



WASHINGTON STATE

Office of the Education Ombudsman

www.waparentslearn.org

2009 Recommendations for Improving K-12 Public Education

The Office of the Education Ombudsman's (OEO) work with families, students, and schools in 2008-09 identified a number of system-wide factors that contribute to a breakdown in fair and equitable processes fundamental to the academic success of students. According to its legislative mandate under RCW 43.06B.050, OEO is required to annually make recommendations to the Governor, the Legislature, and the State Board of Education for strategies to improve the educational opportunities for all students in the state.

OEO's recommendations for systemic improvement are based on the frequency and depth of state-wide concerns brought to its attention during direct consultation with families and educators over the course of the school year.

School Discipline

Conflict between students, parents and teachers around the implementation of school discipline policies is a primary reason that parents contact OEO. When handling incidents, both families and educators must navigate a complex web of laws, policies and procedures. Successful efforts at resolution, whether formal or informal, will need to address difficult communication issues and interpersonal dynamics on all sides.

Recommendations

Discipline Prevention through Improved School-Family Collaboration

- **Make school policies and procedures on student conduct and discipline process fully accessible to all parents.** Require that discipline policies and procedures are: written in plain language, free of excessive legal terminology, included in the student handbook (or equivalent), easily found on school websites, and available to Limited-English Proficiency (LEP) parents in their primary language.
- **Confirm student and parent understanding of the materials.** When student behavior is a topic at teacher-parent conferences or discipline incidents occur, school staff should review relevant policies and procedures and discuss proactive steps with parents. Provide English Language Learner (ELL) students and LEP parents with extra support in understanding written school policies and procedures, including individual assistance if necessary.
- **Provide resources and support to schools for working directly with parents.** Efforts should focus on: translation and dissemination of information about school rules, discipline policies and procedures, standard forms, and interpreters for meetings.

Due Process Requirements Must Meet High Quality Standards

- **Improve notification.** Expand basic notification safeguards to: require notification in addition to written contact (e.g., phone, email, or home visit); Assist parents to understand information on discipline appeal hearings, and make language accessible for LEP parents as required by law.
- **Allow parents more time to request a due process hearing than current 3-day window.** Change due process timelines to give parents more time to arrange schedules, discuss the incident with school staff, understand policies, explore alternatives, and seek independent advice prior to deciding whether to request a formal hearing.

- **Improve proactive efforts to address behavior issues.** Provide educators and support staff with additional training in areas of proactive communication, positive discipline, and conflict resolution; establish clear standards and processes for schools to demonstrate that “other forms of corrective action or punishment reasonably calculated to modify his or her conduct”¹ or “progressive discipline” have been used prior to removing a student from school; require student and parent participation in developing a Behavior Improvement Plan; and allow student adequate opportunity to follow this plan prior to being removed from school.

Basis for Recommendations

A student’s right to an education comes with the responsibility to follow school rules. When students don’t follow school rules or standards for classroom behavior, school staff must respond appropriately to ensure that misconduct does not interfere with student learning. Educators have a responsibility, however, beyond enforcement and punishment, to teach positive social and behavior skills. Parents are also involved in this effort. Together, they must learn why the student is having difficulty, and focus assistance on helping the student address the issue and avoid repeated incidents. When students lack behavioral competency and adult support is missing, they cannot focus on learning or make academic progress.

Consequences for incidents of misconduct that are serious or repeated can include suspension or expulsion from school. According to Washington law, fair processes are a prerequisite for imposing serious consequences and excluding students from school. The right to attend school and receive an education is a constitutional right in Washington². State regulations³ require that before schools may long-term suspend or expel a student from school they must meet three due process requirements:

- 1) Notice to the parents⁴;
- 2) Student’s right to a due process hearing⁵; and
- 3) Have employed other corrective actions in incremental steps prior to suspension or expulsion⁶.

Schools and districts must adopt policies that comply with these requirements and train staff to follow them. However, despite positive intentions and safeguards on paper, many students and parents report feeling left out of the process and unhappy with results.

The process of addressing student behavior that has escalated to a serious level can produce miscommunication and conflict between the school, students, and parents. Parents tell OEO that the 3-day window within which they must decide whether to request a due process hearing can be too short to even arrange their work schedule for a meeting with school staff. In the urgency of the moment, constructive conversations between school staff and parents may either fail to occur or focus on the alleged misbehavior and consequences being imposed, but not address the underlying issues contributing to the student’s problem behavior. Sometimes students disagree with the school over what occurred in the first place and feel frustrated that their side of the story is not being heard.

