Alternatives to Exclusionary Practices: Ensuring Free and Appropriate Public Education (FAPE) for Students with IEPs

Eva Shaw
eva.shaw@dpi.wi.gov

Special Education Consultant

February 24, 2021

WISCONSIN DEPARTMENT OF
PUBLIC INSTRUCTION
Carolyn Stanford Taylor, State Superintendent

Vision

Our **VISION** for Wisconsin is that **every** child is a graduate, college and career **ready.**

Mission

Educational Equity means that every student has access to the resources and educational rigor they need at the right moment in their education, across race, gender, ethnicity, language, ability, sexual orientation, family background, and/or family income.

Adapted from The Aspen Education & Society Program and the Council of Chief State School Officers. 2017. *Leading for Equity: Opportunities for State Education Chiefs*. Washington, D.C

Participating in Chat
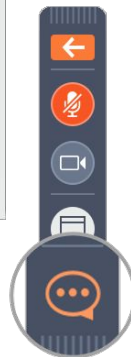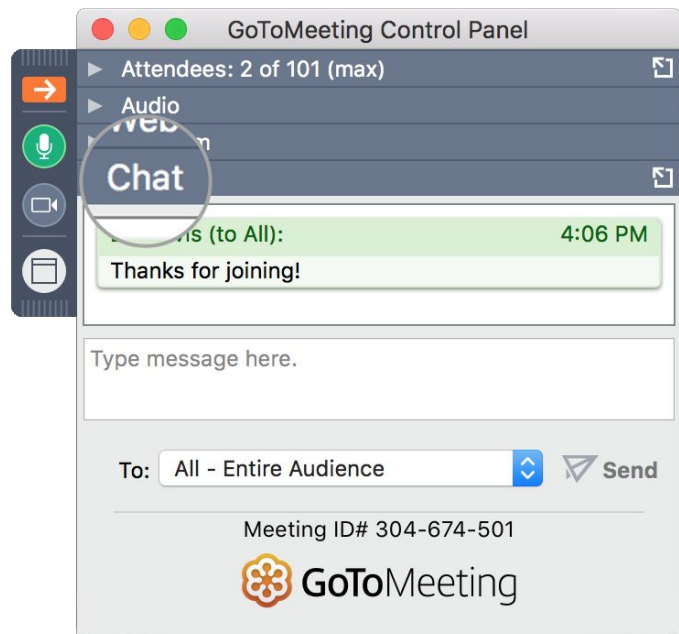
Welcome!

Please write in the chat box:

What role brings you to this webinar?

(Parent/Family Member, Teacher, Related Service Provider, Support Staff, Administrator, Other)

Objectives

- **Identify positive behavioral interventions and supports**

- **Understand how positive behavioral interventions and supports are incorporated into the IEP**

- **Understand how a Functional Behavioral Assessment (FBA) can help identify positive behavioral interventions and supports**

Data Highlighting Need

Consider the following as evidence of the need for Wisconsin schools to develop more equitable, culturally competent and effective practices in supporting students whose behavior interferes with their learning or the learning of others:
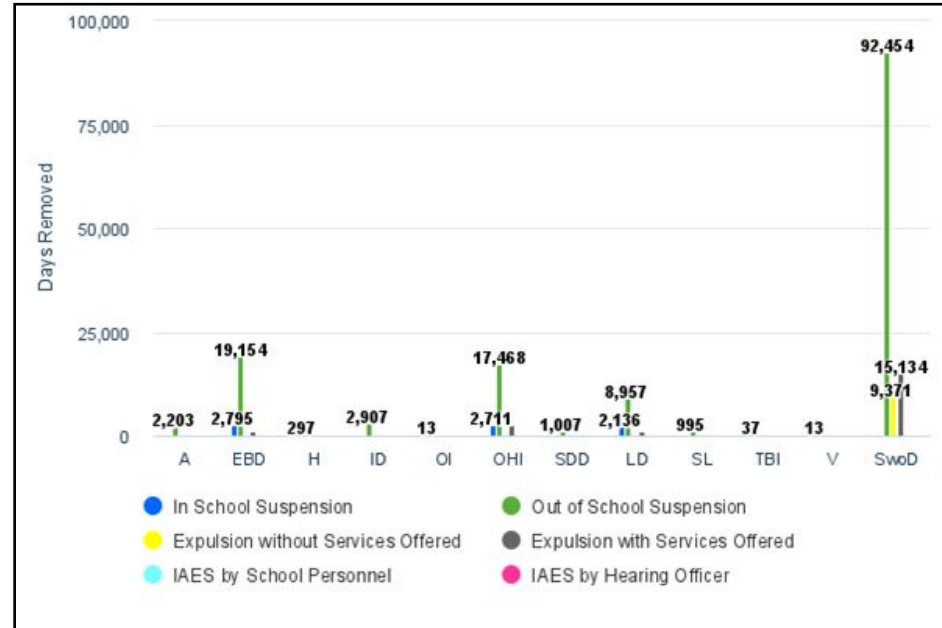
Data Highlighting Need

