

Washington State Governor's

Office of the Education Ombuds

2013-2014

Annual Report Executive Summary & Recommendations



OEO promotes equity in education by working with families and schools to remove barriers so that every student can fully participate in and benefit from public education in the State of Washington.

October 20, 2014

LETTER FROM THE STATE EDUCATION OMBUDS

TO: The Honorable Jay Inslee, Governor
Randy Dorn, Superintendent of Public Instruction
Members of the Legislature
Washington State Board of Education

We are grateful for the opportunity to present you with this annual report of the Washington State Governor's Office of the Education Ombuds, as required by RCW 43.06B.050.

The Office of the Education Ombuds (OEO) is seated independently outside of the education system it monitors. In its service as "citizen's aide," OEO facilitates resolution of conflict between families, students and their schools regarding any issue that impacts students within the K-12 public education system. OEO provides recommendations to decision-makers and elected officials who affect policy and legislation.

In its eighth year of operation, OEO has just completed its first year with a new director, and its highest number of cases: over 1038 statewide. In May, 2014, for the first time, we were able to hire a bilingual, regional Ombuds based in Eastern Washington. We also hired a bilingual intake specialist. This has allowed OEO to better connect with families whose first language is Spanish and have greater presence in Central Washington, the lower Yakima Valley, and the Spokane region.

Over the course of the past year, parents, educators, students, grandparents, foster parents, medical and health professionals, legislators, and others contacted OEO to ask for assistance to resolve a significant problem or concern related to a public school student. As in most years, complex concerns involving students with disabilities were the most frequently identified issues for intervention or consultation, along with issues related to student discipline, enrollment, bullying and harassment, and barriers to language access for limited-English speaking families.

We want to express our deep appreciation for the collaboration of the many educators we contacted to resolve concerns brought to us, and thank them for their ongoing commitment to building positive relationships with families and students in their communities.

Most importantly, we thank the families who brought concerns to our attention and put their trust in our office. We consider it an honor to have heard so many stories, met so many families, and had the opportunity to make a difference in the outcomes for so many children.

Thank you again for the chance to share what we have learned.

Respectfully Submitted,



Stacy Gillett, Director

EXECUTIVE SUMMARY

Washington public schools enrolled over a million children across the state last year. About 46% of those students were eligible for free or reduced lunch; more than 20% came from families with a first language other than English; nearly 16% were identified as having a disability; and nearly 41% were children of color.¹ We are experiencing the greatest racial and ethnic changes in American history to-date: there is no question that we are a profoundly multiracial and multicultural society. And yet, across the nation and in our state, there are neighborhoods and schools that remain segregated by poverty and race. This segregation perpetuates gaps in opportunity and outcomes for our students. It is notable that it has been 60 years since the decision in *Brown v Board of Education* and while the legal obstacles to integration in our public schools are gone, the social obstacles persist and confound us.

Statewide, about 23% of our students do not make it to graduation. Dropout is not a term that adequately describes the reasons and situations that lead young people to decide they can't finish school. It is important to understand why our schools fail to graduate some young people despite historic advances in boosting graduation rates. In our current system, students' race, ethnicity, socio-economic status, and disability status become predictors of whether they are more or less likely to drop out or be pushed out of school. Most schools with high concentrations of students of color are located in high-poverty neighborhoods, doubling the risk factors for their students. One of the student groups most affected by low graduation rates from our public schools is our Native American students.² We know that in some districts, African American boys are between two and five times more likely to be suspended or expelled than their White peers.³ We also know that suspended students are less likely to graduate on time and more likely to be suspended again. They are also more likely to be brought into contact with the juvenile justice system, where we have disproportionately high numbers of youth of color.

The Opportunity Gap is evident on nearly every indicator of child well-being - from health issues to neighborhood safety to educational outcomes. Our systems leave children who are living in foster care or experiencing homelessness or poverty lagging behind their more economically-secure peers and faring worse in all areas. Last year, more than 30,000 students in Washington public schools experienced homelessness; in 2012-2013, only 45.1% of students who experienced homelessness, and only 36.6% of students in foster care graduated on time. We need new strategies to reach and provide meaningful educational supports to children whose lives are complicated by unstable housing and poverty.

Students with disabilities experience similar opportunity gaps. Nearly 16% of all students in our state currently receive educational supports to address adverse impacts of a disability through Individualized Education Plans (IEPs) and Section 504 Plans. In some districts, students with an IEP were more than 2 times more likely to be suspended or expelled than their non-disabled peers;⁴ they were also less likely to graduate, and less likely to be employed or enrolled in a postsecondary program one year after leaving

¹ See the Washington State Report Card at <http://reportcard.ospi.k12.wa.us> and Data Report for English Language Learners, Languages Spoken at Home, at: <http://data.k12.wa.us/PublicDWP/web/Washingtonweb/DataTables/EIIDTViewer.aspx>.

² Graduation and Dropout Statistics Annual Report, 2012-13, at: <http://www.k12.wa.us/LegisGov/2014documents/GraduationAndDropoutStatisticsAnnualReport.pdf>.

³ See analysis of preliminary discipline data from 2013, at: <http://www.waappleseed.org/#!/school-discipline/c6wu>.

⁴ Analysis of preliminary discipline data from 2013, at: <http://www.waappleseed.org/#!/school-discipline/c6wu>.

school. We need to build capacity for educators to provide inclusive, high-fidelity, evidence-based classroom practices so that a student's gaps in skills can be addressed early and quickly, and without unnecessary stigmatization or segregation.

Students need relationships with caring adults and need to know *how* to have positive relationships with each other so they feel connected, safe, and that they belong at school. In education, we should first do no harm, and addressing the adverse childhood experiences and trauma that some students come to school with should be a skill that all educators possess. In addition, all educators need to be empowered to create and support a positive school climate that is welcoming to all students and free from bullying, harassment, and intimidation.

The following recommendations are made in an effort to improve outcomes for all children and to reduce the disparity and inequity experienced by vulnerable populations of students in Washington public schools.

