

Disproportionate Discipline Task Force
April 9, 2024, 3:00 pm - 5:00 pm

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

Meeting Objectives

- Review data suppression and proposed suppression rules related to district profile reports.
- Provide clarity and discuss issues regarding school safety, Claire Davis Act and impacts on discipline.
- Clarify statutory questions regarding draft recommendations.

Agenda

- 3:00 pm: Welcome**
- 3:05 pm: Call Meeting to Order**
Approval of March 26th minutes & April 9th agenda
- *Call for any Announcements:*
 - *Public Comment*
- 3:15 pm: Data Suppression Proposed Rules & CDE Updates**
Johann Liljengren, CDE
- 3:35 pm: Discussion: School Safety, Discipline & Other Statutory Considerations** *Michelle Berge, Assistant Attorney General, K-12 Education Unit*
- 4:30 pm: Discussion: Unresolved Issues, Questions, Concerns**
- 4:45 pm: Public Comment & Next Steps**
- 5:00 pm: Adjourn**
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Meeting Minutes

Attendees: Zoe O'Donnell, Chair; Elie Zwiebel, Vice Chair; Anne Keke, Dawn Fritz, Mike Claudio, Lisa Humberd, Sierra Agens, Nicole Alvarado, Sara Pielsticker, Michelle Murphy, Lisa Schlueter

Staff & Public Attendees: Johann Liljengren, Jen Gallegos, and Tricia Walz, CDE; Amber Minogue and Andrea Wilkins, Allied Agenda, Michelle Berge, CO Office of the Attorney General, Rachel Arnold.

Opening & Welcome: Meeting facilitator, Amber Minogue, provided welcome, and overview of meeting objectives.

Meeting Called to Order:

- Vice Chair Zwiebel called the meeting to order; confirmed the presence of a quorum
- Vice Chair Zwiebel calls for a motion to approve the March 26th meeting minutes. Motion was moved by Nicole Alvarado and 2nd by Mike Claudio. Minutes were approved.
- Vice Chair Zwiebel calls for a motion to approve the April 9th meeting agenda. Motion was moved by Nicole Alvarado and 2nd by Dawn Fritz. Agenda was approved.

Public comment:

Rachel Arnold, Literacy Coordinator in South-Central BOCES located in rural CO provided comment on the connection between a lack of access to literacy and its correlation with disproportionate discipline ([see slides](#)). Need to look at interconnected factors that lead to disproportionate discipline, implement restorative practices and take a holistic approach to meeting the needs of the whole child. Early dyslexia screening and early language screening should be mandated as a preventative discipline strategy and a pathway to ameliorate literacy issues and potentially negative behaviors that can be a factor associated with the school to prison pipeline. Investments in education lead to cost savings in helping individuals avoid involvement with the criminal justice system and possibilities exist with universal dyslexia screening, potentially through the READ Act. Universal early screening looking at early language has other benefits beyond reading, including helping to identify other language related disabilities.

Data Suppression Proposed Rules & CDE Updates

Johann Liljengren, CDE ([presentation slides](#))

Data profile reports:

Discipline suppression rules (HB 22-1376)

- The bill involves the collection of discipline data and the creation of reports based on information received from school districts and charter schools.
 1. Updating CDE's data collection process for discipline
Move to student level reporting for student discipline
 2. Production of District Profile Reports
Produced based on new 2023-24 data collection
 3. Updated rules for seclusion and restraint of students
- Delineates reporting requirements (i.e. chronic absenteeism, number of expulsions, etc)

- Goal for CDE in applying suppression rules is to ensure student privacy is protected within the context of other requirements and uses of data.
- National suppression guidelines FERPA standard for de-identification – assesses whether a reasonable person in the school community who does not have personal knowledge of the relevant circumstances could identify the individual student based on reasonably available info.

CDE's Overall approach to suppression:

- Small districts – no reporting on discipline data for districts that have less than 16 students. (3 districts in 2023-24)
- Also suppress subgroups of less than 16 (ex. Multilingual learners in district total 12 so this data is suppressed.)
- Individual student counts – suppress counts of less than 4

Profile report updates:

[Discipline Interchange - Discipline Action File](#)

- Highlighting indicates changes from 2022-23. Most everything has changed because it has moved to student level collection (change in format)
- Detrimental behavior (and other categories)
 - Under Safe School Reporting Requirements, all specify on school grounds (C.R.S. 33-32-109.1(2)(b))

Discussion: School Safety, Discipline & Other Statutory Considerations

Michelle Berge, Assistant Attorney General, K-12 Education Unit ([presentation slides](#))

