

***Children's Policy and Law Initiative of Indiana (CPLI)***  
***Summit on Equitable School Discipline and Decriminalization of Children***  
***October 7-8, 2014***

***Equitable School Discipline Workgroup***  
***Summary of Issues and Recommendations***

**Recommendation 1: Exclusionary discipline should not be used to address absence-related behaviors, such as truancy, and referrals to juvenile court should only be made as a last resort to obtain services for the child and family.**

School reported data in Indiana in 2011-2012 indicates that 8.5% of expulsions and 16.7% of out of school suspensions were due to attendance related matters. This data raises the question whether Indiana should modify its laws to prohibit the exclusion of children from school as a response to truant behavior?

Truancy refers to a pattern of unexcused absences that subjects a student to Indiana's compulsory attendance laws. Multiple reasons may lead to a student disengaging from school and eventually dropping out, a process usually started early in a child's school life. Young people who do not graduate from high school are more likely to be unemployed, chronically ill, poor, on welfare, have contact with the juvenile justice system, or be incarcerated. Best practice research suggests that schools should not "fix" students who are truant or whose attendance is poor by excluding them from school, but rather reform educational practices to prevent dropout. Schools should be able to quickly identify youth who are at risk of school failure and provide interventions that are appropriate for that particular child's circumstances.

Truancy is an early warning sign that a student may dropout. Missing school may lead to poor academic achievement and inability to advance to the next grade. Additionally, chronic truancy is a significant risk factor for substance abuse, delinquency, teen pregnancy and violence.

The National Dropout Prevention Center at Clemson University has identified six critical components of an effective truancy reduction program: (1) community collaboration, (2) family involvement, (3) comprehensive approaches involving prevention, intervention and retrieval, (4) incentives and sanctions, (5) supportive context, and (6) program evaluation. The National Dropout Center cites extensive research that sanctions should not include the use of suspension or expulsion, which will only reinforce absenteeism.

Research shows that suspended or expelled students are less likely to graduate on time, and are five times more likely to dropout. Likewise, schools with higher suspension rates tend to have lower school-wide academic achievement, and increased risk of negative educational and life outcomes for their students. Additionally, research consistently indicates there is a high degree of racial disparity in school suspension and expulsion.

School policies that are particularly problematic for addressing truancy and should be reviewed, include: (1) automatic withdrawal after a period of nonattendance; (2) automatic grade reduction or credit denial after a period of nonattendance; (3) zero tolerance policies focused on suspension and expulsion; (4) use of law enforcement with school-age children; and (5) juvenile court and child welfare responses to truant behavior.

There is a trend across the United States to change how school districts discipline students who are truant. Since 2011, 19 laws in 17 states have been passed reforming truancy. Two states—Arkansas and Rhode Island—now prohibit out of school suspension as a response to truancy. Four other states and Washington D.C. prohibit or significantly limit the practice. The US Departments of Justice and Education in their January 8, 2014, Dear Colleague Letter and Accompanying Guidance, warned school districts that using exclusionary discipline for truancy may be a violation of Title IV if the school district cannot show that the suspension or expulsion was “necessary to meet an important educational goal.” As a result the AASA National School Superintendent Association is now advising superintendents to review their exclusionary policies for truancy to make sure they comply with federal civil rights law.

Another practice now under scrutiny is referring truancy matters to juvenile court. Colorado has amended its law to prevent such referrals if the school has not first created and implemented a plan to improve the child’s attendance.

*CPLI recommends the following changes to Indiana law:*

- *The use of suspension and expulsion as a response to truant behavior should be prohibited, and schools should be required to first create and implement a plan to improve the child’s attendance before referring the child to juvenile court.*
- *A referral to juvenile court should only be made as a last resort, and only if court intervention is necessary to secure services for the child and the family to directly address the root causes of the truant behavior.*
- *Laws that criminalize the behavior or permit incarceration for repeat truancy should be eliminated.*

**Recommendation 2: School accountability and performance rules should be amended to provide accountability for out-of-school suspensions to ensure that students with a history of low academic achievement are not being “pushed out” and school discipline is not being disproportionately administered among students.**

Currently, Indiana has a school accountability system that does not include the absent days from student suspensions in its A-F accountability system. Thus, it is possible for an elementary or middle school to have an “A” grade based upon appropriate test

scores and student attendance, but also have excessive and/or disproportionality with out-of-school suspensions.

