-term outcomes**.

The **Center for Public Integrity (CPI)** analyzed discipline and enrollment data from the 2011-2012 school year as reported to the U.S. Department of Education Civil Rights division. In Virginia, as in other states, there were significant disparities in justice referrals for students with disabilities. **These students constituted 33.4 percent of law enforcement referrals, but only 14.3 percent of the student population.** (A referral does not mean the student was charged or convicted.)

Many factors play a role in students with disabilities becoming involved in the justice system. These include but are not limited to:

Resources on Students with Disabilities and the Justice System

Virginia Department of Juvenile Justice

Data Resource Guide, Fiscal Year 2019

<https://rga.lis.virginia.gov/Publishes/ed/2019/RD728/PDF>.

PACER Center

Students with Disabilities and the Justice System

<https://www.pacer.org/jj/pdf/jj-8.pdf>

National Evaluation and Technical Assistance Center

Youth with Special Education Needs in the Justice System

<https://bit.ly/38venax>

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Factsheet for Virginia's Parents

- **Inadequate training** on student behavior in schools (in regular and special education).
- inadequate **school-wide positive behavior interventions** and supports.
- Students being **bullied by their peers** and schools not intervening.
- Poor **academic performance, communication, and social skills**.
- A lack of **community-based service** options for prevention and intervention.
- A **Zero-tolerance** discipline policies in some schools.

The following information is excerpted in part from the PACER Center Report.

How Can Parents Help Prevent Justice Involvement?

- If you are concerned about your child's behaviors and there are repeated issues, **request an evaluation for special education eligibility**. If you disagree with the evaluation, you can ask for an **Independent Education Evaluation**. (See PEATC *Fact Sheets on Eligibility, Evaluations, and IEEs*)
- Ask if your child is **experiencing bullying, harassment, or exclusion** that might be impacting his behavior.
- If your child has an **Individualized Education Program (IEP) or 504 Plan**, examine it and make sure it includes the services and supports he needs. **Ask for an IEP or 504 meeting** if you think a change in services, supports, and/or placement are needed.
- Request a **functional behavior assessment (FBA) and a behavior intervention plan (BIP)**. (See PEATC *Fact Sheets on FBAs and BIPs*).
- Write into the IEP that your **child may not be interviewed** by the police or the school resource officer without a parent present.
- If your child is in high school, **request job placement or new educational opportunities** in which your child may find success and resolve behaviors.

What to Ask if you are Concerned that the Police may be Called

- Does your child know when she is becoming **anxious, afraid, or angry**?
- Does your child's IEP include **permission to go to an agreed-upon place to calm down or have some quiet time** if he/she is feeling upset? Is your child **allowed to call you** if she feels afraid of losing control of his/her emotions?
- Do your child's teachers **know the signs** that your child's behaviors are leading to a loss of control?
- Does your child's IEP include **instructions on how to de-escalate** behaviors so that your child does not lose control or have a behavioral crisis?
- Is the **school resource officer** aware that your child has a disability?
- Will the school **call you immediately** if the police are called to school because of your child's behavior?



CLASSROOMS

NOT

JAIL



School divisions have different policies related to discipline. **It is important to understand your division's policies regarding the Student Code of Conduct and law enforcement referrals.**

Some school divisions have stricter policies than others regarding referring certain infractions to law enforcement. **Some may have a "zero" tolerance policy.**

If your child has an IEP or 504 Plan, be sure **you understand their/your rights**. Do not remove your child from school without meeting with your child's team or you could be charged with truancy.

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Question to Ask if Your Child is Charged with a Crime that Happened at School *(questions excerpted from the PACER Center report)*

It is important to gather as much information as possible, as soon as possible, if the police become involved with a behavior incident at school.

- What were the circumstances of the offense?
- What triggered the behavior?
- What are the charges? (i.e. disorderly conduct, assault)
- Has this happened before? Has your child faced similar disciplinary actions in the past at school or in court?
- For a student with an IEP or 504 Plan, was there a behavior or crisis intervention plan and was it followed?
- Was your child questioned alone by police? Did he sign anything?

It is critical to work with your school to address behavior issues before a crisis occurs. **Students with disabilities have certain protections** when their conduct is directly related to their disability. The Individuals with Disabilities Education Act (IDEA) requires that if a student on an IEP is **suspended for more than 10 consecutive days or more than 10 cumulative days** within the school year for the same or substantially similar behavior, the school must hold a **manifestation determination review (MDR)** to determine if the behavior was a manifestation of the disability. If your child has a **504 Plan**, an MDR has to take place if the disciplinary action constitutes a significant change in placement.

You have the right to participate in your child's MDR and to bring an advocate or lawyer. Among other things, the MDR team will look at the IEP/504 Plan to see if any part of it was not implemented which could have led to the behavior or, whether the Plan in its current form is inadequate to address the behavior. For more detail, see PEATC *Manifestation Determination Review Fact Sheet*.

Center for Public Integrity Findings

U.S. Department of Education data analyzed by the *Center for Public Integrity* show that Virginia schools in a single year referred students to law enforcement agencies at a rate nearly three times the national rate. Virginia's referral rate: about 16 for every 1,000 students, compared to a national rate of six referrals for every 1,000 students. Some of the individual schools with highest rates of referral — in one case 228 per 1,000 — were middle schools, whose students are usually from 11 to 14 years old.

<https://publicintegrity.org/education/virginia-tops-nation-in-sending-students-to-cops-courts-where-does-your-state-rank/>



PEATC's mission focuses on building positive futures for Virginia's children by working collaboratively with families, schools and communities to improve opportunities for excellence in education and success in school and community life.

For more information about us, please contact:

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