Ensuring Language Access for All Families

To meet schools' growing needs for interpretation and translation services, required to ensure equity for all students, the State should:

- Provide **training resources** for school and district personnel to **effectively access telephone interpreters**;
- **Convene a task force** to explore ways of ensuring **access to quality interpretation and translation services** in all schools; and
- **Develop language access policies and procedures** to ensure clarity and consistency across the state.

Ensuring Access and Equity for Students with Disabilities

To ensure access and equity for students with disabilities across the state, the State should:

- **Convene a task force** to improve outcomes for students with disabilities;
- Create a **dedicated funding source** to support **timely and comprehensive evaluations** of students with suspected disabilities;
- **Support greater inclusion** of students with disabilities by: investing in **training for all educators**; creating standards for **certification of paraprofessionals**; ensuring **consistent compliance with Section 504**; and supporting **meaningful parent participation**; and
- Define appropriate **limitations on the use of restraint and isolation**.

Transforming School Discipline

To support current efforts transforming school discipline in Washington, the State should:

- Require Districts to adopt and implement **training, policies, and practices** that **directly reduce disproportionate impacts** from disciplining students of color, students with disabilities, and students living in poverty;
- Promote positive student reengagement and academic success by **providing funds necessary for Districts to offer interim educational services to students excluded for more than 10 days**, and revise rules on distribution of Basic Education Allotment funds to ensure funds are available to support reengagement of students out of school for extended periods of time;

- **Redefine Basic Education** to embrace all areas of learning necessary to student success, including **Social Emotional Learning (SEL)**;
- Support Districts' **implementation of reengagement meetings and plans** to ensure students find new and sustainable success upon return to school; and
- Support **strategic data collection and reporting** to inform discipline reform efforts.

Preventing Harassment, Intimidation and Bullying

To reduce the occurrence of harassment, intimidation and bullying, the State should:

- Require and support **training for HIB coordinators and school personnel**;
- Increase and continue funding for **school wide systems to address school climate**;
- **Add Social Emotional Learning (SEL)** to the definition of **Basic Education**; and
- **Reduce reliance on zero tolerance discipline** that excludes students rather than focus on conflict resolution and opportunities for social-emotional development.

Enhancing Family and School Partnerships

To build capacity for effective family and school partnerships, the State should:

- **Allocate full funding** for at least **one family engagement coordinator in each school**;
- Incorporate **principles of effective family engagement** in **teacher and administrator preparation programs**;
- **Support the cultural competence of all staff** in their interaction with families; and
- **Support replication of successful programs** to build sustainable family and school partnerships.

To ensure equity for all children in our public schools, there is no more critical issue than eliminating the Opportunity Gap that affects students of color; who are learning English; who may have disabilities; who may live with high mobility; or who live in impoverished communities or homes. This includes students who experience homelessness, who are in our foster care system, who need access to mental health services, or who may need help getting their basic needs met.

Research shows that working families trust teachers and support public education. We know what works and WE MUST DO WHAT MATTERS for the children of Washington. We are privileged to work with families each day to better understand their needs - and their children's experiences in our public schools. We must listen closely to the stories that families and young people share with us about the effects that leaving school has on them, about the barriers they face in getting a high school diploma, and what they say makes them come back to school and re-engage once they leave.

These are difficult conversations that we must have in a spirit of mutual respect for the sake of our children who face a limited and confined future without our strategic commitment to their success.

OEO'S RECOMMENDATIONS TO IMPROVE EDUCATIONAL OUTCOMES FOR ALL STUDENTS

OEO makes annual recommendations to the Governor, the Legislature and the State Board of Education for changes that will improve educational outcomes for all students. Each year, OEO learns more about how individual students' experiences are shaped by state education policies and the work that families, educators and community professionals do to try to make public school systems accessible to the varied and complex needs of students. The case described below is an example of the kinds of stories that OEO hears each day. OEO's recommendations are based on insights gained through casework, consultations with educational stakeholders and participation in statewide committees.

OEO's recommendations focus on policy level strategies that will increase the system's flexibility to support individual student success and effective family and school partnerships and hold the promise of eliminating existing educational opportunity gaps facing students of color, students with disabilities, and students living in poverty. If we can create a public school system flexible enough to work for those who are the most marginalized, we will ensure a system that will provide opportunity for all students to thrive.

This year, as in previous years, OEO recommends improvements in five critical areas: Ensuring Language Access For All Families; Ensuring Access To Services For Students With Disabilities; Transforming School Discipline; Preventing Harassment, Intimidation And Bullying; and Enhancing Family And School Partnerships.

ENSURING LANGUAGE ACCESS FOR ALL FAMILIES

As the state continues to work to enhance effective family and school partnerships, we must continue to pay particular attention to the communication needs of families with Limited English Proficiency (LEP). In 2013-2014, 20.9% of students in Washington state public schools came from families whose home language was not English.⁵ As the linguistic diversity grows in our state, the need for accurate and effective communication across language groups grows. State leadership in promoting communication access for families in our schools is of paramount importance. Nowhere is the communication between LEP families and schools more critical than with regard to ensuring access to **services for students with disabilities**, dealing with **school discipline**, and in preventing **Harassment, Intimidation, and Bullying**. In addition, LEP families must be provided with

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⁵ See Data Report for English Language Learners, Languages Spoken at Home, and State, accessed at: <http://data.k12.wa.us/PublicDWP/web/Washingtonweb/DataTables/EIIDTViewer.aspx>.

full access to information about both academic and extra-curricular opportunities for their students, and access to interpretation when they have concerns about their students' education.

The need for interpretation services is often unpredictable. Schools and districts can plan ahead for scheduled IEP meetings, discipline hearings or meetings to address HIB issues. However, to meet daily communication needs that can arise at any time (including, for example, a parent calling when a student did not get off the bus as scheduled, a principal calling home to report an accident, or teachers asking all kindergarten parents to have their children bring in photos or special items from home for show and tell days) school personnel must have access to trained interpreters at all times. Whether the parents speak Russian, Vietnamese, Somali, Spanish, English, or another language, they need to be informed so that their children, like all others, can enjoy safe and equal access to all school programs.

Effective family and school partnerships can be a reality for all families if the state ensures: meaningful access by school personnel to the already available telephonic language lines; development of sufficient numbers of trained and certified interpreters; and the adoption of a language access policy that provides continuity across all 295 school districts in the state of Washington.

