



Johnny W. Collett,
U.S. Department of Education Assistant Secretary,
Office of Special Education and Rehabilitation Services
400 Maryland Avenue SW
Washington, DC 20202-2500

Dear Mr. Collett:

The Wisconsin Board for People with Developmental Disabilities (BPDD) opposes delaying the implementation of the Individuals with Disabilities Education Act (IDEA) Equity Regulations (34 CFR 300.646- 300.647).

Under 20 U.S.C. §1418 (d), IDEA requires that states determine whether or not significant disproportionality based on race and ethnicity is occurring in the State, and in the Local Educational Agencies (LEAs) of the State, with respect to the identification, placement, discipline, suspension, and expulsion of children with disabilities. The 2016 final regulations were a direct response to a February 2013 U.S. Government Accountability Office (GAO) study, which indicated that there was widespread noncompliance by states with 20 U.S.C. Section 1418(d) of the IDEA.

A March 2018 Government Accountability Office (GAO) analysis¹ underscores the need for continued attention to disproportionate use of discipline against students with disabilities, especially those who are also members of racial or ethnic minority groups.

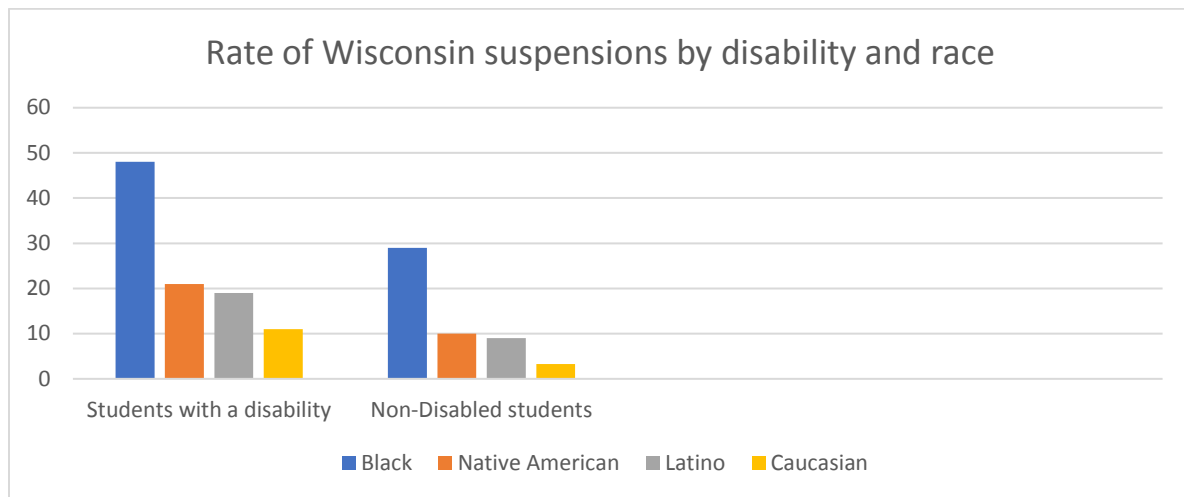
The 2018 GAO report found 25% of children who are referred to law enforcement, arrested, or suspended for school-related incidents are students with disabilities. Students with disabilities represent 12% of the U.S. public school population but are overrepresented by 13% for suspensions and 15.5% for law enforcement referrals and arrests. This trend persisted throughout every type of school — including special education settings; the report found disproportionality was most pronounced for boys and black students with disabilities.

Wisconsin data shows that implementation of this rule is desperately needed. Wisconsin public schools educate 867,800 students; approximately 14% (118,000) of those children have disabilities and qualify for special education services under IDEA. Wisconsin has the 3rd-highest rate in the nation of school referral of students with disabilities to law enforcement.

According to the most recent data available from the Civil Rights Project², Wisconsin students with disabilities had an 18% suspension rate compared to a 6% suspension rate for their non-disabled peers. When suspension rates are broken down by disability status and racial groups (see chart next page), the increased disproportionality of suspensions against students with disabilities is apparent, and an even starker contrast is evident for students with disabilities who are also members of racial minority groups.

¹ <https://www.gao.gov/assets/700/690828.pdf>

² <http://www.schooldisciplinedata.org>



The experience of Wisconsin families of children with disabilities corroborate the disproportionate discipline of students with disabilities. A 2018 Survival Coalition survey of 575 Wisconsin families of children with disabilities found 9% report that their child has been inappropriately suspended or expelled while 8% report inappropriate or overuse of seclusion or restraint practices. Overall, more than 25% saw an increase in disciplinary measures of their child at school, including 16% of parents who say they are now called regularly to pick up their child during the school day.

Delaying these regulations will increase the likelihood that students with disabilities and students with disabilities who are students of color will be subject to inappropriate educational segregation, will be removed from school unnecessarily, and denied services which they need and to which they are entitled.

BPDD is charged under the federal Developmental Disabilities Assistance and Bill of Rights Act with advocacy, capacity building, and systems change to improve self-determination, independence, productivity, and integration and inclusion in all facets of community life for people with developmental disabilities.

Our role is to seek continuous improvement across all systems—education, transportation, health care, employment, etc.—that touch the lives of people with disabilities. Our work requires us to have a long-term vision of public policy that not only sees current systems as they are, but how these systems could be made better for current and future generations of people with disabilities.

Thank you for your consideration,

Beth Swedeen, Executive Director, Wisconsin Board for People with Developmental Disabilities