“Disabling Inequity” in Wisconsin Schools

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What is a Protection and Advocacy Agency?

- P&As mandated by DD Act of 1975
- Disability Rights Wisconsin Was established in 1977 as the Wisconsin Coalition for Advocacy until renamed Disability Rights Wisconsin (DRW)
- Is a FREE statewide resource that helps Wisconsin residents gain access to services and opportunities advocacy and legal expertise
- Operates from the following core values
  - Liberation, inclusion, independence, dignity, diversity, accessibility and human rights
- [https://youtu.be/m3vYxSe3s4M](https://youtu.be/m3vYxSe3s4M)
The Civil Rights Data Collection (CRDC)

- The CRCD has been collecting data since 1968 on key education and civil rights issues.
- Data is collected from nearly all public schools (pre-K-12) in the 50 states, D.C., and Puerto Rico. This includes charter schools, alternative schools, juvenile justice facilities, and special education facilities (recipients of federal funding).
- Data collected measures factors that impact education equity and opportunity for students, that includes, access to courses, programs, resources, and school climate factors such as student discipline.
- Its purpose is to monitor how schools are meeting their responsibility to provide equal educational opportunities to students regardless of race, limited English proficiency, sex, or disability, and...
- It is part of OCR’s overall strategy for administering and enforcing civil rights statutes that prohibits discrimination.
Disability and Discipline: 
*Disabling Inequity*

- *Disabling Inequity: The Urgent Need for Race-Conscious Resource Remedies* by Daniel J. Losen, Paul Martinez, and Grace Hae Rim Shin (March 2021)
  - Center for Civil Rights is housed at the UCLA and is an independent Civil Rights Project by the above authors
  - Uses data from the 2017-18 CRDC, which is part of the Federal Department of Education
  - Although the report is published in 2021, the focus is on “pre-pandemic data

- DRW Analysis of Wisconsin-specific data

- Related DPI and Federal efforts to address inequities in education

- State and Federal Recommendations to address educational inequities

- We ask that you post questions and comments in the chat room for further discussion at the end if time permits
From the Civil Rights Project

*Disabling Inequity* Report

- What the data tells us in three sections:
  - Part I - insufficient development of Section 504 Plans/support (WI extrapolated data)
  - Part II - Special Ed students: disciplinary exclusion, LE referrals, chronic absenteeism (loss of instruction)
  - Part III - State and Federal Efforts and Policy Recommendations
More from the Civil Rights Project *Disabling Inequity* Report

- Data and sources used in Losen’s report
  - U.S. Dpt of Ed Civil Rights Data Collection (CDRC) to analyze data regarding enrollment and disability identification rates, rates of days lost per 100 students, and LE referrals
  - CA Dpt. Of Ed (CDE) for chronic absenteeism discussion (Since the Center for Civil Rights is housed in California)
  - Data from DoED's Office of Special Ed Programs (OSEP) for 2018-19 school year that identifies rates by disability category, placement restrictiveness, and risk for disciplinary removal
Wisconsin-Specific Data: IEPs, 504s, and Race

- Students receiving Special Education through an IEP vs a 504 plan
  - 14.1% of WI students have IEPs (ranking 20th in the U.S.)
  - 1.1% of WI students have 504 plans only (ranking 48th, or near the bottom, in the U.S.)
- WI identifies Black students with the highest percentage found eligible for an IEPs than any other state (22.2%)
Why Such Low Rates of 504 Plans?