Provide Training Resources on How to Effectively Access Telephone Interpreters

OSPI currently has contracts with telephonic language lines that are accessible for use by employees in every school district in the state of Washington.⁶ There are still school districts, however, where key staff are not yet aware of this existing resource, or who are aware of it but are unsure how to use it effectively. As a basic component of effective family engagement, the state should support allocation of in-service training time for school personnel on working effectively with interpreters and utilizing available interpreter services.

Convene a Task Force to Ensure Access to Quality Interpretation and Translation

Last year, OEO recommended that state policy makers convene a task force to develop professional standards for educational interpreters providing foreign language interpretation in schools. The state responded, providing OEO with the opportunity to conduct an initial feasibility study to examine current practices and availability of interpretation and translation services. During 2013-2014, OEO developed the plan for a feasibility study to include both school district surveys as well as a series of focus group meetings with families. OEO is in the process of completing that study and looks forward to providing detailed feedback to all stakeholders and including more specific recommendations in 2014-2015 for improving language access across the state.

In fiscal year 2013-2014, OEO continued to hear from families experiencing miscommunication with schools due to the inadequacy (or non-existence) of interpretation provided at critical meetings. For planned meetings, many districts rely on bilingual employees, some of whom are fully proficient in both languages and familiar with skills needed for effective interpretation, and some of whom give their best effort but do not have adequate training for the task. Other districts rely on independently contracted

⁶ The Washington State Department of General Administration has a contract for telephone-based interpretation services, which schools and districts may use. See <http://www.k12.wa.us/Equity/Interpretation.aspx?printable=true>.

interpreters to provide interpretation for families and need advance notice in order to ensure availability. Some districts still rely on children to interpret for families. These meetings often involve high-stakes decisions and sensitive issues. The practice of using children as interpreters is strongly discouraged as it “may place an undue burden on students, may undermine parental authority, and may not provide parents with reliable information to make informed decisions.”⁷ In the meetings, administrators are often trying to explain unfamiliar and complex school systems and policies to families. It is essential that everyone involved trusts that the information is interpreted accurately and that the student and family’s privacy is protected. Investing up front to ensure ready access to a pool of appropriately trained interpreters and translators can help avoid the financial and relational costs that come from miscommunication.

As a next step, the State should convene a task force to develop professional standards for educational interpreters providing foreign language interpretation. The state should also support pilot projects to test the effectiveness of different models of delivering interpretation and translation services. The pilot projects must take into account the differing needs of districts serving large numbers of LEP families that speak a common language, districts serving large numbers of families that speak a multitude of different languages, and smaller districts with fewer limited English-speaking families. The task force could also be charged with developing a resource bank accessible to schools and families where they can find translated dictionaries of common education terms, contact information for trained education interpreters and translators, and training materials for school staff on how to work with interpreters.

Develop Language Access Policies and Procedures to Ensure Consistency across the State

Federal and state law mandates that public schools provide equal access to LEP families, and OSPI’s Equity and Civil Rights Office provides guidance to districts and schools regarding ways to meet that mandate. But there is still a need for district-level written policies and procedures that can serve as a guide to both staff and families on how to actually access interpretation and translation services in each school and district.

The state can provide needed guidance by publishing a model policy and procedure, and requiring each district to adopt a language access policy and procedure. At a minimum, the policy and procedure should:

- inform families and school staff about when and how interpretation services can be accessed both for planned and unplanned calls or meetings;
- establish minimum training and qualification requirements for individuals serving as education interpreters; and
- describe the plan for disseminating information to limited English proficient families about accessing interpreters.

Taking these steps would improve access for families across the state and provide tools for school staff as they engage with families to support each and every student.

⁷ Prohibiting Discrimination in Washington Schools, Guidelines for School Districts, p17, from OSPI, available at: <http://www.k12.wa.us/Equity/pubdocs/ProhibitingDiscriminationInPublicSchools.pdf#Translation>.

ENSURING EQUAL ACCESS FOR STUDENTS WITH DISABILITIES

In the world of education, we sometimes talk about students in terms of what federal or state funding categories or statutory protections they might fit within: general education students, special education students, Section 504 students, English Language Learners, McKinney-Vento, Title I or LAP (Learning Assistance Program) students. They are all students first with the right to an amply funded basic education. OSPI's most recent Graduation and Dropout Statistics Report shows, however, that in the five years between 2008-09 and 2012-13 we **lost more than a quarter** of our students with disabilities from our public high schools.⁸ Even while schools and districts identify teachers and staff with particular areas of expertise, be it special education or bilingual education, we must remember that everyone in our schools – all teachers, support staff, principals and district administrators - shares responsibility for providing a safe and appropriate learning environment for all students.

To better meet the needs of students with disabilities, we must start by ensuring access to an amply funded, quality basic education program. There are other concrete steps state policy makers can take to improve the ability of our public schools to be responsive to the diverse strengths and needs of all students, including students with disabilities, beginning with the creation and funding of a special education task force.

Convene a Task Force to Improve Outcomes for Students with Disabilities

We recommend that the state convene and adequately fund a task force, or commission charged with taking a comprehensive look at our public education system and identifying ways in which it can consistently deliver appropriate instruction and services to all students, particularly those with identified or unidentified disabilities, from preschool through high school.

Now is the time for a comprehensive look. Over the past several months, pursuant to a proviso in the 2014 supplemental budget, OEO has been listening to education stakeholders and members of the community and gathering their input on a possible special education task force.⁹ While some students receive high quality instruction in appropriate settings, districts and families across the state are raising concerns about the ability of the existing system to respond appropriately and flexibly to the unique needs of each individual student. **All participants in the discussion regarding the**

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- **Support greater inclusion** of students with disabilities by: investing in **training for all educators**; creating standards for **certification of paraprofessionals**; ensuring **consistent compliance with Section 504**; and supporting **meaningful parent participation**; and
- Define appropriate **limitations on the use of restraint and isolation**.