- Discipline laws come from 2 places – safe school act (CRS 22-32-109.1) and school attendance laws (CRS 22-33-106), which explains some of the disconnect or lack of alignment in discipline laws overall.
- Grounds for suspension and expulsion in school attendance laws don't clearly line up with safe school reporting requirements under safe school act. Also inconsistencies in references to on school and off school grounds behavior incidents results in confusion about how to report off campus behavior incidents. This results in a lack of consistency in how schools enforce discipline. No differentiation between what justifies suspension and expulsion.
- Laws governing discipline are a hodgepodge of laws that go back decades. The laws lack consistency due in part to many “bandaid” amendments. Current laws don't capture the challenging system-wide work that goes into creating a positive school environment.
- Factors that go into creating a positive school environment and an effective school discipline system include many factors that are outside the law including factors recommended by the National Association of School Psychologists. (See [Framework for Effective School Discipline](#) for more information) These include:

- Clearly defined behavioral expectations that are taught and consistently reinforced.
- Clearly understood and equitably enforced consequences that are instructional instead of punitive.
- A tiered system of behavioral supports to meet the needs of each student including prevention, skills building, early identification, and intervention service.
- Data-based decision making within a multidisciplinary problem solving team.
- Positive adult role modeling of expected behavior.
- Culturally responsive, positive discipline techniques that help to mitigate bias.
- Ongoing, job-embedded professional development to increase school staff capacity to implement effective, positive, and equitable discipline for school staff that reinforces culturally-responsive positive discipline techniques and helps to mitigate bias.

School Safety

How do we think about school safety in the school discipline context?

- There is some misunderstanding of the requirements of the Claire Davis Act (CDA), key among them - CDA has explicitly said that allegations of failure to act reasonably cannot be based solely on a failure to expel or suspend a student. Schools have discretion here.

Threat assessment process and safety planning

- If a student's behavior on or off campus presents what you believe is a risk to safety at school, schools should conduct a threat assessment. Depending on the risk identified, consider whether expulsion is necessary to address that risk. (Threat assessment is not currently required as part of a school safety plan.)
- Safety plans are not required but are widely practiced
- Schools should, with the creation of safety plans and/or the conducting of threat assessments, use research-based protocols by multi-disciplinary teams to assess students
- Removing students from school does not remove safety risk. Other remedies need to be put in place to effectively remove risk.

Area of possible conflict

- Grounds for suspension/expulsion includes behavior detrimental to safety of others; reporting requirements pertain to *behavior detrimental to others on school grounds*. Off campus behavior would be reported under "other" category. Task Force does not believe this is clear to districts. Overuse of "other" conduct category may also be capturing things that do not result in loss of classroom time.

Task Force Discussion:

What **should** be included in the "other" conduct category?

- Need to define what is included in "other."

- Does “other” capture behavior that does not rise to the level of suspension or expulsion? Or does it include behavior that qualifies, but is not included in another category?
- Should look at harm
- If we are collecting data on off campus behavior, what is our reason for doing so? Is it limited to behavior that has a nexus to school safety/behavior? There needs to be a purpose
- If restorative justice or other alternative practice is used in school, do we need to report the incident? We want to make restorative practices easier to use, not harder. Does required reporting make it harder to implement?

Any guidance on creation of safety plans?

- AG currently thinking about how they get more information to schools about threat assessments and safety plans, and they will be writing an amicus brief. Currently, they refer to CO School Resource Safety Center (<https://oss.colorado.gov/>). (not currently any statutes on this issue).
- Threat assessments and safety planning are really developed outside of the law – it is more of a resource-based approach. (This is difficult for small districts that have limited resources available locally.)

Any data collection about when threat assessments are used and for which students?

- No, not clear how many students are subject to safety plans or threat assessments. CDE is not currently tracking this so nothing is available that tracks this at the state level.
- Research demonstrates that exclusionary discipline does not increase safety. Positive school environments require most effort to take place on the prevention/intervention side. However, there are times when student behavior does warrant removing them from campus so as to address the harmful behavior.

Understanding Claire Davis Act (CDA)

- There needs to be greater education about the limits and applicability of CDA so schools understand how to comply with it without over-reliance on exclusionary discipline. *(possible recommendation; resources would be required)*
 - Currently no consequence for disproportionate disciplinary action. Not enough administrators understand Claire Davis Act and fear impact decision making related to discipline, leading to actions resulting in disproportionate discipline scenarios.
- ✓ Include reference in values statement that alternatives to exclusionary discipline can be made without contradicting requirements of CDA.

Possible continued consultation with Michelle Berge as recommendations pertaining to statutory changes are considered by the Task Force.

Next Steps: Next meeting on April 23rd 9:00 – 1:00. Begin voting on some of the recommendations, continue working on those that are in the amendment stage.