Students identified with:

- **Emotional Behavioral Disability** were removed for approximately 19,154 school days

- **Other Health Impairment** were removed for approximately 17,468 school days

....**due to an out-of-school suspension**

Wisconsin Department of Public Instruction, WISEdash for Districts 2020.
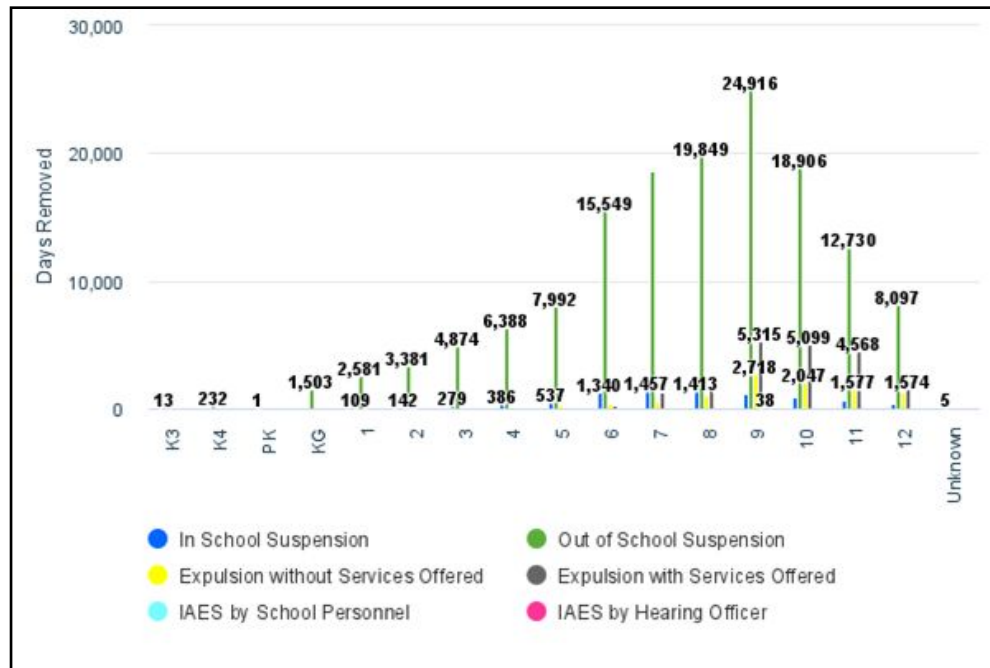"2019 Disciplinary Data Days Removed by Type and Disability."

Data Highlighting Need

Students in:

- K3 - 2nd grade were removed for approximately **7,711** school days

- K3 - 12th grade were removed for approximately **127,012** school days

.....due to an out-of-school suspension.

Wisconsin Department of Public Instruction, WISEdash for Districts 2020. "2019 Disciplinary Data Days Removed by Type and Grade Level."

Data Highlighting Need

In Wisconsin, for students with IEPs:

- Black or African American students are approximately 6.7 times more likely to experience a disciplinary removal than white students

- Native American students are 2.9 times more likely than white students

- Hispanic students are 1.9 times more likely than white students

(Wisconsin Department of Public Instruction, 2020. "2019 Disciplinary Data by Race and Disability.")

