

School Discipline and Students with IEPs

Wisconsin FACETS

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Learning Objectives



- Examine how to develop and implement strategies that center student's needs in response to behaviors.
- Identify effective strategies to develop a partnership with parents/caregivers in decision making to meet their child's needs.

Free Public Education Guaranteed

All children ages 4 through 20 who have not graduated

([WI Constitution](#) article 10, sec. 3)

LEA must provide FAPE to children with disabilities 3 through 21 ([Wis. Stat. § 115.76\(3\)](#))



Suspensions depress test scores

The higher the number of suspensions during a semester, the lower the *non-suspended* students' scores on end-of-semester reading & math evaluations

Perry, B.L. and Morris, E.W. (Dec 2014), "Suspending Progress: Collateral Consequences of Exclusionary Punishment in Public Schools." *American Sociological Review*.
<http://edsource.org/2015/study-suspensions-harm-well-behaved-kids/72501#.VLPbdyvF-5W> accessed 13 January 2015.



The School to Prison Pipeline



Suspended students are less likely to graduate on time & more likely to be suspended again, repeat a grade, drop out of school, & become involved in the juvenile justice system

US Department of Education (2014). *Guiding Principles: A Resource Guide to Improving School Climate & Discipline*. Washington, D.C. www.ed.gov/school-discipline.

Reflection Question

- What is the purpose of suspension?
- Who benefits?
- What is the impact?



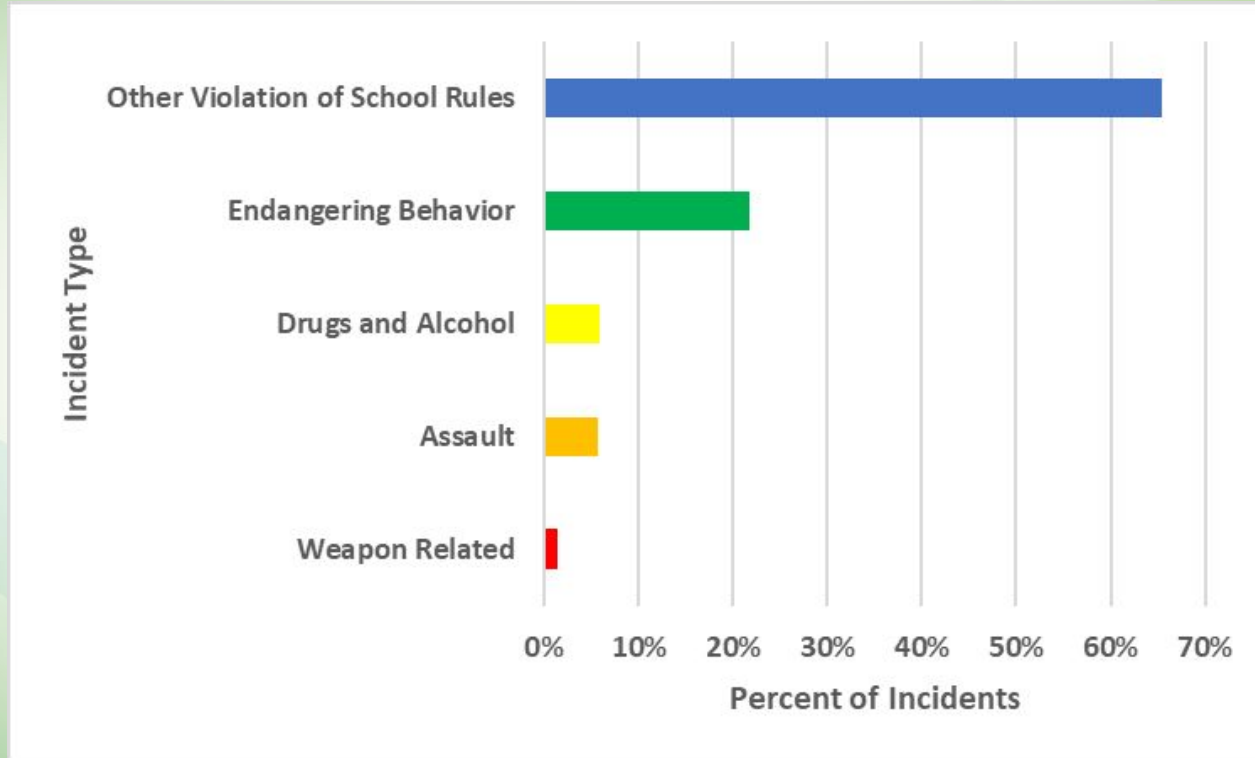
Practical Strategy: Combat Myths and Misperceptions