Parents may feel that their child is being unfairly singled out for punishment or object to the severity of the consequences. School staff may be unsure how to comply with rules and procedures, while still reaching a fair result for everyone involved. There do not seem to be guidelines or standards for implementing “progressive discipline” or involving parents in this critical prevention stage. Moving through the tensions that attend the school discipline process in a way that fairly allows students, parents, and educators to all have meaningful input and shared understanding is a challenge that requires new ways of working together.

OEO’s work with students, parents and schools on discipline issues raises concerns about whether school/district compliance with the three due process requirements is consistently meeting a sufficient quality standard. This concern is greatest with respect to families who typically have a harder time accessing the education system, whether due to language, culture, lack of capacity or other reasons. It is time-consuming and challenging for school staff to be thorough and effective with each student and family. Schools will need additional support to consistently meet this level of quality. When the student’s right to be at school and receive instruction is at stake, it is not sufficient for schools to be only partially effective at providing notice, the right to a hearing, or implementing proactive behavior interventions.

¹ WAC 392-400-260(2), -275(2). Long-term suspension – Conditions and limitations, Expulsion – Conditions and limitations.

² Washington Constitution Art. IX, Sec. 1.

³ WAC 392-400-260, -275.

⁴ WAC 392-400-265, -280. Long-term suspension – Notice of hearing, Expulsion – Notice of hearing.

⁵ WAC 392-400-270, -285. Long-term suspension – Prehearing and hearing process. Expulsion – Prehearing and hearing process.

⁶ WAC 392-400-275(2).

Reducing Missed Instructional Time for Suspended and Expelled Students

The Office of the Education Ombudsman receives frequent inquiries from parents of students who have been expelled or long-term suspended (longer than 10 days) from school. Parents express particular concern about their child missing valuable instructional time while restricted from attending their regular classes.

OEO has discovered that the alternative options for these students are few and vary widely from district to district. Access to lesson materials and homework assignments are often at the discretion of individual teachers; some districts provide alternative education settings while some do not. The result is that students are being punished for misconduct with the loss of their education. Here is what we recommend:

Use Suspension and Expulsion only as last resort

Make more consistent and effective use of preventive measures and alternatives to exclusion from school.

- Enforce legal requirement that schools develop, with parents and community participation, procedures for administering “corrective action,” and provide such written procedures to parents.⁷
- Require schools to document and meet quality standards regarding use of procedures for administering “corrective action” prior to use of suspension/expulsion.
- Emphasize use of legally-mandated alternatives such as: in-school suspension, community service, or reducing length of suspension conditional upon student undergoing counseling or similar services.⁸
- Create state standards for what constitutes “exceptional misconduct,” to ensure this category is not overly broad or excessively relied upon.

Allow long-term suspended students to access their curriculum and school work

Punishment for misconduct should not put students at an academic disadvantage.⁹

- Require schools to provide long-term suspended students with homework and other means of staying current with studies.
- Encourage use of internet to assist long-term suspended students to continue school-work at home during lengthy periods of exclusion from attending school.
- Allocate resources to meet constitutionally-guaranteed education rights of long-term suspended students.

Provide education services to expelled students

Suspension and expulsion are exclusions from attending school, not from receiving education services.

- Ensure that the educational needs of expelled students during periods of exclusion from their regular instructional setting are being addressed, as required by Washington law.¹⁰
- Require districts to establish and follow procedures for informing relevant local and state juvenile authorities of expulsions.
- Identify, and establish where needed, alternative education services for long-term suspended and expelled youth.
- Develop a system for relevant school and juvenile authorities to coordinate the delivery of educational services for expelled youth.
- Provide students and parents with information on how to access educational services during periods of expulsion, as well as procedures for registration and attendance.
- Allocate resources to meet constitutionally-guaranteed educational rights of expelled students.

Require schools to develop clear, consistent and equitable readmission policies

The proper use of disciplinary measures should not permanently exclude students from getting an education.

- All districts must have readmission policies and procedures, as required by Washington law.¹¹

⁷ See WAC 392-400-225, implementing RCW 28A.600.020(1)(a), -(3).

⁸ See RCA 28A.600.4 10, Alternatives to Suspension - Encouraged), - .415, Alternatives to Suspension – Community Service; and WAC 392-400-260(1)(a), Long-term Suspensions – Conditions and Limitations.

⁹ This principal is reflected in WAC 392-400-235(1) and WAC 392-400-260(5)-(6), but experience has shown that even short term absences create gaps in student learning that cannot be overcome and can result in a student being permanently out-of-step with the curriculum.