Data Highlighting Need

- **Even one instance of suspension from school is predictive of future suspension and a greater likelihood of dropping out of school.**
  (American Psychology Association Zero-Tolerance Task Force, 2008; Balfanz, Byrnes, & Fox, 2013, America's Promise Alliance, 2018)

- **Students impacted by trauma are suspended and expelled at higher rates than other students.**
  (Grevstad, 2007; Sanger et al, 2000; Shonk & Cicchetti, 2001; America's Promise Alliance, 2018)

An Equitable Multi-Level System of Supports

- Provides **equitable** services, practices, and resources to every learner based upon responsiveness to effective instruction and intervention

- Ensures that every student has access to the resources and educational rigor they need at the right moment in their education
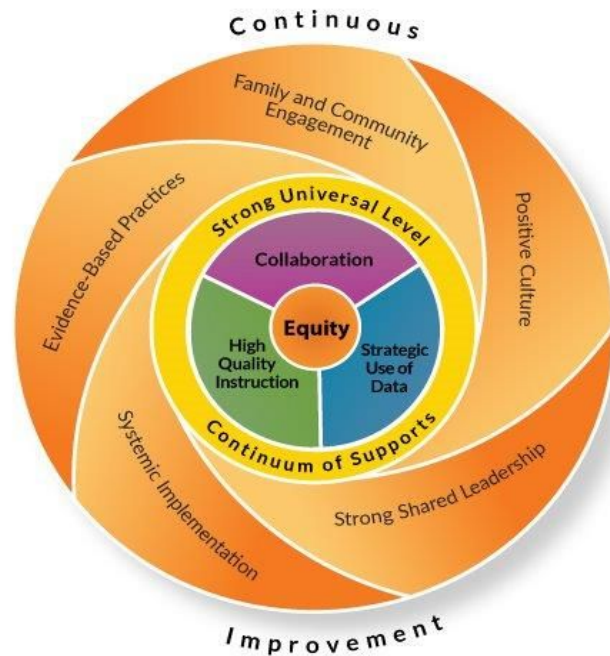
What is FAPE?

A free appropriate public education (FAPE) as defined by Individuals with Disabilities Education Act (IDEA) means special education and related services that:

- Are provided at public expense under public supervision and direction;

- Meet the standards of the department and Part B of IDEA; and

- Are provided in conformity with an Individualized Education Program (IEP).

FAPE

Districts must provide FAPE to each student with a disability by <u>developing</u> a program based on the student's unique needs that is reasonably calculated to enable the student to make progress appropriate in light of the student's circumstances, <u>documenting</u> that program in the IEP, and <u>implementing</u> the program articulated in the IEP.

Alternatives to Exclusionary Practices

IDEA requires IEP Teams consider the use of <u>positive behavioral interventions and supports</u> to address behaviors that interfere with a student's learning or the learning of others. This requirement applies to all students, aged 3-21, regardless of the student's category of disability.

Positive Behavioral Interventions and Supports

- Address the student's unique disability-related needs and have to match student need (not label)

- Based on a student's current level of academic achievement and functional performance, including strengths and needs

- Improve a student's access, engagement, and progress in age or grade level general education curriculum, instruction, environments, and activities

Positive Behavioral Interventions and Supports

- "Kids do well if they can." Ross Greene

- Support must be student-centered, culturally responsive, & assets-based

- Adult's must modify their practices and the environment to decrease behaviors that interfere with the student's learning or the learning of others

Positive Behavioral Interventions and Supports

- Evidenced-based intervention (EBI) or evidenced-informed practices: matched to student need not disability category

- WI DPI Social and Emotional Learning Competencies is a great resource for learning about and promoting social and emotional learning

- U.S. Department of Education Guidance: Dear Colleague Letter on the Inclusion of Behavioral Supports in IEPs

Chat

Share an example of a positive behavioral intervention that has been effective for your child or student.

Positive Behavioral Interventions and Supports

As we begin to look at alternatives to exclusionary practices, remember that:

- Positive behavior interventions and supports must address the student's <u>unique</u> disability-related needs.

- What works for one student will not necessarily work for another.