Students who have received frequent out-of-school suspensions may be discouraged from continuing attendance at that school and either drop out or transfer to another school. If the student has had excessive suspensions at the elementary or middle school level, it is possible that the number of resulting days of attendance at that school would prevent that student's test scores from being counted in the aggregate. At the secondary level, students with frequent suspensions can be channeled into alternative programs that do not count against the graduation rates, even though the student does not graduate with their cohort.

In addition, state data indicates that in-school suspensions demonstrate as much disproportionality as out-of-school suspensions. With no accountability for schools in this particular area of discipline, schools may utilize this form of consequence as a way of circumventing the reporting of out-of-school suspensions. There is no consistent definition of in-school suspension, making it difficult to clearly track these numbers. There appears to be inconsistency among school districts as to whether or not this data is even reported.

Indiana five-year suspension data from 2007-2012 demonstrates no change in disproportionality and no change in the percentage of suspensions for non-criminal student misbehaviors. Black students are suspended at rates three to four times greater than white students.

According to the most recent national data, Indiana is among five states that reported male suspension rates higher than the national average for every racial and ethnic group. Indiana is ranked second in the nation for highest rate of suspension of black males.

*CPLI recommends the following changes to Indiana law:*

- *Definitions and standards for use for In-School Suspension and Alternative Education Programs should be established with reference to appropriate researched-based guidelines.*
- *Exclusionary practices and suspension rates, including In-School Suspensions, should be included among the factors the state uses in its adopted school accountability system to measure the effectiveness and performance of schools; excessive exclusionary school discipline rates and disproportionality should be used as "early warning" systems to target supportive interventions and implement corrective action within school-based improvement plans.*
- *The current school accountability system should be revised to balance test scores with graduation rates and other outcomes that would help remove incentives to "push out" low achievers on disciplinary grounds.*

- *When used, in-school suspensions, out-of-school suspensions and alternative education programs should provide the same rigor and quality of instruction as the regular classroom, should only be used as a last resort and should not disproportionately impact certain groups of students.*

**Recommendation 3: Amend the school discipline statutes to minimize the use of exclusionary discipline in favor of research-based approaches such as positive school discipline, restorative justice and alternatives to suspension and expulsion.**

Last year, the Equitable School Discipline Work Group studied school discipline laws and exclusionary practices and made recommendations for changes to the school discipline code (IC 20-33-8) based on research-proven approaches. As a result, HB 1287 School Discipline legislation was introduced and heard in the 2014 General Assembly Session, and an interim study committee on school discipline met this summer to continue the dialogue on these issues. Testimony on amending the school discipline statutes to align with best practices was provided, including discussion on the topics that followed.

*CPLI will continue to work with stakeholders to advance these policy recommendations in the upcoming year:*

- *Continued Education:* Amend the current school discipline code (IC 20-33-8) and the compulsory attendance statute (IC 20-33-8-31) to require that academic learning continue through all periods of student exclusion from class or school.
- *Collecting, Monitoring and Correcting for Disproportionality:* The Indiana Department of Education (DOE) should collect data and set criteria for disproportionality that requires the district to work with the department until corrected. Schools should collect, monitor and report discipline data and assess for excessive and disproportionate use of exclusionary practices.
- *Data Definitions:* In order to have usable data, offenses and codes by which schools report disciplinary data to the Indiana Department of Education should be clear and consistent and training should be provided to ensure appropriate implementation. Clear definitions and standards referencing research-based practices should be incorporated for alternatives to exclusion, in-school suspension, continued learning, alternative education, criteria for disproportionality, and corrective action.
- *Alternatives to Exclusion:* The DOE should help identify evidence-based practices and best practice alternatives through development of a model plan, provide regular training opportunities on alternatives and behavioral classroom management, and advocate for sufficient funding and resources to districts for continual improvement. The DOE should provide a model plan to school districts incorporating evidence-based practices and positive discipline principles.

