

“Disabling Inequity” in Wisconsin Schools

disability**rights** | WISCONSIN

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Training

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>

The Civil Rights Data Collection (CRDC)

- ▶ The CRDC 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)
[Disabling Inequity: The Urgent Need for Race-Conscious Resource Remedies — The Civil Rights Project at UCLA](#)
 - ❑ 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 \(wi.gov\)](#)
 - ❑ 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

- ❑ Non-Discriminatory Administration of School Discipline “Dear Colleague” guidance (2014)
 - ❑ 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 [BILLS-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](#)

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
- ❑ Jill Gonzalez: jillg@drwi.org
- ❑ Mary Cerretti: maryc@drwi.org
- ❑ Thanks to the full DRW Special Education Team!