- There are some universal strategies that can be implemented as individual supports.

Relationships

Social and Emotional
Learning Competencies
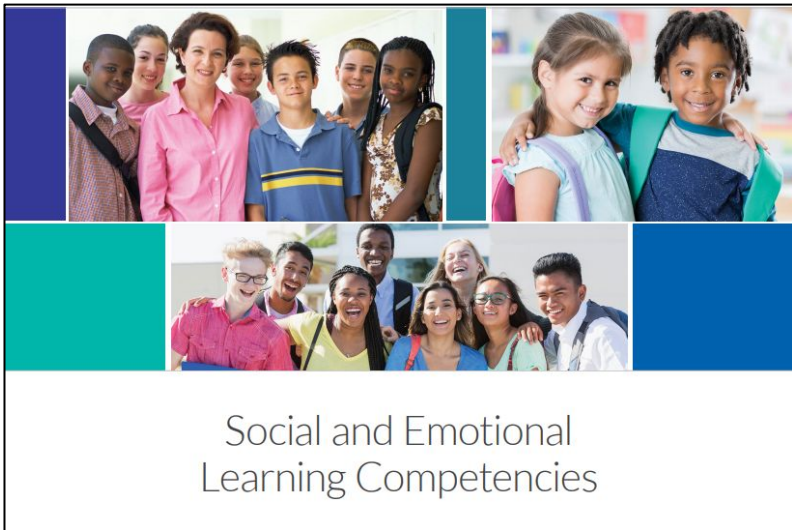
Relationship skills: The ability to establish and maintain healthy and rewarding relationships with diverse individuals and groups. This includes communicating clearly, listening actively, cooperating, resisting inappropriate social pressure, negotiating conflict constructively, and seeking and offering help when needed.

Relationships

The Search Institute's Developmental Relationships Framework has identified five elements, with 20 specific actions, to make relationships powerful in a young person's life.

1. **Express Care** - show the student that they matter.

2. **Challenge Growth** - expect more and push the student to reach their potential.

3. **Provide Support** - empower and advocate for the student.

4. **Share Power** - respect and collaborate with the student.

5. **Expand Possibilities** - connect the student in ways that broadens their world.

https://www.search-institute.org/developmental-relationships/developmental-relationships-framework/

https://www.search-institute.org/developmental-relationships/ideas-building-developmental-relationships/

Establish Routines and Clear Expectations

School and Classroom Wide

 https://www.wisconsinrticenter.org/

 U.S Office of Special Education Programs (OSEP)
https://osepideasthatwork.org/

Supporting and Responding to Behavior: Evidence-Based Classroom Strategies for Teachers

Establish Routines and Clear Expectations

Adults must create a supportive learning environment that sets the conditions for academic and social success.

- **Explicitly taught routines, expectations, and procedures**

- **Predictable schedule**

- **Foreshadow changes to the schedule**

- **EBI: Visual Schedules**
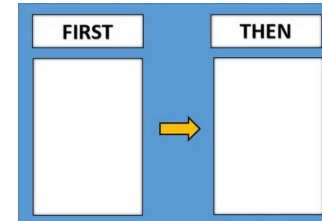
High Expectations and Explicit Instruction

To better support students with social, emotional or behavioral needs, adults must:

- **Set high expectations**

- **Explicitly Teach, Re-teach**

- **Prompt or Cue**

- **Provide Feedback: Specific, Positive, Instructive**

- **EBI: Social Skills Training or Self-Management**
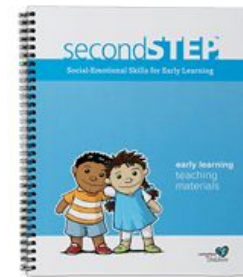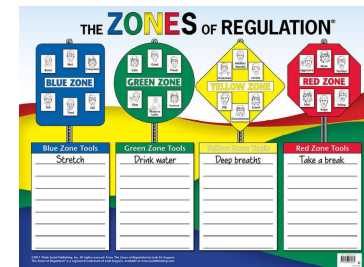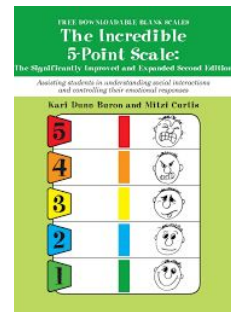
High Expectations and Explicit Instruction

Emotional & Physical Regulation Implementation Tool

https://dpi.wi.gov/sites/default/files/imce/sspw/pdf/Emotional_Physical_Reg_Implementaion_Tool.pdf

Increase Engagement

Adults must engage students as collaborators to set goals, develop a plan, assess progress, and use reflection to seek continuous improvement.

