IDEA Protections for Students with Disabilities

A proactive approach for supporting student behavior.

Access your Copy of Today’s Presentation Here: https://tinyurl.com/y9bzgla6
And I follow the rules!
Learning Outcome

Understand and follow IDEA requirements related to student discipline.
Agenda

- Welcome, Outcomes, Agenda, Norms
- Word Cloud: Discipline
- Review Current Suspension Data
- Review IDEA protections
- Paradigm Shift
- Resources/Strategies
- Exit Ticket & Parking Lot

Parking Lot Q & A
Norms

**Treat** one another respectfully as both professionals and learners.

**Listen and participate** with the intention to understand and to increase your professional expertise.

**Think** “beyond the box” about positive possibilities, new insights, and connections.
What is discipline?
Sacramento City Unified - Sacramento County

Enrollment: 41,085    Socioeconomically Disadvantaged: 70.3%    English Learners: 19.8%    Dashboard Release: Fall 2017

Foster Youth: 0.6%    Grade Span: K-Adult    Charter School: No

The Equity Report shows the performance levels for all students on the state indicators. It also shows the total number of student groups that received a performance level for each indicator and how many of those student groups are in the two lowest performance levels (Red/Orange). The total number of student groups may vary due to the number of grade levels included within each indicator. Select any of the underlined indicators for more detailed information.

<table>
<thead>
<tr>
<th>State Indicators</th>
<th>All Students Performance</th>
<th>Total Student Groups</th>
<th>Student Groups in Red/Orange</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chronic Absenteeism</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Suspension Rate (K-12)</td>
<td><img src="red.png" alt="Red" /></td>
<td>13</td>
<td>11</td>
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</table>

**Suspension**

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>5.7%</td>
</tr>
<tr>
<td>2016</td>
<td>5.4%</td>
</tr>
<tr>
<td>2017</td>
<td>6%</td>
</tr>
</tbody>
</table>

Performance Levels:

- Red (Lowest Performance)
- Orange
- Yellow
- Green
- Blue (Highest Performance)
<table>
<thead>
<tr>
<th></th>
<th>Student Performance</th>
<th>Number of Students</th>
<th>Status</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Students</td>
<td></td>
<td>42,841</td>
<td>High 6%</td>
<td>Increased +0.6%</td>
</tr>
<tr>
<td>English Learners</td>
<td></td>
<td>8,637</td>
<td>Medium 4.5%</td>
<td>Increased +0.7%</td>
</tr>
<tr>
<td>Foster Youth</td>
<td></td>
<td>420</td>
<td>Very High 20%</td>
<td>Increased +0.6%</td>
</tr>
<tr>
<td>Homeless</td>
<td></td>
<td>640</td>
<td>Very High 12.7%</td>
<td>Increased +4.3%</td>
</tr>
<tr>
<td>Socioeconomically Disadvantaged</td>
<td></td>
<td>30,383</td>
<td>High 7.3%</td>
<td>Increased +0.8%</td>
</tr>
<tr>
<td>Students with Disabilities</td>
<td></td>
<td>6,426</td>
<td>Very High 10.5%</td>
<td>Maintained +0.1%</td>
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<tr>
<td>African American</td>
<td></td>
<td>6,359</td>
<td>Very High 14.8%</td>
<td>Increased +0.3%</td>
</tr>
<tr>
<td>American Indian</td>
<td></td>
<td>249</td>
<td>High 7.2%</td>
<td>Increased +0.5%</td>
</tr>
<tr>
<td>Asian</td>
<td></td>
<td>7,443</td>
<td>Low 1.7%</td>
<td>Maintained +0.2%</td>
</tr>
<tr>
<td>Filipino</td>
<td></td>
<td>620</td>
<td>Low 2.4%</td>
<td>Increased +1.1%</td>
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<tr>
<td>Hispanic</td>
<td></td>
<td>16,713</td>
<td>High 5.8%</td>
<td>Increased +0.8%</td>
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<tr>
<td>Pacific Islander</td>
<td></td>
<td>965</td>
<td>High 7.4%</td>
<td>Increased +2%</td>
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<tr>
<td>Two or More Races</td>
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<td>2,811</td>
<td>High 5.7%</td>
<td>Increased +0.5%</td>
</tr>
<tr>
<td>White</td>
<td></td>
<td>7,615</td>
<td>Medium 3.6%</td>
<td>Increased +0.7%</td>
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</table>
You can log into your school’s dashboard here: https://www.caschooldashboard.org/#/Home
When is a student protected under IDEA?

1. Parent consents to an IEP  
2. District “deemed to have knowledge” student has a disability  
   a. Parent expressed concern that student needed special education services and/or supports before behavior occurred.  
   b. Parent of student requested special education evaluation.  
   c. Teacher or other LEA personnel express specific concerns about pattern of behavior to supervisory personnel.

When is a student NOT protected under IDEA?*

1. If the parent has not allowed the evaluation of the student;  
2. The parent has refused special education and related services for the student at the initial assessment;  
3. If the student is evaluated and determined not to be a student with a disability;  
   OR  
4. If the parent has revoked consent for special education and related services.

*In these instances, the student would be subject to the same disciplinary measures applicable to students without disabilities.
When is discipline counted as a removal from the student’s current placement?

**In-school suspensions**
- IEP was not implemented;  
  -- OR --  
- Student did not participate with non-disabled peers to the extent required by the IEP;  
  -- OR --  
- Student did not have the opportunity to appropriately progress in the general curriculum.

**Bus suspensions**
- The student was not provided transportation as specified in the student’s IEP;  
  -- AND --  
- The district did not arrange an alternate method of transportation.