⁸ Graduation and Dropout Statistics Annual Report 2012-13, p.8, available at:

<http://www.k12.wa.us/legisgov/2014documents/GraduationAndDropoutStatisticsAnnualReport.pdf>.

⁹ See Section 116(5), ESSB 6002, available at: <http://apps.leg.wa.gov/documents/billdocs/2013-14/Pdf/Bills/Session%20Laws/Senate/6552-S2.SL.pdf>.

task force agree that improving services for students with disabilities must start first with improving the foundation of basic education. Accordingly, the state's efforts to meet its constitutional obligation to provide all students with a basic education must be informed by a current and accurate picture of how students with disabilities are, or are not, identified and provided appropriate services. Following the conversations with stakeholders, OEO will be submitting a proposed plan for a task force along with a request for funds necessary to implement the plan to the legislature by December 1st, 2014.

Create a Dedicated Funding Source to Support Timely and Comprehensive Evaluations

Last year, OEO recommended that the state establish a dedicated funding source to support school districts in meeting their "Child Find" responsibility of identifying and evaluating children with suspected disabilities. We recommend the same again this year. Evaluations are legally required before any student may receive special education services, and are essential to understand and support the unique needs and strengths of each child with a suspected disability.

Two major federal statutes require school districts to evaluate students with a suspected disability: Section 504 (a civil rights statute that prohibits discrimination) and the Individuals with Disabilities in Education Act (IDEA) (which provides some supplementary funding for the provision of specially designed instruction related to a disability). However, neither statute provides funding clearly and specifically targeted to support the process of evaluations. If a student is found eligible under IDEA, the district presumably takes the cost of evaluation from its federal and state excess cost allotment for special education. Section 504 provides no supplementary funds for the costs of identification, evaluation or the provision of services; those are presumed to be covered by each district's Basic Education Allotment.

To be adequately prepared to "find" each child impacted by a disability and understand the nature and extent of this impact on the child's ability to benefit from education, Districts must have sufficient access to school psychologists, speech/language therapists, audiologists, occupational therapists, physical therapists, school nurses and counselors, and community partners such as physicians, psychologists, and social workers in sufficient numbers

The inherent challenges in this process are significantly compounded when working to identify students who present with "hidden" disabilities and those who may need accommodations and services under Section 504 but do not meet the eligibility criteria for IDEA. This can include students with mental health issues and other less-concretely observable neurological and physical conditions that affect learning and behavior. To identify and support these students, schools' need for a network of community professionals with specialized knowledge and expertise is even more critical. Yet, it is often for these students that resources are most difficult to obtain because there is commonly no identifiable source of supplemental funding or accounting separate from basic education allocations.

This lack of an identifiable source of reimbursement and clear accounting for the process of identifying a student's disability, when combined with the complex process of teasing out the educational implications contributes to delays in identification, and pushes costs for public education onto parents and the social services system.

It is recommended that the state allocate additional funds to support districts in meeting the obligation to identify and evaluate each child with a disability. One way to increase funding to schools for identification

services would be an improved system of supports for school districts to utilize school-based Medicaid services and Early Periodic Screening, Diagnosis and Treatment (EPSDT) program referrals for Medicaid-eligible students. Currently it is estimated that less than 1/3 of eligible Medicaid students have school-based services or seek identification through EPSDT because of complex rules for administering Medicaid and the use of third party billing agents. The state should fund training for district personnel on the rules regarding Medicaid and how to access school-based services so they can administer the programs in-house, better comply with Medicaid rules, and increase services and EPSDT referrals for eligible school age children in Washington. This increase will foster earlier identification, additional revenue for services, and increased access to needed mental health services for students.

Support Greater Inclusion of Students with Disabilities

The various rules and procedures that districts and families follow in developing Individualized Education Plans (IEPs) were created with a simple purpose in mind: to protect the basic civil rights of students with disabilities to have access to an appropriate public education along with their peers.¹⁰ Just 39 years ago, Congress enacted the first federal law guaranteeing students with disabilities the right to a free, appropriate public education, often referred to as “FAPE.”¹¹ Schools and families have made tremendous progress in ensuring that students with disabilities have access to appropriate educational services and are not segregated from, or within, our public school system, but significant work remains and state leadership is essential. **The following are steps the State can take to support inclusion of students with disabilities:**

- **Require and Provide Adequate Training to Prepare All Educators to Support Students with Disabilities**

Last year, OEO recommended that the state ensure best practices in serving students with disabilities by providing training and support for *all* educators. This year, as was true last year, more than half of the students with disabilities receiving services under the IDEA spent most of their day in “general education settings.” Many more students with disabilities, some with Section 504 plans, spent most or all of their day in general education settings. At the same time, many of the students receiving instruction in a “special education setting,” are, at least in theory, working on the same general education curriculum that is taught to their peers in the general education classroom. Still we hear that it is not yet the norm in all districts for ‘special education teachers’ to have the opportunity to participate in professional development focused on common core and grade-level standards or local curriculum materials. It is not yet the norm for ‘general education teachers’ to have been through teacher training programs that adequately cover ways to ensure accommodations are implemented consistently and with fidelity, to effectively address behaviors that are manifestations of a child’s disability, or to work effectively in teams with special educators and/or para professionals to deliver instruction to students with disabilities within the ‘general education setting.’ Similarly, in typical principal or superintendent certification programs, there is little time allocated to exploring the differing needs of students with disabilities and becoming

¹⁰ The Rehabilitation Act of 1973. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability by recipients of federal funds.

¹¹ Education for All Handicapped Children Act (Public Law 94-142) (1975), later amended and renamed the Individuals with Disabilities Education Act (IDEA), see: <http://www2.ed.gov/policy/speced/leg/idea/history.html>.

familiar with effective ways to support students with disabilities and their teachers, whether through an IEP, a Section 504 plan, or through school-wide support systems that benefit all students.

The state can change this by supporting efforts underway in some districts to ensure *all* teachers are familiar with grade level standards, and able to identify specific skills within the standards to target individualized instruction. The state can support efforts underway in some districts to create opportunities for general and special education teachers to collaborate on delivering specially designed instruction to students in their regular classrooms and reducing the amount of time that students with disabilities are separated from their non-disabled peers. The state can make a difference in the long term by reviewing teacher certification requirements and teacher and administrator preparation programs to ensure that every teacher, principal and Superintendent walks into our state's public schools ready and able to support each and every student, regardless of disability status.