- **Student voice, student choice**

- **Provide options**

- **Allow for flexibility**

https://udlguidelines.cast.org/
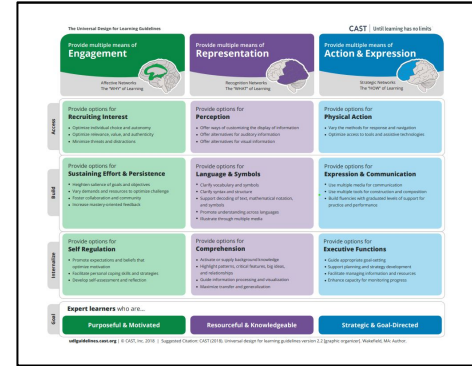
My Emotional Regulation Plan

Choice Board

Positive Student Profiles

Strengths and Interests

Needs and Concerns

Hopes

Things I Like

_____ is one of my favorite
_____. I like
_____, _____ and
_____. I like to _____.

I enjoy _____, _____,
_____, and _____.

This year I was _____
for the first time and _____
it.

In school I like _____,
_____ and _____.
In _____ I like _____
_____,
and _____

Family Snapshot of Student

Student Snapshot

WSPEI
Wisconsin Statewide Parent Educator Initiative

_____

This form is to be filled out by the family to provide a "snapshot" of your child. You do not have to answer all the questions. The information that you share will help the school know your child better and be used to develop your child's College and Career Ready IEP.

1. Describe _____, including information such as brothers and sisters, family pets, personality, likes/dislikes.
(IEP: Present Level, Needs, Transition)

2. Highlight _____'s, strengths. In what areas does your child do well (such as classes, activities in and out of school, playing and interacting with other children)?
(IEP: Present Level, Transition)

3. Describe _____'s, reading interests. What does s/he like to read? Have these changed since the last time we met?
(IEP: Present Level, Needs, Goals, Transition)

4. Proud Moments: List a few of _____'s, successes/accomplishments from the year (since we last met).
(IEP: Present Level, Transition)

5. List the greatest area(s) of challenges or difficulty for _____.
(IEP: Present Level, Family Concerns, Needs, Goals)

How do you like to be acknowledged after doing a good job or accomplishing a task?

A) Public Acknowledgement

B) Social Activity or Celebration

C) Trophy or Ribbon

D) Monetary or Gift

E) In Private

Positive Behavioral Interventions and Supports

- **Reinforcement and Acknowledgement**
  - Individualized to match student need and preference
  - Verbal: objective, consistent, timely, and positive
  - EBI: Behavior-Specific Praise

- **Consequences**
  - Natural
  - Logical
  - Problem Solving

Conscious Discipline
https://consciousdiscipline.com/three-types-of-consequences/

Positive Behavioral Interventions and Supports

What is <u>NOT</u> considered a positive behavioral intervention and support:

- Contacting the parent about the behavior*

- Sending the student home

- Any type of disciplinary action or removal

*Communication with families is critical but it is not a positive intervention in which a student learns or is supported in using a new skill

Individualized Education Program (IEP)

Under the IDEA, the primary vehicle for providing a Free Appropriate Public Education (FAPE) is through an appropriately developed IEP that is based on the individual needs of the child. The "failure to consider and provide positive behavioral interventions and supports through the IEP process could result in a student not receiving meaningful educational benefit or FAPE".

https://sites.ed.gov/idea/files/dcl-on-pbis-in-ieps-08-01-2016.pdf

College and Career Ready IEP
5 Step Process

Incorporated in the IEP

Positive behavior interventions and supports

- **Must be documented in Special Factors section of IEP**

- **Must be included as (at least one of the following):**
  - **Specially Designed Instruction aligned with IEP goal**
  - **Related Services,**
  - **Supplementary Aids and Services, and/or**
  - **Program Modifications and Supports for School Staff**

Incorporated in the IEP

C. Special Factors

Special Factors must be considered when developing the individualized education program. Consider the special factors when identifying the effects of disability, summarizing disability related needs, developing goals, and determining services in the Program Summary.

