



Don't go to extremes; React appropriately to dangerous students

While they may carry it around to protect themselves outside of school, teachers have no business using pepper spray to protect themselves from dangerous students with disabilities, said Julie Reznik, an attorney at Shipman & Goodwin LLP in Hartford, Conn. "I couldn't imagine a situation where that would be used with a student. It could open a district up to liability. But there are some things a district can do to ensure extreme responses are a last resort."

Districts should help educators and other staff members clarify what they can do when faced with dangerous students to avoid inappropriately excluding them from learning or worse, harming them. Both the Office of Special Education and Rehabilitative Services and the Office for Civil Rights have stated that if a student's behaviors, including disability-related behaviors, pose an immediate threat to their own or others' safety, the district may take appropriate action. This includes imposing a temporary emergency removal. *See Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions, [81 IDELR 138](#) (OSERS 2022).* Use the following ideas when faced with a dangerous student with a disability.

Review FBA, BIP

Check when the student last had a [functional behavioral assessment](#), if ever, and whether a [behavioral intervention plan](#) needs to be developed or revised, Reznik said. "Collecting data and making adjustments based on that data is essential in these situations," she said. "Convene an [IEP] meeting to review and revise the IEP as needed."

Educators and other staff members may require professional development in de-escalation strategies and positive behavioral interventions and supports to ensure the student and everyone else stays safe, Reznik said.

Gauge need for supervision

The student may benefit from receiving more supervision, such as a [one-to-one aide](#), Reznik said. The paraprofessional's level of training on behavioral intervention may depend on the student's level of need. For example, a paraprofessional may have more extensive training to work with a student in a specialized autism program than a student in an inclusive classroom.

Assess safety equipment, placement needs

Depending on the level of the student's needs, you may equip educators and other staff members interacting with him with personal protective equipment, such as arm guards, Reznik said. The IEP team may also decide to change the student's [placement](#) to a more restrictive setting out of concern for everyone's safety. Educators and other staff members in a more restrictive setting may have more extensive PPE. "It's important, as we're talking about using PPE, that we think about placement, too," she said. "If a student's behavior is that significant and they're not responding to interventions, then the [IEP team] may need to decide if the student requires a level of support that can be met in a more restrictive setting."

If you believe the student needs to undergo a new evaluation, you may also want to assess the student in a diagnostic placement for safety reasons, Reznik said.

Recognize when discipline is appropriate

If you determine through your exploration that the student's behavior is not related to his disability, then [discipline](#) may be in order, Reznik said. "We're talking about dangerous students broadly, but certainly there may be discipline if it's not a manifestation," she said. "The district [would just want] to be mindful of relevant special education protection provisions."

Keep in mind that if a student possesses a weapon, illegal drugs, or has inflicted serious bodily injury, you may remove him to an [interim alternative educational placement](#) for up to 45 school days without regard to whether the behavior is related to the student's disability. [34 CFR 300.530](#) (g). Districts can also ask the courts to modify the placement of a child who is dangerous. A district can seek a *Honig* injunction to temporarily remove a dangerous student from his current placement. See *Honig v. Doe*, [559 IDELR 231](#) (U.S. 1988). "This is why data collection is so important," Reznik said. "The district has to be able to demonstrate why the student is substantially likely to injure [himself or] somebody else."

Keep track of everything

Ensure that you collect data at every stage that a student's behavior occurs, not just when it escalates to the point of being dangerous, Reznik said. Also, clarify what your state requires. "Every state may have different legal requirements in terms of documentation that's needed in certain circumstances, but it's important to monitor and collect data on the behavior you're seeing," she said. "If you're seeing an increase in behavior like hitting, start collecting data so you know how frequently it's happening so you can present that information at the [IEP] meeting and discuss it as a team."

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