- **Create Standards for Certification of Paraprofessionals**

Last year, OEO recommended that the state create standards for certification of paraprofessionals. The state responded, establishing a work group to review the issue.¹² As we noted last year, paraprofessionals continue to be called upon to provide one on one support and instruction for students with disabilities, whose learning needs often are the most complex. **It is critical that the state move forward and continue the work on creating standards for certification of paraprofessionals.**

- **Ensure Consistent Compliance with Section 504**

True inclusion for students with disabilities has to mean that all students, regardless of the nature or severity of their disability, have access to the necessary accommodations *and services* they need to access school programs. This year, as in years past, OEO has heard from many families that have been unable to get appropriate supports, implemented consistently, for their child because the child did not qualify for services under the IDEA and had “only” a Section 504 plan.

Section 504 of the Rehabilitation Act – like the IDEA – requires districts to identify and evaluate students with disabilities, and provide appropriate accommodations, specially designed instruction *and related services* to those students. Yet, in most districts, compliance with the two programs is divided in different departments. Because Section 504 is seen as an unfunded mandate by many, and because regulations governing its implementation are not as extensive as those for the IDEA, many students with disabilities and their families have difficulty obtaining appropriate Section 504 plans and struggle even more to receive proper implementation of the plans. Families are told that students may not access certain supports – including study skills classes, academic coaching or time with a mental health counselor – unless they have an IEP because there is no separately identified funding available. In some cases, the school and family are in agreement regarding what the student *needs* for related services or supports, but are unsuccessful in accessing them.

The state can ensure consistent implementation of Section 504 and our own state anti-discrimination law by establishing regulations to ensure districts plan for the costs associated with meeting their obligations

¹² See SSB 6129 (2014) available at: <http://apps.leg.wa.gov/documents/billdocs/2013-14/Pdf/Bills/Session%20Laws/Senate/6129-S.SL.pdf>.

under Section 504, and establish clear procedures around parent participation, regular re-evaluation and review of individualized plans for students who need accommodations and services under Section 504.

The state could go far in accomplishing this by funding and training districts to align Section 504 processes with essential components of the IDEA framework.

- **Support Meaningful Parent Participation**

For any of these proposed changes to work, the state must ensure that districts are ready and able to facilitate meaningful parent participation. Last year, OEO recommended that the state support districts in meeting the parent notice and participation requirements of the IDEA. **This year again, OEO recommends that the state take steps to ensure educators have sufficient time to engage with families in the process of collaborative decision-making and to ensure that limited English proficient families have access to quality interpretation services and translated evaluation reports and IEP documents.**

Define Appropriate Limitations on the Use of Physical Restraint and Forced Isolation

There are still many children in our state who, unfortunately, are effectively segregated from their peers for all or most of their school day, particularly when they struggle with regulating emotions and behavior. Some of those children are subjected to the use of physical restraints and forced isolation as part of their individualized education programs.

OEO has worked directly with several schools and families in cases where IEP teams have developed “aversive intervention plans” to outline when and how a child may be subjected to the use of isolation and/or restraint. In the vast majority of situations, everyone involved agrees that isolation and restraint should be used only as a last resort and only when needed to ensure safety and that each use of restraint and isolation should be carefully scrutinized. The challenge arises in making sure teachers and schools have sufficient training, staffing and support to effectively implement preventative interventions and avoid situations where behavior escalates to the point staff feel a threat to their own or others’ safety.

Stories shared by families and IEP teams, along with data available from the U.S. Department of Education’s Civil Rights Data Collection, tell us that this is a critical issue in our schools. **In 2011-2012, districts in Washington reported using mechanical restraints more than 1,000 times; physical restraint more than 5,000 times and seclusion more than 7,000 times.**¹³ Not all of Washington’s districts reported numbers of isolation and restraint, so the actual number of times restraints and seclusion were used is likely higher.

Washington state law now requires reporting to parents when a student with an IEP or a Section 504 plan is restrained or isolated, however, there is currently no state requirement that districts report to parents when physical restraint or other “reasonable force” is used against other students, or that staff engage in a debriefing session after each use of force involving students without IEPs or Section 504 plans.

¹³ See Civil Rights Data available at:

http://ocrdata.ed.gov/flex/Reports.aspx?type=district#/action%3DaddSearchParams%26ddlSearchState%3DWA%26btnSearchParams%3DSearch%26cblYears_4%3D1.

In 2009, U.S. Department of Education Secretary Arne Duncan issued a letter to chief state school officers encouraging a review of policies and guidelines on restraints and seclusions.¹⁴ Several states responded to that call to action, and by state law, regulation and/or policy guidance now restrict the use of restraint and seclusion in public schools to emergency situations where it is needed to protect the safety of students or other persons.¹⁵

Our state could better ensure the safety and dignity of students and school staff in public schools by prohibiting the use of restraint and seclusion except as is necessary to ensure physical safety of the student or other persons and providing educators with the levels of support and training needed to ensure safety without restraint and seclusion. Experience from the fields of developmental disabilities and mental health demonstrates that reducing reliance on isolation and restraint can lead to fewer injuries for both children and staff, and improved outcomes for youth. With state leadership, we can expect results in efforts to reduce and ultimately eliminate the use of restraints and isolation.

TRANSFORMING SCHOOL DISCIPLINE

The area of school discipline continues to be an important part of OEO's casework with students and families, as well as a key focus of our policy work. We are especially concerned about students who, as a result of frequent or serious disciplinary actions, have been removed from school for lengthy periods and experience serious disruption in their education. Repeated disciplinary actions, left unaddressed, are known to contribute to low academic performance, truancy, and dropping out of school.