For example, if a student's behavior impedes learning or that of others, describe the student's behavioral needs. The behavioral needs of the student may be determined through a functional behavioral assessment (FBA). Consider those behavioral needs when determining the effects of the disability, the student's disability related needs, and developing goals. Positive behavioral interventions, strategies, or supports must be included as specially designed instruction, related services, supplementary aids and services and/or program modifications and supports in the Program Summary.

1. Does the student's behavior impede their learning or that of others?

   ☐ Yes   ☐ No

   If yes, describe the student's behavioral needs:

   Has a functional behavioral assessment (FBA) been conducted?

   ☐ Not Applicable   ☐ Yes, if so when_____   ☐ No

IV. PROGRAM SUMMARY

A. Supplementary Aids and Services

Aids, services, and other supports (accommodations) that are provided in regular education, other educational settings, and in extracurricular and nonacademic settings, to enable students with disabilities to be educated with nondisabled students to the maximum extent appropriate. The amount of time specified for each service must be appropriate to the service and stated in a manner that can be understood by all involved in developing and implementing the IEP. *For each supplementary aid and service, identify the corresponding annual goal(s). In some situations, there may not be a corresponding goal. In those situations it is acceptable to identify the disability-related need(s).*

☐ None needed

Describe	Frequency & Amount *(describe the circumstances, if appropriate)*	Location	Duration	Addresses Goal(s) #_____	Addresses Need(s) #_____

B. Special Education / Specially Designed Instruction

Adapting, as appropriate to the needs of an eligible student, the content, methodology, or delivery of instruction to address the unique needs of the student that result from the student's disability; and ensure access of the student to the general curriculum, so the student can meet the educational standards of the public agency that apply to all students. *For each special education service, identify the corresponding annual goal(s).*

Describe	Frequency	Amount	Location	Duration	Addresses Goal(s) #

Incorporated in the IEP

IV. PROGRAM SUMMARY

C. Related Services Needed to Benefit from Special Education

Transportation and such developmental, corrective, and other supportive services as are required to assist a student with a disability to benefit from special education. *For each related service, identify the corresponding annual goal(s). In some situations, there may not be a corresponding goal. In those situations it is acceptable to identify the disability-related need(s).*

☐ None needed

Describe	Frequency	Amount	Location	Duration	Addresses Goal(s) # _____	Addresses Need(s) # _____

D. Program Modifications or Supports *for School Personnel*

Services or activities for school personnel to meet the needs of the student. *Identify the goal(s) or need(s) addressed.*

☐ None needed

Describe	Frequency	Amount	Location	Duration	Addresses Goal(s) #	Addresses Need(s) #

Functional Behavioral Assessment

Functional Behavioral Assessment (FBA) is an assessment procedure and process for identifying:

(1) the root cause or function of the behavior,

(2) the variables that influence the behavior, and

(3) components of an effective behavioral intervention plan

Functional Behavioral Assessment

Using the data gathered through the FBA process, the IEP team can use the likely root cause or function of the target behavior to:

- Match the positive interventions and supports to the root cause and student need:
  - Teach a new skill
  - Improve proficiency in a developing skills
  - Expand a skill across learning environments

Functional Behavioral Assessment

Using the data gathered through the FBA process, the IEP team can:

- Include information and data in Present Level of Academic Achievement and Functional Performance in the IEP

- Use data as baseline for IEP goals

- Incorporate matched positive interventions and supports into the IEP

- If additional details are needed, develop a behavior intervention plan (BIP) and attach to the IEP

Behavior Intervention Plan

- **Components of the behavior intervention plan (BIP) in most cases can be incorporated within the IEP**