- Unfunded federal mandate
- Section 504 is a federal discrimination law; the assumption is there shouldn’t be additional cost when providing all students access to an equitable education
- An assumption that schools should be providing, or are able to provide accommodations to students who need them with current existing budgets
- Parents are not aware of Section 504 Plans or know that their child may qualify if found ineligible for an IEP

**HOWEVER**

- Under Section 504, a school must provide a child who qualifies, a FAPE, and or related services for the student to access the general education curriculum. [fallleader-504-idea-comparison-chart.pdf (wi.gov)]
- **Tip:** Request the school evaluate the student for both IDEA services AND a Section 504 Plan at the same time (for initial evaluations)
Comparison of Nationwide Discipline Disparities with WI

- Discipline disparity
  - Nationwide, students with IEPs miss an average of 2x as much school due to suspensions than students without disabilities (days lost per 100 students)
  - In Wisconsin, students with IEPs miss 4x as much school as those without disabilities
  - WI has the 5th worst racial gap in student suspensions
    - White: 8 days / 100 students
    - Native American: 31 days / 100 students
    - Black: 89 days / 100 students
Wisconsin-Specific Data: Law Enforcement

Law Enforcement Referrals and Arrests

- Excessive rates nationwide of referral to law enforcement for student misconduct by students with disabilities

Selected Wisconsin districts:

- Rhinelander: most secondary students with IEPs referred to law enforcement (in WI) (19.4%)
- Beloit: highest rate of students with IEPs arrested (10.66%)
  - Among the special education population arrested, 16.3% were Black students
- Sun Prairie: extreme difference between Black and White students
  - 25.2% of Black students with IEPs referred to law enforcement, compared to only 5.8% of White students with IEPs
Wisconsin-Specific Data: Restraint & Seclusion

Recent Data Available: 2019-2020

- State Restraint/Seclusion Law Updated March 2020

- [2019_Act_118_comparison_chart.pdf (wi.gov)](http://wi.gov)
  - 81% of R/S incidents involved students with disabilities
  - 2% of all students with disabilities R/S’d
  - Standout districts: Cedarburg (restrained 10% of its SWDs), Siren (secluded 11% of its SWDs)
  - Large data collection projects require fidelity across the board for valid results (all schools must understand the definition of R/S, to properly report)
  - Skewed data is the result of underreporting, overreporting, or failure to report
WI’s Efforts to Address Discipline

- Discipline Task Force: 2013
  - Aligned efforts
- Stakeholder Input on Racial Equity in Special Education: 2018
  - Criteria for identifying disproportionality in special education identification, placement, and discipline
- Superintendent’s Equity Council
Federal DOE Efforts to Address Discipline

  - Milwaukee Public Schools OCR Compliance Review [Milwaukee Public Schools (PDF) (ed.gov)]
- Revocation of the guidance (2018)
- Request for Comment on Non-Discriminatory Administration of School Discipline (July 23, 2021)
  - [Dear Colleague Letter on Implementation of IDEA Discipline Provisions. OSEP DCL 22-01 (ed.gov)]
- Restraint/Seclusion: Proposed Keeping All Students Safe Act [BILL-117hr3474ih.pdf (congress.gov)]
Recommendations: Funding

- State Level: 90% Special Education Funding Reimbursement by the end of 2027 (currently 30%)
- Federal Level: Full 40% promised of IDEA when enacted in 1975 (currently 15%)
- State & Federal Level: 504 plan funding
Recommendations: Staffing

- Fully staffed Pupil Services (Social Workers, Psychologists, Counselors, Nurses)
- Smaller class sizes
- Increase collaboration for inclusion, including co-teaching
- Law enforcement staff do not belong in schools (state & federal implications)

[Policer Free Schools PP Presentation.pdf](http://Policer Free Schools PP Presentation.pdf)
Recommendations:

- Collect data on the number of Manifestation Determinations held and the outcomes
- Training provided to school staff on the collateral consequences when students are referred to Law Enforcement
- Collect data on the cross sections of race & gender for Restraint/Seclusion
- Continue to monitor and collect data on S/R
- Provide technical assistance to districts with high numbers
- Pass the federal S/R act
- Justice Department Secures Settlement with Iowa School District Concerning Discriminatory Seclusion and Restraint Practices | OPA | Department of Justice
Contact Disability Rights Wisconsin
disabilityrightswi.org

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Thanks to the full DRW Special Education Team!