



27 February 2020

Dear [REDACTED]

Thank you for your letter of 5 January 2020 to the Ministry of Education requesting the following information:

*A child attends a primary school with a diagnosis of Autism Spectrum Disorder. The child has learning and behavioural difficulties which require additional supports.*

1. *Would this child be eligible for an Individual Education Plan?*
2. *If the school refuse to develop an Individual Education Plan and the child then gets placed under disciplinary action for behaviour that the school refuses to address then what are the rights of that child and the rights of the parents?*
3. *If the parents request an Individual Education Plan with the support of an external psychologist, is the school then required to develop an Individual Education Plan?*
4. *If the parent writes to the Board of Trustees requesting an Individual Education Plan and the school continues to refuse to develop an Education Plan then what can the parents do?*
5. *If the child is excluded as a consequence of behaviour that the school has refused to address then what rights do the parents and the child have?*
6. *What are the reasons children are excluded from schools?*
7. *Are schools required by law to develop an Individual Education Plan with all children who have been stood- down?*
8. *Does the Ministry of Education require schools to develop an Individual Education Plan for the child when they give the school Interim Response Funding for that child?*
9. *Please provide the following information*

<i>Number of Children in NZ</i>	2011	2012	2013	2014	2015	2016	2017	2016	2017	2018	2019
<i>Total number of children excluded</i>											
<i>Excluded with IEP</i>											
<i>Excluded with IRF</i>											
<i>Excluded with MoE Learning Support</i>											

<i>Excluded with RTLB support</i>											
<i>Excluded with no support</i>											

Your request has been considered under the Official Information Act 1982 (the Act).

Our responses to the individual parts of your request are set out below.

Please note that we have not applied the Act to make decisions regarding **Questions 1 to 5** of your request as these questions seek the Ministry to make a value judgement on decisions taken by the scenarios you provided. Agencies are not obliged to form an opinion or create information to answer an official information request. I have, however, included some general information under each of your questions.

**1. *Would this child be eligible for an Individual Education Plan?***

Only some students with learning support needs require an Individual Education Plan (IEP). The IEP is a best-practice collaborative process to plan for learners where additional teaching strategies are needed to address their particular learning goals. There is no policy or legal requirement for a student to have one.

**2. *If the school refuse to develop an Individual Education Plan and the child then gets placed under disciplinary action for behaviour that the school refuses to address then what are the rights of that child and the rights of the parents?***

If parents and/or caregivers feel like the problem has not been resolved with the school then they should contact their local Ministry office for advice.

**3. *If the parents request an Individual Education Plan with the support of an external psychologist, is the school then required to develop an Individual Education Plan?***

IEPs for students receiving learning support are the responsibility of each school. It is a best-practice collaborative process to plan for learners where additional teaching strategies are needed to address their particular learning goals. There is no policy or legal requirement for a student to have one.

**4. *If the parent writes to the Board of Trustees requesting an Individual Education Plan and the school continues to refuse to develop an Education Plan then what can the parents do?***

The parents can contact their local Ministry office for advice.

**5. *If the child is excluded as a consequence of behaviour that the school has refused to address then what rights do the parents and the child have?***

If a student is excluded from a school, then their parents can expect the principal to arrange a new enrolment for the excluded student, as soon as possible, within 10 school days. If a new enrolment is not secured the principal must notify the Ministry who will manage the enrolment to ensure the student remains engaged in the right education for them and that their re-engagement happens within a timely manner.

If parents feel the action taken is unfair then they have a number of options available to them which are listed in this link: <https://parents.education.govt.nz/secondary-school/your-child-at-school/standdowns-suspensions-exclusions-expulsions/#Actiontakenisunfair>

**6. What are the reasons children are excluded from schools?**

The principal of a school may suspend, and later, exclude a student if their gross misconduct (serious misbehaviour) or continual disobedience (regular and deliberate disregard for rules) is harmful or a dangerous example to other students at the school or the student's behaviour risks serious harm to themselves or other students if they are not suspended.

**7. Are schools required by law to develop an Individual Education Plan with all children who have been stood- down?**

The IEP is a best-practice collaborative process to plan for learners where additional teaching strategies are needed to address their particular learning goals. There is no policy or legal requirement for a student to have one.

Learning Support Coordinators (LSCs) will help ensure schools implement plans to support the learning needs of children and young people in their cluster.

**8. Does the Ministry of Education require schools to develop an Individual Education Plan for the child when they give the school Interim Response Funding for that child?**

The Interim Response Fund can be used to provide additional resources to schools when a student's challenging behaviour reaches a crisis point. This fund is available to keep students engaged in learning following a significantly challenging behavioural event. It gives funding for a short-term response while a more comprehensive intervention plan is developed. A school may decide to include an IEP in their intervention plan but again, there is no policy or legal requirement for a student to have one.

**9. Please provide the following information**

Number of Children in NZ	2011	2012	2013	2014	2015	2016	2017	2018	2019*
Total number of children excluded	1293	1100	1043	902	871	905	1026	1001	1042

*\* Please note that 2019 figures are live and subject to change.*

Your request for data regarding the number of children excluded with IEP or RTLB support cannot be fulfilled as the Ministry does not collect this information. I am refusing this part of your request under section 18(g) of the Act on the basis that the information is not held by the Ministry.

Due to the substantial collation involved, the Ministry is also unable to fulfil your request for the following data regarding the number of children in New Zealand from 2011 to 2019:

- Excluded with IRF
- Excluded with MoE Learning Support
- Excluded with no support.

I am therefore refusing these parts of part 9 of your request under section 18(f) of the Act on the basis that the information requested cannot be made available without substantial collation or research.

Please note, the Ministry now proactively publishes responses under the Act on our website. As such, we may publish this response on our website after five working days. Your name and contact details will be removed.

Thank you again for your email. You have the right to ask an Ombudsman to review this decision. You can do this by writing to [info@ombudsman.parliament.nz](mailto:info@ombudsman.parliament.nz) or Office of the Ombudsman, PO Box 10152, Wellington 6143.

Yours sincerely

A handwritten signature in black ink, appearing to read 'K Casey', with a long, sweeping flourish extending downwards and to the right.

Katrina Casey  
**Deputy Secretary**  
**Sector Enablement and Support**