¹⁰ WAC 392-400-275(4): Once a student has been expelled in compliance with this chapter the expulsion shall be brought to the attention of appropriate local and state authorities including, but not limited to, juvenile authorities acting pursuant to chapter 13.04 RCW in order that such authorities may address the student's educational needs.

¹¹ WAC 392-400-260(7), Long-term Suspensions – Conditions and Limitations; WAC 392-400-275(5).

- Provide written readmission policies and procedures to parents, translated into parents' primary language, and available on school and district websites.
- Encourage parent and community participation in the development of school readmission policies and procedures.
- Require schools and districts to have a transparent decision-making process, informed by statewide guidelines, based upon objective criteria and reasonable administrator discretion.
- Develop legislation or agency ruling requiring schools/districts to establish an appeals process for readmission decisions.
- Develop legislation or agency ruling identifying the conditions for student readmission which districts can require at parents' expense (such as requirements for mental health evaluation or drug and alcohol therapy).

Basis for Recommendations

Existing WA state regulations address this issue: "...the expulsion shall be brought to the attention of appropriate local and state authorities including, but not limited to, juvenile authorities acting pursuant to chapter 13.04 RCW in order that such authorities may address the student's educational needs."¹² In most counties, however, juvenile authorities do not provide education services unless the youth is detained in a juvenile institution.

Only in rare cases, such as the Seattle Public Schools, do school officials continue education work with youth who are long-term suspended and expelled. For most students, there are few or no educational services available while excluded from school, putting them at increased risk of becoming irretrievably behind in their studies, alienated from school, and more likely to drop out. Research confirms the far-reaching impact that disciplinary exclusion from school can have on already struggling students: "Being expelled is a greater factor in increasing the school dropout rate than other factors such as low socio-economic status, not living with both biological parents, and a high number of school changes."¹³

Parents contacting OEO also express concern about how to get their student readmitted to school following a long-term suspension or expulsion. While most districts have basic readmission procedures, these are not always easily accessed (e.g., due to language barriers or lack of internet access) and parents describe the process as being confusing, arbitrary and unfair. The question of whether and when their student is allowed back in school seems to be entirely at the discretion of school administrators.

While school officials need reasonable flexibility to treat each case individually and consider a wide range of factors, there does not appear to be any objective criteria or general guidelines that parents can consult to understand the basis for administrator decisions. The system also lacks a clear and fair appeals process. Creating further barriers, some districts condition student reentry upon completion of some type of program or treatment (e.g., for drug use or mental health) at the parents expense. Many parents lack health coupons or insurance and cannot afford to pay the costs. As a result, youth from low-income families may remain out of school for months instead of weeks, while more wealthy peers are reinstated. Our system should not make a student's right to an education contingent on family income or otherwise put low-income youth at greater risk of dropping out.

¹² WAC 392-400-275(4), Expulsions – Conditions and Limitations.

¹³ Coalition for Juvenile Justice, *Abandoned in the Back Row: New Lessons in Education and Delinquency Prevention 2* (2001).

Anti-Harassment/Bullying

Harassment and bullying is defined by RCW 28A.300.285 as any intentional act that physically harms a student or interferes with a student's education or is so persistent and pervasive that it creates an intimidating environment. Research shows that, contrary to expectations, bullying rates have not decreased in schools since the adoption of this legislation. Cases related to bullying and harassment consistently rank among the most frequent requests for OEO assistance interventions.

Recommendations

This regulation, passed by the Washington State Legislature in 2002, mandates only that all school districts develop and publicize an anti-harassment policy. It does not mandate the development of specific procedures to implement the policy. As a result, not all school districts have formulated uniform procedures to prevent and respond to bullying/harassment incidents. Here are our recommendations:

- Reintroduce HB 2015 Enhancing Anti-Harassment Strategies in Schools. Revise bill to include a requirement that school districts add procedure agreements to their policies that include a planned response system for harassment/bullying issues and that these are built on collaborative work with families and the community.
- Add anti-harassment and bullying prevention and intervention skills as a topic to curriculum units for pre-service certification in teaching, administration, and school counseling, and add this topic to staff trainings for continuing education and in-service training.

Basis for Recommendations

Parents have indicated lack of knowledge about this issue and where to find their own school district policies and procedures. Limited English Proficient (LEP) families are not always able to access relevant district materials translated in their primary language. Educators have noted that training and informational materials are not available across the state. Currently there are no statewide model procedures for school districts to consult. There is also limited formal pre-service and in-service training for school staff in recognizing and confronting anti-harassment/bullying. School districts working on anti-harassment/bullying initiatives rarely seek family input or participation.