**Out-of-school suspensions**
- Disciplinary change of educational placement without parent agreement.  
  -- OR --  
- District reassigns student to other setting.

**Changes of educational placement**
- IEP was not implemented;  
  -- OR --  
- Student did not participate with non-disabled peers to the extent required by the IEP;  
  -- OR --  
- Student did not have the opportunity to appropriately progress in the general curriculum.

**Expulsions**
- Disciplinary change of educational placement without parent agreement.

**De Facto Suspensions***

*A de facto suspension is when the student is removed from school or class for violating a code of student conduct without following the procedures related to suspension.*
MANIFESTATION DETERMINATION:
(1) Is the conduct a direct result of the LEA’s failure to implement the IEP?
(2) Was the conduct caused by or did it have a direct and substantial relationship to the disability?

YES to one or both questions:
Behavior is a Manifestation of student’s disability
- Did the parent and the LEA agree to a change of placement as part of the modification of the BIP and through an IEP team meeting?
  - yes: The student’s placement was changed as part of the modification of the BIP, upon agreement of the parent and LEA, through an IEP team meeting.
  - no: Student can be removed to an interim alternative educational setting (IAES) for not more than 45 school days as determined by the IEP team.
- Is student being disciplined for a behavior involving weapons, drugs or serious bodily injury?
  - yes: If the student has a BIP, the IEP team must modify the plan and/or review its implementation, to address the student’s behavior.
    - If the student does not have a BIP, the IEP team must conduct an FBA and implement a BIP for the student.
  - no: Student must return to the placement from which he/she was removed.

NO to both questions:
Behavior is not a Manifestation of Student’s Disability
- The LEA may remove the student to the same extent it would remove a student who does not have a disability.
  - and: The student must receive an FBA and BIP designed to address the behavior violation so that it does not recur.
  - and: Student must continue to receive Special Education services and to progress toward meeting IEP goals.
- *In order to bring a student to a discipline hearing, the IEP must be current.*
How does our current discipline practice impact our students?

- School suspension predicts further suspension and a greater likelihood of dropping out of school. (American Psychology Association Zero-Tolerance Task Force, 2008; Balfanz, Byrnes, & Fox, 2013)

- Students of color and students with disabilities are punished more severely for the same offenses. (OCR Dear Colleague Letter, 2014; Skiba & Rausch, 2006; Finn & Servoss, 2013)

- The highest suspension rates were observed at the intersection of race, disability, and gender; for example, 36% of all Black middle school males with disabilities were suspended one or more times. (Martinez & Losen, 2013)

- Suspension or expulsion from school is highly predictive of later contact with the juvenile justice system or arrest. (OCR Dear Colleague Letter, 2014; Shollenberger, 2013; Toldson, McGee, & Lemmenes, 2013)
IDEA Promotes Proactive Approaches

The individualized education program (IEP) team must consider positive behavioral interventions and supports, and other strategies, if a student's behavior impedes the student’s learning or the learning of others.

34 CFR § 300.324(a).
The IEP team must implement positive behavioral interventions and supports and other strategies for any student whose behavior impedes the student’s learning or the learning of others.

If a student is found eligible for special education services, how must behavior concerns be addressed?

If behavior is a manifestation of the student’s disability:
- FBA is required
- BIP must be developed; or
- Current BIP must be reviewed and modified, if necessary, to address the behavior.

If behavior is not a manifestation of the student’s disability:
- FBA required
- BIP highly recommended to address student’s behavior.

If seclusion and/or restraint is anticipated:
- FBA required
- BIP highly recommended

NOTE: Seclusion and restraint are not disciplinary measures. They are to be used only when there is imminent danger to the student or others and only by trained individuals (i.e. CPI).
The Paradigm Shift

1. The student's behavior is challenging, not the student.

2. Challenging behavior produces a desired outcome for the student.

3. Challenging behavior can be changed.

4. Challenging behavior can be reduced by changing variables within the current environment that trigger and support the behavior.

Chandler and Dahlquist, 2010
## Resources: Special Education Collaborative Hyperdoc

**https://tinyurl.com/ybthekfh**

<table>
<thead>
<tr>
<th>Behavior</th>
<th>Autism Internet Modules</th>
<th>Manifestation Determination</th>
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</thead>
<tbody>
<tr>
<td><strong>Behavior Intervention (Tier 1, 2 and 3)</strong></td>
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</tr>
<tr>
<td><strong>Classroom Management</strong> Video Exemplars and Resources</td>
<td><strong>Classroom Climate</strong> Video Exemplars and Resources</td>
<td><strong>Student Engagement</strong> Video Exemplars and Resources</td>
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<tr>
<td><strong>Maximizing Instructional Time</strong> Video Exemplars and Resources</td>
<td><strong>How to Develop FBA</strong> Practical FBA</td>
<td><strong>Non-Compliant and Disruptive Behavior</strong></td>
</tr>
<tr>
<td><strong>Teaching Self-Monitoring</strong></td>
<td><strong>New Teacher Survival Guide: Classroom Management</strong></td>
<td><strong>ERMHS + ERMHS &amp; ED Referral Process</strong></td>
</tr>
<tr>
<td><strong>Class Dojo- Free Classroom Management Software</strong></td>
<td><strong>SST Guide</strong> Pre-Referral Process</td>
<td><strong>Student Centered Classroom Culture and Design from BetterLesson</strong></td>
</tr>
</tbody>
</table>
Exit Ticket and Parking Lot Q&A

Principal Feedback Survey

https://PollEv.com/surveys/WGJINrAlo/web

THANK YOU!
References