Long-term Impacts of School Suspension on Adult Crime

- “Schools that suspend more students see a host of negative outcomes later in life...These negative outcomes included lower educational achievement, lower graduation rates, lower college enrollment rates, and higher involvement in the juvenile and adult criminal justice systems.”
- “Across just about every outcome, the harmful effects of suspensions were greatest for Black males.”
- *“No positive benefits of strict school discipline that many have claimed for decades were born out in the data of this study.”*

<https://sdp.cepr.harvard.edu/blog/long-term-impacts-school-suspension-adult-crime>

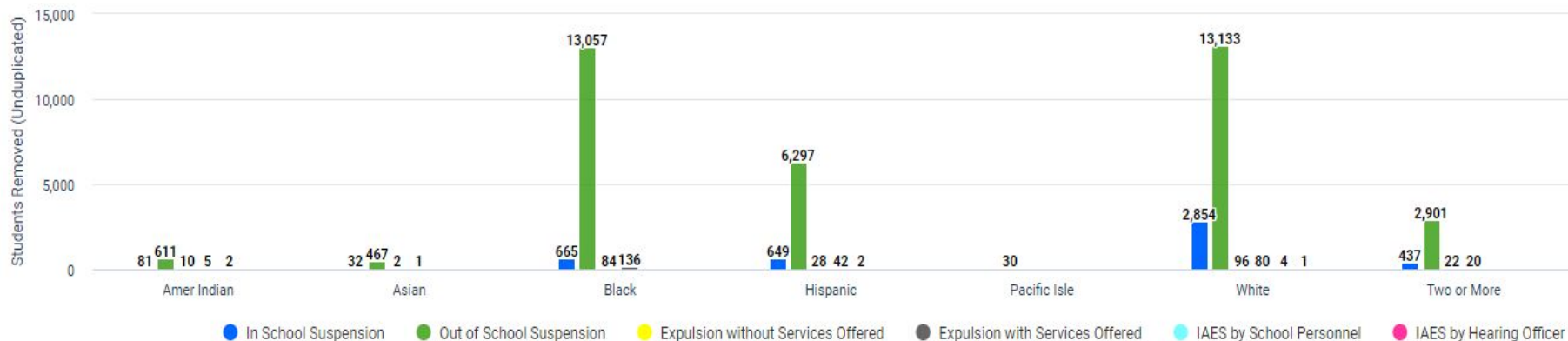
Subjectivity in Discipline Decisions



<https://wisedash.dpi.wi.gov/Dashboard/dashboard/20218>

Racial Disproportionality: Suspensions

2023-24 Disciplinary Removals by Type and Race/Ethnicity

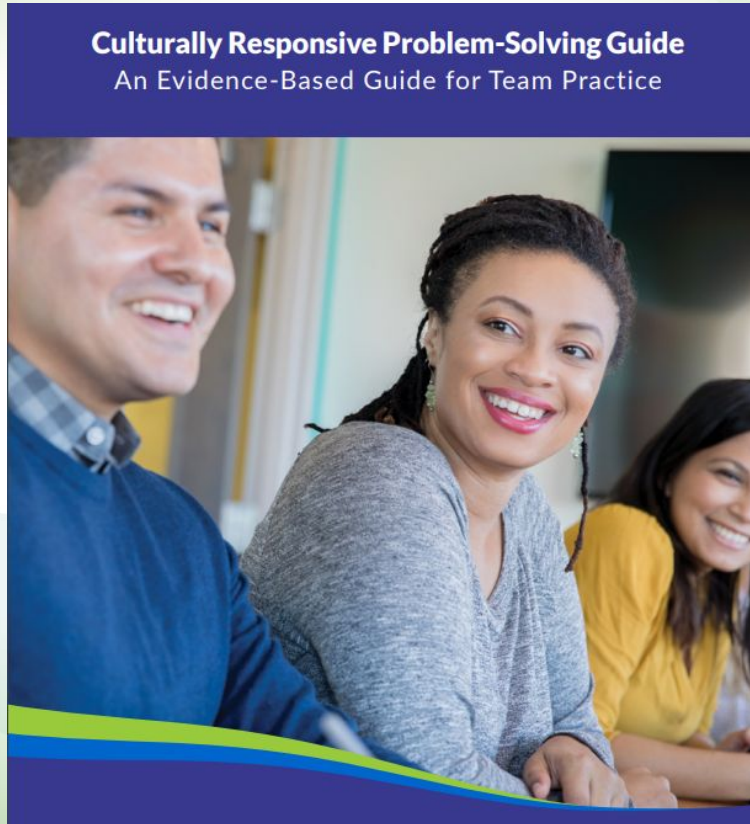


School to Prison Pipeline

“As the data continue to show minority students with disabilities are at a greater risk for being suspended, school suspension increases the risk of school dropout, and school dropout increases the likelihood of incarceration, the pathway to incarceration seems to be evident for minority special needs students.”

Bell, C. (2016). [Special needs under siege: from classrooms to incarceration](#). Sociology Compass 10/8, 698–705, 10.1111/soc4.12392

Practical Strategy: Address Bias and Disproportionality



Wisconsin Expulsion Data

Sch Year Expulsions

18-19 715

19-20 526

20-21 120

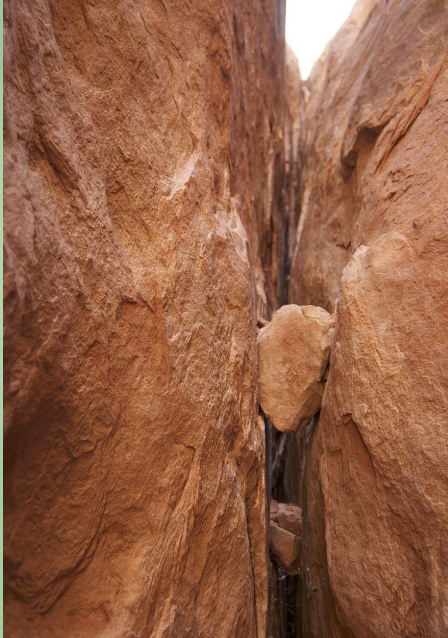
21-22 834

22-23 776



| 2021-2022 Expulsions | % of Student Population | % of Expulsions |
|-------------------------|----------------------------|--------------------|
| White | 67% | 32.25% |
| Non-white | 33% | 67.75% |

Expulsion in Wisconsin = Extremely Limited Educational Options and Opportunities



- Expulsion with services offered
- Home School
- Virtual School?