Day-to-day approaches to behavior management that rely heavily on punishment and exclusion, or worse, restraint and seclusion, put stress on educators and undermine the success of students. Current disciplinary practices in Washington have also been shown to disproportionately impact and eventually "push out" students of color, students with disabilities and those living in poverty.¹⁶ Efforts to improve Washington's school discipline system should make

To support current efforts transforming school discipline in Washington, the State should:

- Require Districts to adopt and implement **training, policies, and practices that directly reduce disproportionate impacts** from disciplining students of color, students with disabilities, and students living in poverty;
- Promote positive student reengagement and academic success by **providing funds necessary for Districts to offer interim educational services to students excluded for more than 10 days**, and revise rules on distribution of Basic Education Allotment funds to ensure funds are available to support reengagement of students out of school for extended periods of time;
- **Redefine Basic Education** to embrace all areas of learning necessary to student success, including **Social Emotional Learning (SEL)**;
- Support Districts' **implementation of reengagement meetings and plans** to ensure students find new and sustainable success upon return to school; and
- Support **strategic data collection and reporting** to inform discipline reform efforts.

¹⁴ <http://www2.ed.gov/policy/elsec/guid/secletter/090731.html>.

¹⁵ See "How Safe is The Schoolhouse? An Analysis of State Seclusion and Restraint Laws and Policies," Jan. 20, 2014, by Jessica Butler, Jessica@jnba.net, accessed at <http://www.autcom.org/pdf/HowSafeSchoolhouse.pdf>.

¹⁶ Analysis of preliminary discipline data from 2013, at: <http://www.waappleseed.org/#!/school-discipline/c6wu>.

reducing and eliminating all these forms of disproportionality a top priority.

In 2012-13 the legislature passed ESSB 5946, making important, positive changes to the school discipline framework. Included in these changes was the creation of a 10-day limit on removing students from class or school on an emergency basis, after which administrators are required to convert that discipline to either a long-term suspension or expulsion. The legislature also set a one-year cap on all expulsions, after which administrators have to petition to exclude a student for longer. OEO supports the goals of this legislation: to prohibit open-ended exclusions with no end-date; to encourage alternatives to exclusion; and to reconsider appropriate disciplinary responses to behaviors that are not “dangerous” or “extremely disruptive” to the school environment. OEO believes schools will need ongoing support from all levels of the system to implement these changes in such a way that fairly balances the rights of individual students to remain in school, even as they are learning more positive, functional behaviors, with the needs of the entire school community to learn in a safe environment, free of undue disruption.

Require Districts to Adopt and Implement Training, Policies and Practices that Directly Reduce the Disproportionate Impacts of School Discipline

All students have the right to access a basic education and to expect that the public schools in our state will welcome them and support their learning. To meet this expectation, the state and districts must focus energy and resources on identifying and eliminating disproportionate impacts of school discipline on students based on their race, ethnicity, socio-economic status and whether or not they have a disability.

The number of individual students in our school population with very diverse needs increases every year. Whether we are talking about a student’s learning style, cognitive capacity, social-emotional readiness, or health status, meeting each child’s needs looks different depending on the presence of a disability, cultural and language differences, and a child’s history of disadvantage or trauma. When these needs are not met, children are more likely to exhibit non-conforming behavior which can be challenging to address, and disruptive to the learning environment. This can then lead to discipline and school removal. Schools alone cannot resolve all of the myriad issues impacting young people, but our public schools must be open and ready to respond to the educational needs of each and every child.

High and disproportionate rates of discipline serve as a warning signal that our school system is not equally accessible to some students, whether it is because of disability, race, ethnicity, language ability, homelessness or socio-economic status. Data patterns can highlight policies or practices that lead to a discriminatory impact on students and can help in targeting efforts for system reform. It is critical that schools and districts have the resources and training to utilize the data they collect to identify and make changes to practices or policies that contribute to disproportionate impacts.

To meet the shared responsibility of supporting students with complex needs, it is essential that all educators are prepared to teach students with disabilities, to address social-emotional challenges, and to exhibit cultural competence, including responding appropriately to the needs of students and families whose first language is not English. This will require that all educators have training and meet quality standards in the following areas: understanding disabilities and providing instruction that accommodates individual needs; incorporating the teaching of social emotional skills into their curriculum; and working effectively with culturally and linguistically diverse populations. Targeted, relevant training in these areas

should be identified not just for all general and special education teachers, but all school staff—including aides, office staff, bus drivers, coaches, and law enforcement—that interact with students and their families.

There is growing national consensus that effective discipline reform includes moving away from district-level “zero tolerance” policies.¹⁷ These policies result in more referrals to law enforcement, are applied disproportionately, and contribute to the “School to Prison Pipeline” effect. Zero Tolerance is broadly harmful to students, with evidence showing that the higher suspension and expulsion rates associated with zero tolerance policies lead to increased chronic behavior problems and student disengagement, and do not make schools safer.¹⁸

Allocate Funds Necessary for Districts to Provide Interim Educational Services to Students Excluded for More than 10 days

Although substantial reform efforts are underway, thousands of students in Washington continue to face extended exclusions from school with no way to keep up with homework or access alternative educational services. We know that interruptions in a student’s education of even a week or two can have significant detrimental impact,¹⁹ and many of these students face months of exclusion. As part of responding to the passage of ESSB 5946, OSPI will be developing a clearinghouse of Best Practices for districts who want to offer educational services to students while they are long-term suspended or expelled.²⁰ **The State can improve outcomes and graduation rates by establishing minimum standards for a continuum of interim education options, and funding those services** so that students can have access regardless of inconsistencies in district-to-district funding. Successful re-engagement with school following a suspension or expulsion depends in large part on the student’s ability to re-engage with the academics. For shorter periods of exclusion, opportunities to keep up with homework can make the difference. For longer periods, districts should have the resources to provide meaningful alternatives, including online and other credit retrieval programs.

Redefine Basic Education to Encompass Social and Emotional Learning (SEL)

“Social and Emotional Learning” refers to the development of skills that are critical to success in school and life, including: self-awareness, self-management, resilience, social agility and responsible decision-making.²¹ We know that large numbers of students are currently failing and dropping out because deficits in these areas represent a barrier to learning. Neither schools nor families can meet this challenge alone.

¹⁷ “The School Discipline Consensus Report: Strategies from The Field to Keep Students Engaged in School and Out of the Juvenile Justice System,” The Council of State Governments Justice Center, June 2014, p. 75.

