It is possible that more than 50% of removals are due to no more than 5-10 students.

Of those 5-10 students, how many have disabilities?
FOR FREQUENT FLYERS, CONSIDER NEED FOR AN EVALUATION

- Student is always in your office
- Teachers are constantly complaining about student
- Has 40 discipline referrals
Case name: Birdville Indep. Sch. Dist., 57 IDELR 60 (SEA TX 2011).

Ruling: A district's failure to consider the depth and duration of a young boy's problems with explosive rage, aggression, and violence caused it to mistakenly conclude that the student was ineligible as a child with an ED. An IHO found that the parents were entitled to reimbursement for a private placement.

Ruling: A Pennsylvania student who engaged in violent tantrums at home was not eligible for IDEA services as a child with an emotional disturbance, according to a District Court. Pointing to the student's solid academic performance and generally good behavior at school, the court concluded that her behavioral problems did not adversely affect her educational performance.
IDEA does not want to discipline a student for a behavior that is a manifestation of the student’s disability.
HOW DO WE KNOW IF THE BEHAVIOR IS A MANIFESTATION OF THE DISABILITY?

- Across settings
- Over time
- Evaluation says it is
- ARD committee says it is
Case name: Student with a Disability, In re, 61 IDELR 56 (SEA VA 2012)

Ruling: A grade schooler's habit of checking for the presence of adults before engaging in behaviors, such as upending desks, destroying classroom property, and physically assaulting staff members and classmates, helped convince an IHO that his maladaptive behaviors were unrelated to his intellectual disability or his emotional disturbance. Determining that the student's 13-month expulsion was appropriate, the IHO approved the district's proposal to place the student in an alternative day school.
WHAT IS THE BIG DEAL ABOUT ISS/OSS?

- OSS is a disciplinary change of placement under IDEA that may require an MDR
- ISS is likely a disciplinary change of placement that may require an MDR
- Data collection that is looked at by various groups/organizations/associations
SO WHAT DO WE DO WITH THESE AGGRESSIVE STUDENTS?

- Have a good plan
  - As administrators, you are an important member of the ARD committee
  - Make sure that the IEP (including the BIP) provides your teachers (and you) with the appropriate tools to address the student’s unique needs
  - Follow the plan
IMPLEMENTATION FAILURE STOPS DISTRICT FROM REMOVING HIGH SCHOOLER TO IAES


- Ruling: Evidence that a teenager would not have engaged in dangerous behavior if he had been accompanied by the "safe person" identified in his IEP undermined a Michigan district's attempt to place the student in an IAES. Holding that the district would not suffer irreparable or imminent injury if the student returned to his public high school, the District Court denied the district's request for a temporary restraining order.
I need to protect my staff
We cannot handle this student
The parents do not help
My staff wants to file criminal complaints
The other parents are calling

WHY CAN'T WE JUST SEND THEM SOMEWHERE?
You must document the need to change the student’s current education setting (such as from a general education setting to a small class size or behavior setting).
Case name: N.L. by Lordo v. Special Sch. Dist. of St. Louis County, 54 IDELR 78 (E.D. Mo. 2011).

Ruling: Recognizing that a second-grader's problem behaviors escalated in the second semester of the 2006-07 school year, the District Court nonetheless found that his placement in a special education school was inappropriate. The court affirmed a hearing panel's decision that the school for students with behavioral problems was an overly restrictive placement.
Convene an ARD committee meeting to review concerns (or refer student)
Assign the student to before/after school detention
Assign the student to lunch detention*
Ask the parent to assist with discipline decisions at home
Provide additional training to staff
Seek outside assistance from specialists
Meet with the student’s teachers to discuss what works and what doesn’t work
Seek additional information through evaluations or classroom observations
Ask previous campus/teachers what worked for them
Support the student
Does ISS/OSS really work to assist the student?
Does ISS/OSS really address the teacher’s concerns?
Who is ISS/OSS really for? (and that is why you have 10 FAPE free days!!)

More than 50% of the DPHs that I resolve started with a parent’s complaint about an administrator’s decision related to discipline.