

# Equity in Student Discipline AH

**Agency:** 350 Office of Superintendent of Public Instruction  
**Budget Period:** 2015-17

## **Recommendation Summary Text:**

Across the state, students of color and students with disabilities are disproportionately impacted by the use of suspensions and expulsions—giving rise to concerns about equitable treatment, equal opportunities, and discrimination. The Superintendent requests \$171,000 for the 2015–17 biennia to fund a program supervisor to provide districts and communities the support to implement evidence-based practices to eliminate these disparities, reduce the overall use of exclusionary discipline, and maintain safe and positive school climates. This package would also fund an external advisory committee to keep OSPI apprised of school and community needs, offer feedback and policy recommendations, and coordinate efforts.

## **Fiscal Detail**

<b>Operating Expenditures</b>		<b>FY 2016</b>	<b>FY 2017</b>	<b>Total</b>
General Fund	001-01	\$0	\$171,000	\$171,000
<b>Total Cost</b>		<b>\$0</b>	<b>\$171,000</b>	<b>\$171,000</b>

<b>Staffing</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>Annual Avg.</b>
<b>Total FTEs Requested</b>	0.0	1.0	1.0

## **Package Description**

### **Background**

During the 2013–14 school year, more than 43,000 students were suspended or expelled in Washington. Students of color and students with disabilities were particularly—and disproportionately—affected.

While comprising only 14% of our student population, students in special education represent more than 27% of all students suspended or expelled. Washington schools are, on average, 2.3 times more likely to suspend a student in special education than their peers.<sup>1</sup> If students with disabilities are receiving the behavior support services and discipline protections to which they're entitled under the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973, these stark disparities should not exist.

Racial disparities are even greater. For example, while African American students are only 4.8% of our student population, they comprise 10.9% of students suspended or expelled. Washington schools are, on average, almost three times more likely to suspend an African

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<sup>1</sup> On average, 7.4% of students in special education were suspended or expelled in 2013–14, compared to 3.2% of non-special education students.

## **Equity in Student Discipline AH**

American student than a white student. Research suggests that these disparities are not explained by more frequent or more serious misbehavior by students of color, and these disparities cannot be explained away by poverty.

These significant and unexplained disparities give rise to serious concerns that schools may have policies, procedures, or practices that have a discriminatory effect on students on the basis of race, disability, and other protected classes. Under state and federal civil rights laws,<sup>2</sup> OSPI has the legal obligation to ensure that no school district has policies, procedures, or practices in place that are discriminatory—or have a discriminatory effect. The U.S. Department of Education Office for Civil Rights and U.S. Department of Justice issued substantial guidance in January 2014 to clarify that the administration of discipline can result in unlawful discrimination when it has a *disparate impact* on students of any protected class (e.g., race, national origin, sex, disability).<sup>3</sup>

The overuse and disproportionate impact of suspensions and expulsions has tremendous costs and has potential for significant, negative educational and long-term outcomes. Research shows that suspended students are less likely to graduate on time and are more likely to be suspended again, repeat a grade, drop out of school, and become involved in the juvenile justice system.

This should be no surprise, as many students who are suspended or expelled are unsupervised during daytime hours and cannot benefit from the great teaching, positive peer interactions, and adult mentorship offered in school. Suspending students often fails to help them develop the skills and strategies they need to improve their behavior and avoid future problems.

### **Current Situation**

During the 2014–15 school year, the Equity and Civil Rights Office found that only 26% of the 84 districts reviewed had compliant systems in place to review disaggregated student discipline data, identify disparities, and ensure they were not the result of discrimination.

The Equity and Civil Rights Office—along with a committee of internal stakeholders—is already working to coordinate the agency’s efforts to help schools and communities use data to identify disparities, implement practices that improve equity in discipline while keeping students in school, and protect the civil rights of each student. Given the current efforts underway—including statewide data analytics, a user-friendly and solutions-oriented website, and cross-agency collaboration on this issue—Washington is primed to be innovative and exceptional at tackling this issue. Washington could be the national leader.

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<sup>2</sup> Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Chapters 28A.640 and 28A.642 RCW, Chapter 392-190 WAC.

<sup>3</sup> The administration of discipline can result in a disparate impact when a school evenhandedly implements facially neutral policies and practices that, although not adopted with the intent to discriminate, nonetheless have an unjustified effect of discriminating against students on the basis of race, color, national origin, sex, or disability—thereby disadvantaging some students more than others. See Dear Colleague Letter, January 8, 2014, U.S. Department of Education Office for Civil Rights, [www2.ed.gov/ocr/letters/colleague-201401-title-vi.pdf](http://www2.ed.gov/ocr/letters/colleague-201401-title-vi.pdf).

## **Equity in Student Discipline AH**

However, OSPI has limited staffing to effectively accomplish this work, given other legal obligations and workload.<sup>4</sup> While we have succeeded in building a shared understanding of the problem and potential solutions, there is a lack of resources within OSPI and school districts to act.