¹⁸ See, for example, “The Bottom Line about Suspension and Expulsion,” available at:

http://www.michigan.gov/documents/mde/Fact_Sheet_for_S3_Schools_3-5-13_422420_7.pdf.

¹⁹ See “The Importance of Being in School: A Report on Absenteeism in the Nation’s Public Schools,” May 2012, The Johns Hopkins University, available at: http://new.every1graduates.org/wp-content/uploads/2012/05/FINALChronicAbsenteeismReport_May16.pdf.

²⁰ For more information, see:

<http://www.k12.wa.us/AchievementGap/meetings/Sept2014/BestPracticesSuspendedExpelledStudents.pdf>.

²¹ See the U.S. Department of Education’s Guiding Principles Resource Guide for Improving School Climate and Discipline, available at: <http://www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf>.

Children must master social and behavioral skills that are unique to the school environment, receive consistent reinforcement both at school and at home, and apply gains in learning across both environments. As with academics, teaching and learning social emotional competence must be a responsibility shared by students, families and schools.

In January, 2014, the U.S. Department of Education and the U.S. Department of Justice issued a joint *Dear Colleague Letter* that provided significant guidance to states and localities regarding the steps needed to improve school climate for all students and reform discipline practices to ensure they do not discriminate against students based on race or ethnicity, either intentionally or by causing unreasonable disparate impacts.²² The Department of Education followed up with a “Guiding Principles” Resource Guide²³ that outlined what steps to improvement can look like in practice. The first of the three Guiding Principles focuses on school climate and prevention. It explains the need for deliberate efforts to create positive school climates and identifies strategies, like Multi-Tiered Systems of Support (MTSS) frameworks for teaching social emotional skills that support students needing average, as well as those requiring more intensive, levels of social emotional skills instruction. The Guiding Principles highlight social and emotional learning as necessary complements to academic learning.

To meet the mandate of creating schools that welcome and support all students, Washington should incorporate instruction in Social Emotional Learning (SEL) within the definition of Basic Education. The state should support implementation of MTSS frameworks and allow schools to tailor their choice of curriculum and programs to their community’s needs while maintaining a consistent and guaranteed level of instruction across the state. The state can support districts by developing specific guidelines and resources for providing services to students with social, emotional and behavioral disabilities to ensure that these students are included in general education and receive an appropriate education alongside their peers without disabilities.

Schools and districts must be supported to evaluate, monitor, and assess their school climate as it relates to students’ social-emotional and physical safety, engagement, harassment, conflict, and discipline. Districts should likewise be guided and supported in their new and ongoing efforts to improve school climate and implement school-wide Positive Behavioral Intervention and Support (PBIS) models. This would include allocating funds to ensure comprehensive training for school staff in understanding and delivering such models. The State could establish a “Structured Menu” approach that would allow schools to choose how they implement required positive behavior supports. This would make a diverse array of evidence-based approaches available, ranging from prevention to response, and give schools flexibility to customize their options according to the needs of their elementary, middle, and high school programs.

The State should also consider allocating supplemental funds for districts to access the training, technical assistance, and resources that OSPI will be making available to local districts in the areas of 1) reducing disruptive behaviors in classrooms, 2) developing meaningful approaches to school discipline, and 3) implementing alternatives to exclusionary discipline.²⁴

²² See: <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.pdf>.

²³ See: <http://www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf>.

²⁴ See fn.27.

Support Districts to Implement Effective Reengagement Meetings and Plans

One of the most positive and inspiring changes to law contained in ESSB 5946 was the requirement that schools hold reengagement meetings with parents and students subject to removals over 10 days. In these meetings, the schools will consider shortening the length of time the student is excluded from school and create a plan that includes supportive interventions to help the student reengage and stay on track to graduate. Reengagement plans will be tailored to the individual circumstances of the student, will address the incident that led to the removal, and will help the student to remedy the situation that led to being removed from school. Districts are urged to always include school-level personnel, as standard procedure, in the newly required Reengagement Meetings. State regulations also make clear that all families should get adequate notice of these Reengagement Meetings, including families with limited English proficiency.

As with any change in practice, schools will need support as they incorporate these new requirements into their already busy, standard operating procedures. The State can provide support in the form of guidance materials, sample or model forms (including translations of commonly used forms), and development of training modules that educators can access through regional ESDs and k-20 education networks.

Require Strategic Data Collection and Reporting to Inform Discipline Reform Efforts

The new discipline law established a Student Discipline Task Force, which includes OEO and many other stakeholders from schools, districts, and the community.²⁵ That Task Force has been working since September 2013 to develop the following:

- A uniform definition of “disproportionality” for application to state-collected data.
- Standard definitions for categories of misconduct that, at the discretion of local district policy, can result in suspension or expulsion;
- Data collection standards for disciplinary actions that are discretionary and for disciplinary actions that result in the exclusion of a student from school; and
- Data collection standards to capture information about the following: whether and how educational services are provided to a student during exclusion from school; local credit retrieval options; the status of petitions for readmission, grievances and appeals; the implementation of student reengagement meetings; and the development of student reengagement plans.

The Task Force will conclude its work and issue its final recommendations by December 2014. However, most changes to the state’s longitudinal student data collection manual (known as the CEDARS Manual), will not go into effect until 2015-16. Although many districts have already begun to collect some degree of detailed data, OEO recommends that all districts begin immediately collecting and reporting individual and school-level data on how many days students are removed from the classroom or school for any reason, and for all categories of misconduct that result in such removal. Such data, when collected and made accessible, can help inform school and community discussions regarding possible local discipline policy changes.

²⁵ For information, see: <http://www.k12.wa.us/safetycenter/discipline/default.aspx>.

Developing a statewide framework to regularly examine whether districts' disciplinary practices are disproportionately impacting students based on race, ethnicity, disability, socio-economic status, gender, gender orientation or sexual orientation will be needed to build on recent reform efforts aimed at a discipline system that is fair and non-discriminatory. Schools and districts found to have ongoing challenges with disproportionate discipline should be supported to receive targeted training to reduce any disproportionate impact. In addition, as many districts are making increased use of law enforcement officers on campus, individual and school-level data on the frequency and nature of the involvement of or referrals to law enforcement needs to be collected and reported. Lastly, Washington would benefit from the creation of an integrated system for measuring school climate and positive discipline that links data from the Washington State Healthy Youth Survey and district discipline data with staff and parent surveys to better inform strategies and research-based interventions for students.