School-Family Partnerships

Research shows that across families of all economic, racial/ethnic and educational backgrounds their involvement in education has a positive impact on student academic achievement. Partnerships that are student centered, academic focused, and which are viewed as the shared responsibility of school staff and all families are the most successful.

High performing schools are intentional in linking family involvement strategies to academic goals. We find that successful family involvement efforts in our state are based on best practices, and centered in collaborative relationships between teachers, parents and the community. However efforts are inconsistent, while some school districts do it very well, others struggle.

Recommendations

- Establish state-level policy to recognize school-family partnerships as a critical component of a strong public education system in Washington State. Identify roles and responsibilities of parents and school staff in this partnership.
- Develop state-wide guidance and supports for districts to create, implement, and evaluate effective school-family partnership policies and practices. Provide sample policies that establish school and district-level communication standards and protocols, such as established points of contact for families in different areas of concern, appropriate channels for pursuing additional assistance and information, and tools to evaluate the effectiveness of these practices.
- Develop sample conflict/dispute resolution policy for school districts.
- Develop mechanisms for schools and districts to share best practices and successful innovations regarding partnerships with diverse families.
- Require educator, administrator, and counselor certification programs to include coursework on forming effective partnerships with families, conflict prevention and resolution, and cultural competency.

Basis for Recommendations

OEO believes that families are a critical component of the public education system and a crucial factor in student academic success. In the course of our work, we find that school district officials and parents are unclear about their roles as education partners and how to effectively collaborate to support student academic success. An established state level policy and procedure that recognizes, describes, and sustains school-family partnerships would help educators and parents in their common efforts to support student learning.

An important component of effective school family partnerships includes clear communication protocols. Through our conflict resolution work, we find that breakdowns in communication are the underlying cause of many problems between families and schools. Clearly defined, two-way communication pathways, standards, and protocols would help families and educators build collaborative working relationships.

In addition, OEO finds that schools and school districts lack established complaint/dispute resolution policies and procedures. These policies and procedures would provide the school community with clear expectations and predictable procedures for addressing problems early and a pathway for intervention should the conflict escalate. Training for all school staff in effective communication and conflict resolution strategies would also support improved school family partnerships.

Educating students with Disabilities

There are laws that protect students with disabilities. The main laws are commonly referred to as “Section 504” and the Individuals with Disabilities Education Improvement Act (IDEIA).

In 1973, the U.S. Congress passed Section 504 of the Rehabilitation Act, which made it illegal to discriminate against people with disabilities in programs receiving federal funds, such as public schools. Two years later, Congress passed the Education for all Handicapped Children Act which was most recently changed in 2004, and is now called IDEA 2004 or IDEIA (the Individuals with Disabilities Education Improvement Act).

In addition, in 1991, Congress passed the Americans with Disabilities Act, commonly referred to as the ADA. Title II of the ADA defines disability in the same manner as Section 504. When the ADA and Section 504 both apply, Section 504 is usually used because it has regulations that are more specific for schools.

Section 504 and IDEA 2004 were enacted to ensure that students with disabilities would be provided with meaningful educational experiences.

Under both laws, school districts are required to provide disabled students with a free appropriate public education, referred to as FAPE. This means that districts must provide a range of services to meet the individual needs of students who have trouble succeeding in school because of a disability.

Section 504 provides services for a broader group of students than does IDEA 2004 because it has a more expansive definition of “disability.” Therefore, if a student meets the eligibility requirements for IDEA 2004, he or she is also eligible for the protections of Section 504. But not all students with disabilities who are entitled to Section 504 services are eligible for special education under IDEA 2004.

Depending on the student’s disability and needs, the type and level of support are specified in either a student’s Individualized Education Plan (IEP)¹⁴ or a Section 504 Plan¹⁵.

Recommendations

OEO’s recommendations for systemic improvement are based on the frequency and depth of state-wide concerns brought to its attention during direct consultation with families and educators over the course of the school year. They are:

- Additional training for Washington educators in the areas of communication and conflict resolution skills tailored to the context of working with parents in the Individualized Education Plan (IEP) and Section 504 processes. Development of clear communication protocols for working with parents to identify and evaluate students for special education services.
- Define and fund adequate resources for school districts to provide language access services that will enable Limited English proficiency (LEP) families to effectively participate in all aspects of the Special Education process, including IEP and Section 504 meetings. Examples of essential services include documents translated into parent’s primary language, use of qualified educational interpreters, materials presented in video and audio formats for parents who can’t read.
- Consistent adherence to procedural rules for convening IEP team meetings, including schedule when parents are able to attend; notify parents of schedule changes that impact their participation; provide parents with adequate advance time to review materials, ask questions and prepare; ensure that parents can include other professionals (e.g. medical experts, private therapists) in meetings; and assist parents to understand their role and the significance of their signature on IEP documents.
- Additional training and information for families and schools about social, emotional and behavioral disabilities, and the available services and strategies for meeting the needs of students with these disabilities. Establish clear rules and procedures for providing Section 504 accommodations and implementing instructional techniques that support these students’ academic success. Provide state support for the development of additional school and district-level resources to ensure equity of service across districts. Create a plan and a timeline for periodic state and district level review to ensure students are receiving appropriate services.
- Develop policies and procedures that add consideration of Section 504 accommodations to the development of Individualized Emergency Medical Plans (IEMPs), to ensure that academic needs related to student’s health are addressed through all available accommodations. Improve communication and collaboration between school health and instructional staff regarding the potentially overlapping needs of these students. Provide training for school personnel on developing and implementing Section 504 Plans for students with medical disabilities.

¹⁴ See: Individuals with Disabilities Education Act, 1975 (amended and reauthorized in 2004), for more complete information on the federal requirements for educating students with disabilities who need Individual Education Plans. 20 U.S.C .1400 et seq. (P.L. 108-446).

¹⁵ See: Section 504, Rehabilitation Act, 1974 (and Amendments included in the Americans with Disabilities Act of 2008) for more complete information on the federal rules for protecting students with disabilities from discrimination. US Dept of Education regulations can be found at 34 CFR 104.

Basis for Recommendations

Delivering appropriate and high quality support services to students with disabilities requires a significant level of cooperation and collaboration between schools and families. However, OEO has observed frequent conflict and miscommunication between parents and schools as they attempt to work through the special education process. While school staff has the legal responsibility to ensure that children with disabilities are identified and served, the first and best advocates for students are knowledgeable parents and family members. When educators and families do not work together in the provision of support services for special needs students, procedural gaps occur that can have long term effects on a student's ability to succeed in school.

The IEP and Section 504 processes are complex, difficult to understand, and time-consuming to implement. Special Education laws and procedures are characterized by advanced terminology and "legalese." Educators require professional development to understand how to carry out their responsibilities in this area. Parents likewise need information and training if they are to be effectively participants. OEO clients are often unaware of or confused about such basics as: Does my child have a disability? What is special education? What are the first steps I need to take? How do I effectively participate in an IEP meeting? OEO has found that nearly all parents need additional assistance to interpret the information presented to them and analyze options for programs and services. Limited English Proficient (LEP) parents also need this information translated into their primary language as a prerequisite to their effective participation. Schools will need support to provide such a time/staff-intensive levels of service to parents.

Even after students have been identified for support programs and IEP plans or accommodations put in place, many students with disabilities and their parents continue to face barriers because effective services and practices are not consistently available across all schools and districts. This is particularly the case for two types of students: students with social, emotional or behavioral disabilities, and students with medical disabilities who require academic accommodations.

Last year, OEO worked with increasing numbers of students and families affected by social, emotional, or behavioral disabilities. This group of disabilities includes Attention Deficit Disorder (ADD), Attention Deficit Hyperactivity Disorder (ADHD), Post-traumatic Stress Disorder (PTSD), Autism Spectrum Disorder (ASD), Asperger Syndrome, Bipolar Disorder, and Depression. Our casework identified broad family and educator misunderstanding of IEP and Section 504 plan options for these students. This has led to inadequate system-wide development of best practices necessary to support their instructional needs. Educators tell us that they need skills on how to implement positive instructional and behavioral support techniques for these students and how to best implement targeted classroom management techniques. OEO is concerned that school districts over-rely upon disciplinary action and exclusion from school without having developed a ladder of methods, interventions, and communication strategies appropriate to the student's disability.

OEO's casework also revealed that students whose medical health needs are supported through the provision of an Individual Health Plan (sometimes called an "Individual Emergency Management Plan" or IEMP) may also need a Section 504 plan to ensure academic program accommodations. Without this link, various disconnects may occur that can interfere with a student's academic success. Examples of such disconnects include instructional staff who might not understand rules and procedures related to health conditions or lack important health-related information that impacts a student's ability to participate in class, and students being penalized for school work missed during absences related to their health needs.

The Office of the Education Ombudsman
Governor's Office
155 NE 100th St - 210 Seattle, WA 98125
Toll Free: 1-866-297-2597 www.waparentslearn.org