### **Proposed Solution**

This package would fund a program supervisor to provide districts and communities the support and assistance they need to reduce the use of exclusionary discipline and eliminate disparities, while maintaining a safe and positive school climate. This package would also provide funding for an external advisory committee to keep OSPI apprised of school and community needs, offer feedback and policy recommendations, and coordinate efforts.

### **Program Supervisor**

This program supervisor would be a change agent with the sole purpose of reducing the use of exclusionary discipline and eliminating disparities across the state, while helping schools maintain safe and positive school climates.

Key responsibilities would include:

- Continually identifying multi-tiered and evidence-based interventions, strategies, and practices and communicating how OSPI and district staffing and resources can be used to make the greatest impact
- Collaborating within and across systems, including with districts, communities, state and local agencies (e.g., courts, mental health, juvenile justice, child welfare, law enforcement), researchers, various OSPI departments, and national leaders to understand how each system works, where they overlap, and how to plan systems of support for students
- Continuously assessing needs from districts, communities, and other stakeholders
- Identifying districts' readiness and willingness for targeted technical assistance, and coordinating technical assistance and training with other departments, agencies, and organizations
- Providing targeted technical assistance to individual districts to assist in identifying root causes of disparities, considering appropriate strategies or practices, and building district capacity to implement multi-tiered and evidence-based solutions
- Developing guidance, resources, tools, and professional development to assist districts with implementation

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<sup>4</sup> The Equity and Civil Rights Office—with only three program supervisors—is already stretched with the existing responsibility to monitor civil rights compliance, investigate complaints, and provide professional development, training, and assistance related to other high-liability and high-impact areas, including accommodations and services for students with disabilities, discriminatory and sexual harassment, services for limited-English proficient students and families, protections for transgender students, sex equity in athletics, etc. In 2014–15 alone, the Equity and Civil Rights Office received approximately 245 district requests for technical assistance and approximately 283 requests from parents and advocates.

## **Equity in Student Discipline AH**

- Seeking and applying for grant funding and assisting districts in leveraging existing resources to implement evidence-based practices
- Coordinating with Student Information and Data Governance to improve the collection, reporting, analysis, and use of discipline data
- Collaborating across the agency to discuss the relationship between school climate improvements and other priorities, and discuss how to integrate school climate improvements into other programs
- Co-chairing the discipline equity advisory committee
- Managing communication and messaging

### **Advisory Committee**

The external advisory committee—meeting at least quarterly—would include educators, researchers, administrators, community-based organizations, parents, advocates, and state and local agency officials. The purpose of the advisory committee is to collaborate within and across systems, coordinate efforts and messaging, understand how each system works and where they overlap, and plan systems of support for students.

The advisory committee would keep OSPI apprised of school and community needs, as well as existing efforts, resources, and supports. The committee would offer feedback and recommendations regarding OSPI's priorities, projects, and progress to reduce the use of exclusionary discipline and eliminate disparities.

### **Contact person**

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### **Narrative Justification and Impact Statement**

#### **What specific performance outcomes does the agency expect?**

OSPI expects the following intermediate outcomes as a result of this package:

1. Increase in the number of districts that have implemented multi-tiered and evidence-based interventions to reduce disparities in discipline and improve school climate
2. Increased school climate in districts across the state
3. Increased civil rights compliance related to discrimination in student discipline, including districts' obligation to review disaggregated discipline data to identify and address disparities<sup>5</sup>

OSPI's Performance Indicators will be used to gauge success, specifically:

1. Suspension/expulsion rate and disparities in student discipline by student group (OSPI Performance Indicator 13)
2. Four-year and five-year graduation rates, including disproportionality in graduation rates (OSPI Performance Indicator 11)

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<sup>5</sup> See WAC 392-190-048.

## Equity in Student Discipline AH

3. Attendance, including disproportionality in attendance rates (OSPI Performance Indicator 14)
4. Overall student academic achievement and reduction of disproportionality/opportunity gaps as reflected by all other OSPI Performance Indicators

### Performance Measure Detail

The agency will measure performance with the following:

- The percentage of districts that have implemented a continuous improvement cycle to reduce disparities in student discipline that includes annual review of discipline data, root cause analysis, and intentional planning and evaluation, as measured through Consolidated Program Review Item 14.11 (Student Discipline).  
*Goal: Increase the percentage of districts in compliance with Item 14.11 from 26% currently, to 50% in 2016–17, 70% in 2017–18, and 80% in 2018–19*
- The percentage of students suspended or expelled  
*Goal:  $\leq 3.2\%$  suspension/expulsion rate in 2017–18, and  $\leq 3.0\%$  in 2018–19*
- The level of disproportionality in student discipline by student group  
*Goal: Disproportionality (composition index) of  $\leq 1.5$  for all student groups by 2017–18*

### **Is this decision package essential to implement a strategy identified in the agency's strategic plan?**

The primary purpose of this proposal is to reduce the use of suspensions and expulsions—OSPI Performance Indicator 13—with a specific focus on eliminating disparities in the use of suspensions and expulsions. This package is essential for several OSPI Performance Indicators—both toward improving aggregate academic performance and graduation rates for all students, as well as eliminating disparities and opportunity gaps for students on the basis of race, sex, ELL-status, disability, and socio-economic status.