- **There is no required format for a BIP in either federal or state law.**

- **The BIP must clearly describe the type of service provided as well as the frequency, duration, location and amount of that service.**

- **If a separate BIP is developed it must be attached to the IEP and becomes part of the IEP.**

Communication Options for Families

If parents have questions or disagree with a decision of the school there is information and options available:

- Procedural Safeguards Notice

- [Communication Options for Families](#)

- Contact the DPI Special Education Team
    - (608) 266-1781
    - Submit a completed [Contact Form](#)

Wisconsin Special Education
DISPUTE RESOLUTION OPTIONS

IEP Facilitation

This early conflict prevention option provides a neutral, trained facilitator to help the IEP team with the IEP process. The facilitator helps the IEP team maintain open, respectful, and productive communication and is provided by WSEMS.

Contact: Wisconsin Special Education Mediation System
888-298-3857
gia@wsems.us

Mediation

Mediation is available to resolve issues by providing a free professional mediator. The goal of mediation is to come to a mutual decision, in writing, which is binding in federal and state court. Discussions during mediation are confidential and can't be used in further legal proceedings.

Contact: Wisconsin Special Education Mediation System
888-298-3857
gia@wsems.us

IDEA State Complaint

Any individual or organization may file a complaint if they believe a school district has violated state or federal special education requirements. The complaint must be filed within one year of the alleged violation. DPI investigates the complaint and issues a decision.

Contact: DPI Special Education Team
608-266-1781
dpisped@dpi.wi.gov

Due Process Hearing Request

A written request for a hearing by an administrative hearing officer related to the identification, evaluation, placement, issues pertaining to the IEP, or the provision of a free and appropriate public education of a child with a disability.

Contact: DPI Special Education Team
608-266-1781
dpisped@dpi.wi.gov

WISCONSIN DEPARTMENT OF
PUBLIC INSTRUCTION
Carolyn Stanford Taylor, State Superintendent

Independent Educational Evaluations

An Independent Educational Evaluation (IEE) is conducted by a qualified examiner who is not an employee of the child's school.

- The parents of a child with a disability are entitled to an IEE at no cost to them when they disagree with the local education agency's (LEA) evaluation of their child.

- The LEA must consider the results of an IEE that meets agency criteria in any eligibility, program planning, and placement decisions about providing a FAPE to the child

- Information Bulletin 99.02

Additional Information

- [Bulletin 06.02: School Discipline](#)

- [Bulletin 07.01: Behavioral Needs of Students with Disabilities](#)

- [Bulletin 14.02: Manifestation Determination](#)

- [Bulletin 14.03: Shortened Day](#)

- [FBA and BIP Toolkit](#)

- [2019 Wisconsin Act 118 - Pupil Seclusion and Restraint](#)

Resources

- **Dispute Resolution Options**

- **The Role of Special Education Services in an Equitable Multi-Level System of Supports**

- **College and Career Ready IEP**

- **DPI Social and Emotional Learning Competencies**

- **DPI SSPW Emotional & Physical Regulation Implementation Tool**

Resources

- **Wisconsin Statewide Parent-Educator Initiative**
  - **My Snapshot**
  - **Student Snapshot**
- **The Search Institute**
  - **Developmental Relationships Framework**
  - **Ideas for Building Developmental Relationships**
- **Supporting Neurodiverse Students** Professional Learning System that includes regional training sessions, web based events, a web based toolkit, and other professional learning opportunities to support educators and families serving students with disability-related needs in the area of social and emotional learning

Resources for Evidenced-Based Practices

- **Autism Focused Intervention Resources and Modules**

- **IRIS Center Evidence-Based Practice Summaries**

- **National Center on Intensive Intervention Behavior Strategies to Support Intensifying Interventions**

- **National Professional Development Center on Autism Spectrum Disorders Evidenced-Based Practices**

- **Pyramid Model for Supporting Social Emotional Competence in Infants and Young Children Evidenced-Based Practices**

Chat

What questions do you have?

How will you use this information going forward?

Contact

Eva Shaw
Special Education Consultant
Wisconsin DPI
eva.shaw@dpi.wi.gov
(608) 264-6712