- *Evidence-based Plans:* Schools should develop and implement evidence-based plans to reduce disparities in school discipline and increase use of alternatives to exclusion.
- *Technical Assistance:* The DOE should provide resources for implementing change and continued training on best practices in behavioral management and alternatives to exclusion, and include other social and relational prevention programming already in use and mandated by the state.
- *Training:* Training on evidence-based practices for all school personnel should be offered by public schools. There is a need for cross-training on appropriate responses to behavioral issues in school, trauma-informed care, special education, appropriate use of law enforcement and cultural competency, among other issues. Law enforcement personnel should be incorporated into school training for strategies on positive school climate, adolescent development, interacting and de-escalating interactions with youth, cultural competency and effectively responding to children with disabilities. Training opportunities should be promoted through allowance for professional development days, integration of professional development through the regular school schedule, and professional learning communities.
- *Status Reporting on District Use of Exclusionary Practices:* The DOE should prepare and submit an annual report to the State Board of Education that contains for each school district discipline rates for in-school suspension, out-of-school suspension, expulsion, corporal punishment, seclusion and restraints, and referrals to law enforcement. Data should be disaggregated for discipline disparities by student subpopulations. The report should also include achievement status of each school district; the discipline-related strategies, alternatives, and resources that are available to school districts; and the resources and funding needed to reduce the use of restraints with students with disabilities and exclusionary practices. The department should survey school districts and report on which school districts are using research-based discipline strategies, such as PBIS, Social Emotional Learning, and Restorative Justice.
- *Defining Role of Law Enforcement in Schools:* Schools should clearly define law enforcement roles to minimize their involvement in school discipline and direct arrest powers only to those serious threats to school safety and criminal behaviors. Public safety offenses that may subject students to arrest should be defined in school conduct codes and policies.
- *Student Resources to Implement Positive Behavioral Interventions and Supports:* Indiana should dedicate funds to provide every school staff at least one Masters level student services professional to work with children, families, teachers, and communities to support the implementation of system-wide prevention and

positive behavioral interventions and supports (PBIS) for children in the school community. This student service professional will be a part of the school staff and not from an outside agency. These professionals will be able to identify child trauma and environmental issues that may be the root cause of a child's behavioral challenges and will work to create a therapeutic plan to manage the child's behavior and support student learning outcomes. Research demonstrates that schools that use comprehensive preventive plans have a reduction in office discipline referrals, and schools that integrate PBIS see a significant decrease in problem behaviors.

## References

- AASA The School Superintendents Association Legislative Trends Report (Winter 2014), available at:  
[http://www.aasa.org/uploadedFiles/Policy\\_and\\_Advocacy/discipline\\_compendium.pdf](http://www.aasa.org/uploadedFiles/Policy_and_Advocacy/discipline_compendium.pdf)
- Abel, Nick and Oliver, Brandie, Ph.D. (2014) *Indiana School Discipline Data: In-School and Out-of-School Suspensions, School Years 2007-09 through 2011-12*.
- Center for Children & Youth Justice *Truancy Reduction: Research, Policy and Practice*, available at: [http://www.ccyj.org/uploads/PPO/TRUANCY\\_Updated\\_July2012.pdf](http://www.ccyj.org/uploads/PPO/TRUANCY_Updated_July2012.pdf)
- Civil Rights Project and the Center for Civil Rights Remedies, *A Summary of New Research Closing the School Discipline Gap: Research to Policy*, presented at the "Closing the School Discipline Gap Conference," Washington D.C., January 10, 2013; available at:  
[http://civilrightsproject.ucla.edu/events/2013/summary-of-new-research-closing-the-school-discipline-gap-research-to-policy/Research\\_Summary\\_Closing\\_the\\_School\\_Discipline\\_Gap.pdf](http://civilrightsproject.ucla.edu/events/2013/summary-of-new-research-closing-the-school-discipline-gap-research-to-policy/Research_Summary_Closing_the_School_Discipline_Gap.pdf)
- HB 1287 School Discipline (2014), available at:  
<http://iga.in.gov/legislative/2014/bills/house/1287/>
- Indiana Department of Education, [www.doe.in.gov](http://www.doe.in.gov)
- Plotkin, Martha (2011), *Out of Class Into Court: Discretion in School Discipline has Big Impacts, Groundbreaking CSG Study Finds*, available at:  
[http://www.csg.org/pubs/capitolideas/sep\\_oct\\_2011/schooldiscipline.aspx](http://www.csg.org/pubs/capitolideas/sep_oct_2011/schooldiscipline.aspx)
- Skiba, Russell, Ph.D., *Understanding Disproportionality in School Discipline in the Nation and in Indiana*, presented at the Summit on Equitable School Discipline, Indianapolis, October 8, 2013.
- U.S. Departments of Education and Justice (January 2014) *Guiding Principles: A Resource Guide for Improving School Climate and Discipline*, available at:  
<http://www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf>
- U.S. Department of Education Office for Civil Rights (March 2014) *Civil Rights Data Collection Data Snapshot: School Discipline, Issue Brief No. 1*  
<http://www2.ed.gov/about/offices/list/ocr/docs/crdc-discipline-snapshot.pdf>
- U.S. Departments of Justice and Education (January 2014) *Dear Colleague Letter*, available at: <http://www.justice.gov/crt/about/edu/documents/dcl.pdf>