- GED/HSED?
- Alternative Programs

[DPI Discipline and Expulsions Webpage](#)

Disciplinary Removals: Students with Disabilities

Information Update Bulletin 06.02: Legal Requirements Relating to Disciplining Children with Disabilities

- Up to 10 cumulative schools days in a school year then SpEd “discipline requirements” apply
- 10 days removal may constitute a disciplinary change of placement

Disciplinary Change of Placement

If there is a decision to change placement because of a violation of a code of student conduct:

- **Parents must be notified of the decision and provided with notice of procedural safeguards**
- **Services and setting are determined by the child's IEP team**
- **A manifestation determination is required within 10 school days of the decision to change placement**

Disciplinary Change of Placement?

- If YES ----
 - Conduct a Manifestation Determination
- If NO ----
 - Proceed with proposed discipline and provide services.



Manifestation Determinations

The conduct must be determined to be a manifestation of the student's disability if it is determined that:

- The conduct was caused by, or had a direct and substantial relationship to, the student's disability

OR:

- The conduct was the direct result of the school's failure to implement the IEP

If Behavior *IS* a Manifestation...

- Return student to previous placement unless an exception applies
- Conduct a functional behavioral assessment (FBA), unless one has previously been conducted, and implement a behavioral intervention plan (BIP)
- If a BIP has already been developed, review the BIP and modify as necessary to address the behavior.

If behavior ***is NOT*** a manifestation

- The school district may proceed with the change in placement
- FAPE must still be provided, which is determined by the IEP team.
- The services must enable the student to continue to participate and make progress in the general education curriculum and to make progress toward IEP goals.