### **Reason for change:**

#### **Does this decision package provide essential support to one of the Governor's priorities?**

This decision package supports Gov. Inslee's goal to create a world-class education by increasing the percentage of students who graduate and by reducing opportunity gaps for all students.

#### **Does this decision package provide essential support to one or more of the Governor's Results Washington priorities? If so, describe.**

This decision package supports the Results Washington priorities to increase the percentage of students who graduate and reduce opportunity gaps for all students.

#### **What are the other important connections or impacts related to this proposal?**

This package is essential for the agency's—as well as individual district's—civil rights compliance. Working with schools to change discipline practices demonstrates OSPI's commitment to this issue, and reduces districts' liability.

## **Equity in Student Discipline AH**

Given the increased enforcement by the U.S. Departments of Education and Justice, coupled with the level of need within schools for OSPI support and the tremendous community momentum around this issue, there would likely be broad support for this package. Key stakeholders include the Educational Opportunity Gap Oversight and Accountability Committee (EOGOAC), TeamChild, ACLU, WSSDA, WASA, and OneAmerica.

### **Impact on Other State Programs**

#### **What alternatives were explored by the agency, and why was this alternative chosen?**

The only alternative is to conduct this work with current staffing levels. Not only would this be a piecemeal and uncoordinated approach, it would divert significant time and resources from other essential responsibilities, including civil rights monitoring and enforcement.<sup>6</sup> The only sustainable and effective way to tackle the overdependence on suspensions and eliminate disparities is by dedicating the necessary resources to support schools in changing their practices.

#### **What are the consequences of adopting or not adopting this package?**

If this package is not funded, OSPI—as well as individual districts—may face litigation or civil rights complaints for failing to address the known disparate impact of discipline practices on students of color and students with disabilities. This could jeopardize OSPI’s federal funding. Other major consequences include the continued disproportionate exclusion of students of color and students with disabilities due to discipline practices, thereby limiting opportunity for academic achievement and leading to stagnation in graduation rates.

#### **What is the relationship, if any, to the state’s capital budget? N/A**

#### **What changes would be required to existing statutes, rules, or contracts, in order to implement the change? N/A**

### **Expenditure and revenue calculations and assumptions:**

**Revenue Calculations and Assumptions:** N/A

#### **Expenditure Calculations and Assumptions:**

Program Supervisor – 1 FTE @ WMS2: \$138,000

*See Appendix A: Workload Estimate*

Quarterly Advisory Committee Meetings: \$33,000

Approx. \$8,250 per meeting

Quarterly meetings = \$33,000/year

*See Appendix B: Advisory Committee Calculations and Assumptions*

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<sup>6</sup> See Chapters 28A.640 and 28A.642 RCW.

## Equity in Student Discipline AH

### Object Detail

		FY 2016	FY 2017	Total
A	Salary and Wages	\$0	\$81,786	\$81,786
B	Employee Benefits	\$0	\$38,547	\$38,547
C	Contracts	\$0	\$0	\$0
E	Goods/Services	\$0	\$7,934	\$7,934
G	Travel	\$0	\$37,732	\$37,732
J	Equipment	\$0	\$5,000	\$5,000
N	Grants	\$0	\$0	\$0
	Interagency Reimbursement	\$0	\$0	\$0
	Other	\$0	\$0	\$0
<b>Total Objects</b>		<b>\$0</b>	<b>\$171,000</b>	<b>\$171,000</b>

### Expenditures & FTEs by Program

Activity Inventory Item	Prog	Staffing			Operating Expenditures		
		FY 2016	FY 2017	Avg	FY 2016	FY 2017	Total
A0019 Other Education Grants & Programs	055		1.0	1.0	\$0	\$171,000	\$171,000
<b>Total Activities</b>					<b>\$0</b>	<b>\$171,000</b>	<b>\$171,000</b>

### Six-Year Expenditure Estimates

Fund	15-17 Total	17-19 Total	19-21 Total
	\$171,000	\$332,000	\$332,000
<b>Expenditure Total</b>	<b>\$171,000</b>	<b>\$332,000</b>	<b>\$332,000</b>
<b>FTEs</b>	<b>1.0</b>	<b>1.0</b>	<b>1.0</b>

**Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?**

Equipment purchase is expected to be a one-time \$5,000 expense. All other costs are on-going (salary, benefits, travel, goods and services, and Advisory Committee Meetings).