PREVENTING HARASSMENT, INTIMIDATION AND BULLYING

This year the Washington legislature attempted to expand on the progress made since passage of the anti-harassment, intimidation and bullying (HIB) law in 2010 with proposed bill SSB 6439. This year's bill would have required that the primary contact person responsible for ensuring compliance with HIB policies in each school attend at least one training class. We recommended last year that the State "provide funding to fully train school staff in preventing, identifying, and responding to HIB." A year later, we continue to see the need for the State to fully fund the training and personnel that are required at the district and school-building levels to ensure that schools can appropriately prevent and respond to HIB incidents.

In the past fiscal year, OEO still received calls from families who had not heard of their district's Compliance Officer, had not been provided notice of the district's HIB processes and could not even find information about harassment or bullying on their district's website. Because of this, we echo our recommendation from last year that the State issue specific guidance on the notice requirements of the HIB law. This should include ensuring families receive information in a language they can understand at least annually as well as when an incident is reported.

We also see in our cases and in a growing body of research that paying specific attention to school climate and social emotional learning is critically important in creating and maintaining safe and stable learning environments for young people.²⁶ OEO believes the State should provide leadership and support

To reduce the occurrence of harassment, intimidation and bullying, the State should:

- **Require and support training for HIB coordinators and school personnel;**
- **Increase and continue funding for school wide systems to address school climate;**
- **Add Social Emotional Learning (SEL) to the definition of Basic Education;** and
- **Reduce reliance on zero tolerance discipline that excludes students rather than focus on conflict resolution and opportunities for social-emotional development.**

²⁶ <http://www.stopbullying.gov/prevention/at-school/build-safe-environment/index.html>.

to districts and schools addressing school climate and social emotional learning through supporting programs such as PBIS and other multi-tiered systems of support (“MTSS”), as well as by making Social Emotional Learning (SEL) part of the State’s definition of Basic Education.²⁷ These programs build skills among students and staff and support acceptance, compassion and peaceful resolution of conflict.

Lastly, based on OSPI’s data from the 2012 – 2013 school year, over 6,000 students were excluded from school due to HIB-related discipline. We believe the state should provide schools the support and guidance they need to ensure that incidents of HIB can be dealt with appropriately without excluding students from school. Schools should have non-exclusionary tools available to them (safety plans, counseling services, positive behavioral interventions, in-school suspensions, etc.) so that students can stay in school and learn how to engage appropriately with their peers. Along these lines, OEO recommends that the state support training and resources for all school staff, including general and special education teachers and building administrators, so that they can effectively support students with disabilities who face harassment because of their disability and/or who may engage in behavior that is viewed as harassment or bullying. School teams need the resources and ability to ensure all students have access to a safe and welcoming environment, and *at the same time*, address inappropriate behaviors by students with disabilities in a manner that is consistent with the student’s IEP and the district’s obligation to provide that student a Free and Appropriate Public Education (FAPE).

OEO continues to co-convene the State’s Anti-Harassment, Intimidation, and Bullying workgroup, which is expected to produce its final report in December of 2015. OEO’s hope is that the group continues to fulfill its legislative mandate and serve as a critical resource in conversations in the legislature regarding what schools and districts need in order to address HIB, support positive school climate, and bring social emotional learning into classrooms.

SUPPORTING EFFECTIVE FAMILY & SCHOOL PARTNERSHIPS

Improved outcomes for individual students, sustained school improvement, and school cultures that support all students depend upon effective partnerships between schools and families.²⁸ Washington State has made progress by allocating funds in the prototypical school model for parent involvement coordinators in elementary schools and guidance counselors in high schools. As a next step, the state should move to full funding for at least one designated staff person for each prototypical school who can serve as a lead and coordinator for family engagement.

Having a designated staff person charged with leading family engagement efforts is a powerful first start, but no one staff person alone can successfully build and

To build capacity for effective family and school partnerships, the State should:

- **Allocate full funding** for at least **one family engagement coordinator in each school**;
- Incorporate **principles of effective family engagement** in **teacher and administrator preparation programs**;
- **Support the cultural competence of all staff**; and
- **Support replication of successful programs** to build sustainable school/family partnerships.

²⁷ <http://www.casel.org/bullying/>.

²⁸ Why Community Engagement Matters in School Turnaround, by Sara Winer, accessed at <http://vue.annenberginstitute.org/issues/36/why-community-engagement>.

maintain the active partnerships with families that are needed to support student success. Families communicate regularly with school support staff, teachers and building administrators about their child's learning. Most of the interactions between families and schools are positive: celebrating successes of students, planning engaging activities for school communities, or working collaboratively to identify and address barriers to student learning. Families want the best for their children, teachers want each of their students to learn and thrive. But families and schools inevitably encounter situations where there is disagreement regarding how to make that happen. State policy makers can set the stage for student success by ensuring that teachers and school administrators have the training and skills necessary to engage conflict constructively and turn challenging conversations into opportunities for improvement and understanding. Another next step for the state will be to review standards and requirements for teacher and school administrator preparation programs to be sure they incorporate appropriate learning in family engagement, including cross-cultural communication and conflict resolution.

The State can also provide leadership around family engagement by highlighting and supporting successful programs that build capacity of both educators and parents to partner together effectively.²⁹ State level support is especially critical in the wake of Washington State's loss of the No Child Left Behind (NCLB) waiver as districts that have not met the law's requirements for Annual Yearly Progress (AYP) are required to invite parents into discussions about how to improve outcomes for all students in schools. Many districts have structures already in place while others will need to build capacity to effectively meet that obligation, including the ability to access interpreters and translators and to identify creative ways to reach out to all families.

²⁹ See, for example, the U.S. Department of Education's recently released Dual Capacity-Building Framework for Family-School Partnerships, available at: <http://www2.ed.gov/documents/family-community/partners-education.pdf>.

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