Interim Alternative Educational Setting (IAES)



- Up to 45 school days
- The IEP team determines IAES
- Only for:
 - Weapons
 - Illegal drugs or controlled substances
 - Serious bodily injury

Shortened Day - Students with IEPs

- Student sent home (or released) by the district due to behavior - could be de facto suspension
- Presenting the removal as an option to the parent is still problematic and likely to be considered a removal
- IEP teams should address underlying need resulting in removals
- It is not appropriate to shorten the school day for a student with a disability unless the student's IEP team determines a shortened day is required to address the student's unique, disability-related needs.

[Information Update Bulletin 24.01: Shortened School Day](#)

Practical Strategy: Know your Right to having Advocacy and Support in the IEP Process

300.321 IEP Team

The public agency must ensure that the IEP Team for each child with a disability includes...

...At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate;

Zero (low?) Tolerance

“In the name of making our schools safe havens, districts have adopted zero-tolerance policies, increased school policing, and driven some of our most vulnerable students out of school and into a judicial system often built for punishment rather than support: the school-to-prison pipeline.”

[Zero Tolerance and Bias Reinforce the School to Prison Pipeline](#)

Groups of Negatively Affected by Zero Tolerance Policies

- **Students of Color:**
[https://edsource.org/2014/national-report-highlights-racial-disparities-in-suspensions/59344\)](https://edsource.org/2014/national-report-highlights-racial-disparities-in-suspensions/59344)
- **Students with Disabilities:**
<https://files.eric.ed.gov/fulltext/EJ1119329.pdf>
- **Lesbian, Gay, Bisexual and Transgender Youth:**
<https://nicic.gov/beyond-bullying-how-hostile-school-climate-perpetuates-school-prison-pipeline-lgbt-youth>

Practical Strategy: Threat Assessment

**Wisconsin Department of Justice Behavioral Threat
Assessment and Management (BTAM)**

[Wisconsin School Threat Assessment and Management Protocol](#)

Benefits of Threat Assessment vs. Zero Tolerance

“...threat assessment provides schools with an alternative to a zero tolerance approach to school discipline that applies strict punishment to any violation regardless of the circumstances. “

As a bonus, research suggests:

“...parity in suspension and expulsion rates for the Black, Hispanic, and White students receiving threat assessments”

Cornell, D., Maeng, J. L., Huang, F., Shukla, K., & Konold, T. (2018). Racial/ethnic parity in discipline consequences using student threat assessment. School Psychology Review, 47, 183–195. doi:10.17105/SPR2017-0030.V47-2

Investigating behaviors of Students with IEPs (including conducting threat assessments)

- **Consider impact of disability on ability to communicate, understand social dynamics of situation (vulnerabilities such as bullying victimization and manipulation), understand the consequences of their actions, etc., and potential accommodations needed as a result.**
- **Potential unfair, unjust or inequitable discipline on students with IEPs vs. student without IEPs?**

Comprehensive Special Education Evaluations

A Comprehensive Special Education Evaluation is driven by educationally relevant questions grounded in assessment areas (domains) rather than disability category criteria.

- Need vs. label focused
- Consideration of disability category criteria is only one part of a comprehensive evaluation

Addressing Bias in a Comprehensive Special Education Evaluation

Disability identification, IEP development and provision of special education services is a problem when either or both of the following conditions are met:

Special education services are not what the student needs:

Incorrect identification→inappropriate/unnecessary SE services→unmet needs→poorer performance + disengagement from school

Special education services are ineffective:

Services that do not work = prolonged difficulties for students and further limit their access, engagement, and progress toward meeting age and grade level expectations

College and Career Ready IEP



CCR IEP Overview

CCR IEPs provide a framework for IEP teams to explore beliefs and attitudes regarding students with disabilities, build knowledge and skills in order to evaluate and plan special education services, and examine systems and practices which support students, families, and educators.

Reflection Question

What does a strength-based approach look like when developing IEPs for students with significant behavioral needs?



Practical Strategy: Change The Conversation About Student Behavior

The Impact of Behavior, Bias, and Adult Practice

Inclusive Strategies to Address Behavioral Needs for Students with IEPs

About this Professional Learning Series



This professional learning series provides resources and strategies to help adults address the behavioral needs of students with IEPs in educational settings. Series content is connected to related state and national educational frameworks and aligns with related state and federal legal requirements. The following descriptions highlight the content found in each section of the series.

