

Disproportionate Discipline Task Force
November 14, 2023, 3:00 pm - 5:00 pm

Invitation for Zoom meeting will be shared by Tricia Walz (walz_T@cde.state.co.us)

Agenda

- 3:00 pm:** Welcome, Approval of October 24 minutes & November 14 agenda
- 3:05 pm:** Introductions
Name, Relevant Updates/Announcements, Icebreaker (Icebreaker)
- 3:15 pm:** Public Comment
- 3:20 pm:** Background and overview: CDE's special education definition of significant disproportionality and the national trends on disparities in discipline - *Paul Foster, Executive Director, Exceptional Student Services Unit*
- 4:10 pm:** Legal Framework for Discipline presentation & discussion - *Michelle Berge, Assistant Attorney General, K-12 Education Unit*
- 4:50 pm:** Public Comment
- 4:55 pm:** Next Steps
- 5:00 pm:** Adjourn
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Meeting Minutes

Task Force Attendees: Zoe O'Donnell, Chair; Elie Zweibel, Co-Chair; Representative Stephanie Vigil, Sara Pielsticker, Anne Keke, Angelina Sandoval, Floyd Cobb, Nicole Alvarado, Mike Claudio, Dawn Fritz, Laura McArthur, Sierra Agens, Lisa Schlueter, Michelle Murphy, Bridgette Anshus, Lisa Humberd

Public Attendees & Staff: Johann Liljengren, CDE, Jewel Sale, CDE, Amber Minogue & Andrea Wilkins, Allied Agenda

Meeting Minutes:

- Chair Zoe O'Donnell called the meeting to order and meeting facilitator verified the presence of a quorum.
- Chair O'Donnell called for a motion to approve the October 24th meeting minutes. Motion was moved by Ann Keke and 2nd by Angelina Sandoval. Minutes were approved.
- Chair O'Donnell called for a motion to approve the November 14, 2023 agenda. Motion was made by Ann Keke and 2nd by Sara Pielsticker. Agenda was approved.

Call for public comment: No comments received.

Remarks by Johann Liljengren, CDE, to address questions arising from the presentation during the Oct. 24 meeting providing an overview of current discipline collection results.

- *Differences between current and 2024 collections?* Discipline data collection and special education discipline collection will join together as data collection moves to student level; civil rights data collection has a few more categories – CDE offers to pre-populate items that it has for the Office of Civil Rights collections. Otherwise, districts report directly to the US Department of Education.
- Discipline data collection will move to student level and will include same categories as the special education discipline data collection. Includes additional information about disability for students.
- Civil rights data collection includes more categories that are not in CDE data collection including information on shootings, incidents of rape, attempted rape, sexual assault by student or staff member and resulting action, harassment or bullying subcategories, violent act vs non-violent act.
- Definitions - disparities, disproportionate discipline, significant disproportionality
 - concept - focused on the desired practice or practices that shouldn't occur
 - technical - provide a formula for what is considered disproportionate discipline or indicates disparities and would indicate if a school, district, or state has disproportionate discipline or disparities in outcomes.



Presentation by Floyd Cobb, CDE, on CDE's special education definition of significant disproportionality and the national trends on disparities in discipline. ([see slides](#))

- IDEA requires each state to annually examine whether significant disproportionality based on race and ethnicity is occurring in the state and the LEAs of the state.
- Having significant disproportionality means that students of a particular race/ethnicity are significantly more likely than their other-race peers to be identified as children with disabilities, identified with a particular disability category placed in a particular educational setting (separate classroom), or suspected/expelled as a disciplinary measure.
- Under IDEA states have to use risk ratio calculations to identify school districts as significantly disproportionate.
 - Example: In Colorado, Black/African American students are 2.18 times as likely to be identified with intellectual disability compared to their non-Black peers in SY2016-17.
- If an administrative unit is identified as significantly disproportionate, the following actions are required: in-depth review of policies, procedures and practices, a root cause analysis, set aside 15% of its IDEA funds to address the issues identified through the root cause analysis.
- Significant disparity reports - CDE submits an annual report to the US Department of Education. (<https://www.cde.state.co.us/cdesped/spp-apr>)

Presentation by Michelle Berge, Assistant Attorney General, on the legal framework for discipline in the K-12 education system. [Slides coming soon.](#)

- Many federal and state statutes relevant to school discipline. CO School Safety Legal Manual is a good resource.
- Safe school plan - each school district must create a safe school plan that includes conduct and discipline code and safe school reporting requirements. (22-32-109.1(2))
- Laws related to suspension/expulsion - under current statute (22-33-106), the same categories can be used to justify suspension or expulsion. Statutory language is broad and lacking clarity in some instances. Task Force might suggest a review and revision of existing language to provide more guidance.
- Each district shall consider the following before suspending or expelling student: age of student, disciplinary history of student, whether student has a disability, the seriousness of the violation, whether the violation threatened the safety of



any student or staff member, whether a lesser intervention would properly address the violation.

- See “Discipline Grounds vs Data Reporting Comparisons” google doc in slides (coming soon).
- CO law specifies maximum number of suspension days per behavior incident, though local/district policies may differ. Maximum number of suspension days not specified for habitually disruptive student, facsimile firearm, false accusation of criminal activity. There are requirements in statute that schools must continue to provide educational support to suspended or expelled students.
- Off-campus conduct - speech (verbal bullying, social media posts) and actions (arrest, conviction, sexual/physical assault, possession of weapon).
 - Speech - school may restrict conduct if it would substantially interfere with the work of the school or impinge on the rights of other students, or if it involves serious or severe bullying or harassment targeting particular people.
 - Conduct - courts/prosecutors must notify school district when a student is charged with a crime. Best practice: Is there a safety risk to the school environment? Conduct a threat assessment to determine level of risk.
- Student cannot be expelled for more than a year. During expulsion, district must offer educational alternatives designed to enable the student to return to the school in which they were enrolled.
- Students with disabilities cannot be expelled or suspended for more than 10 days without convening the IEP team and parent to review whether conduct was related to disability or was a result of failure to implement the student’s IEP.
- Search and Restraint Laws: Student can be searched when school officials have reasonable suspicion of a policy or law violation or if student consents. Can also search pursuant to a threat assessment safety plan. Student can be restrained or physical intervention is permitted to calm/comfort student, assist student in completing task, escort student from one area to another, quell disturbance threatening physical injury, protect persons against physical injury, self-defense. New regulation on seclusion - physical restraint is limited to one minute or more must be reported to building administration.

Call for public comment: No comments received.

Next Steps: Next meeting of the Task Force to take place November 28 from 9:00 - 2:30 at the Castle Pines Library. This will be an in-person meeting with a remote participation option. Please [email Tricia](#) if you plan to attend remotely. Only one meeting in December to take place on the 12th. If you would like to present on any 2024



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legislative initiatives that you would like to discuss at the December meeting, please [email Amber](#).