[Printable Version](#) 

“Before school teams and individuals begin to identify strategies and develop systems to support students...adults must first examine their own biases and beliefs about student behavior in addition to examining the social norms of the school community.”

Alternatives to Expulsion

- **Restorative Practices:** e.g., Community Circles, Classroom Agreements, Affective Statements
- **Abeyance Programs:** Withholding punishment if a student completes an agreed upon learning intervention.
 - Pre-Expulsion Agreements
 - [Screening, Brief Intervention and Referral to Treatment \(SBIRT\)](#)
 - [Prime for Life](#)
 - [Alcohol EDU](#)
- **Alternative Learning Environments / Placements**

Restorative Practices

- Understand harm and develop empathy
- Listen and respond to needs
- Encourage accountability and responsibility
- Reintegrate the harmer into the community
- Create caring school climate
- Change the system

Resources and Training at Wisconsin Safe and Healthy School Center (WISH Center)

<https://www.wishschools.org/resources/restorativepractices.cfm>

Practical Strategy: Embed Evidence Based Practices into Student IEPs and Abeyance Agreements

Targeted Individual or Small Group Intervention and Supports

- [Counseling Students Experiencing Anger and Aggression](#)
 - Anger Coping (Upper Elementary/Middle School)
 - Think First (High School)
- [Screening, Brief Intervention and Referral to Treatment \(SBIRT\)](#)
- [Prime for Life](#)
- [Alcohol EDU](#)
- [Inclusive Strategies to Address Behavioral Needs for Students with IEPs](#)

Abeyance / Pre-Expulsion Agreements: Students with IEPs

Do not put things into an abeyance agreement that are in conflict with meeting their IEP and Disability Related Needs:

- Don't set them up to fail
- Align abeyance with IEP, not vice-versa

Other considerations:

- Know and follow proper procedures for disciplinary change of placement (such as manifestation determination, FBA, Interim Alternative Placements, etc.)
- Align plan with IEP, NOT vice-versa
- Keep FAPE, and LRE at the forefront of discussions

Special Education and IEP Processes and Procedures

Focus on FAPE and LRE:

- **Review/Revise IEP**
- **Expulsion with Services**
- **In School Suspension**
- **Alternative Placement**
- **Bullying involved? IEP must address**
- **Disciplinary change of placement processes**

If the Parents and IEP Team Disagree

Dispute Resolution Options

- **Facilitated IEP Meeting**
- **Mediation**
- **IDEA State Complaint**
- **Due Process Hearing**

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

Pupil Non-Discrimination

Under s. 118.13, except as provided in s. 120.13 (37m), no pupil may be excluded from a public school, or from any school activities or programs, or be denied any benefits or treated in a different manner because of:

- sex
- race
- religion
- national origin (including a student whose primary language is not English)
- ancestry
- creed
- pregnancy
- parental status
- marital status
- sexual orientation
- physical disability
- mental disability
- emotional disability
- learning disability

Filing Pupil Non-Discrimination Complaints

Each school district is required to designate an employee of the school district to receive complaints regarding discrimination under Wisconsin's pupil nondiscrimination law.

Who: Pupil Services Director/Director of Special Ed

How: Written

Time: School District Has 90 Days to Inform of Decision

[Pupil Non-Discrimination Brochure](#)

Questions?



Contact Information



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Resources

[DPI Discipline and Expulsions Webpage](#)

[Alternatives to Suspension and Expulsion Case Studies of Wisconsin School Districts](#)

[2023-2024 Virtual Charter Schools Accepting Expelled Students](#)

[DPI Special Education Dispute Resolution Options](#)

[DOJ Comprehensive School Security Framework](#) (includes information on school staff questioning students)

Additional Resources

[DPI Answers to Frequently Asked School Discipline Questions](#)

US DOE [School Climate and Student Discipline Resources: Support School Staff](#)

PBS Newshour: [Schools Resolve Conflicts by Getting Kids to Talk Things Out](#)

Book: Osher, D., Moroney, D., Williamson, S. *Creating Safe, Equitable, Engaging Schools: A Comprehensive Evidence-based Approach to Supporting Students*, Harvard Education Press, Cambridge, Massachusetts 2018

American Institutes for Research: [Addressing Root Causes of Discipline Disparities in School - An Educator's Action Planning Guide](#)