

School Discipline Advocacy Toolbox – Part 2



Why are current discipline practices in WA schools a problem?

- ▶ School districts with higher exclusionary discipline rates consistently yield lower graduation rates than schools with fewer incidents of exclusion.
 - Schools with > 100 discipline incidents per 1000 students
 - Average graduation rates 24%  lower
- VS
- Schools with < 25 discipline incidents per 1000 students

* See *“Reclaiming Students: The Educational and Economic Costs of Exclusionary Discipline in WA State,”* a Report by TeamChild and WA Appleseed, November 2012.

What happens if we continue with current approaches to Discipline in Schools?

- ▶ 2010–2011 Washington State graduation rate:
 - ▶ 76% statewide

(Data from US DOE)

- ▶ What happens if you overlay statistics for exclusionary discipline onto these figures?

- ▶ Rates* significantly lower for the following students:
 - ▶ 66.2% Pacific Island
 - ▶ 65.4% Black
 - ▶ 64.5% Hispanic
 - ▶ 56.5% Native American

**See: "Graduation and Dropout Statistics, Annual Report 2010–11", OSPI Report to Legislature, March 2012*

Disproportionate Impact on students of color and youth living in poverty

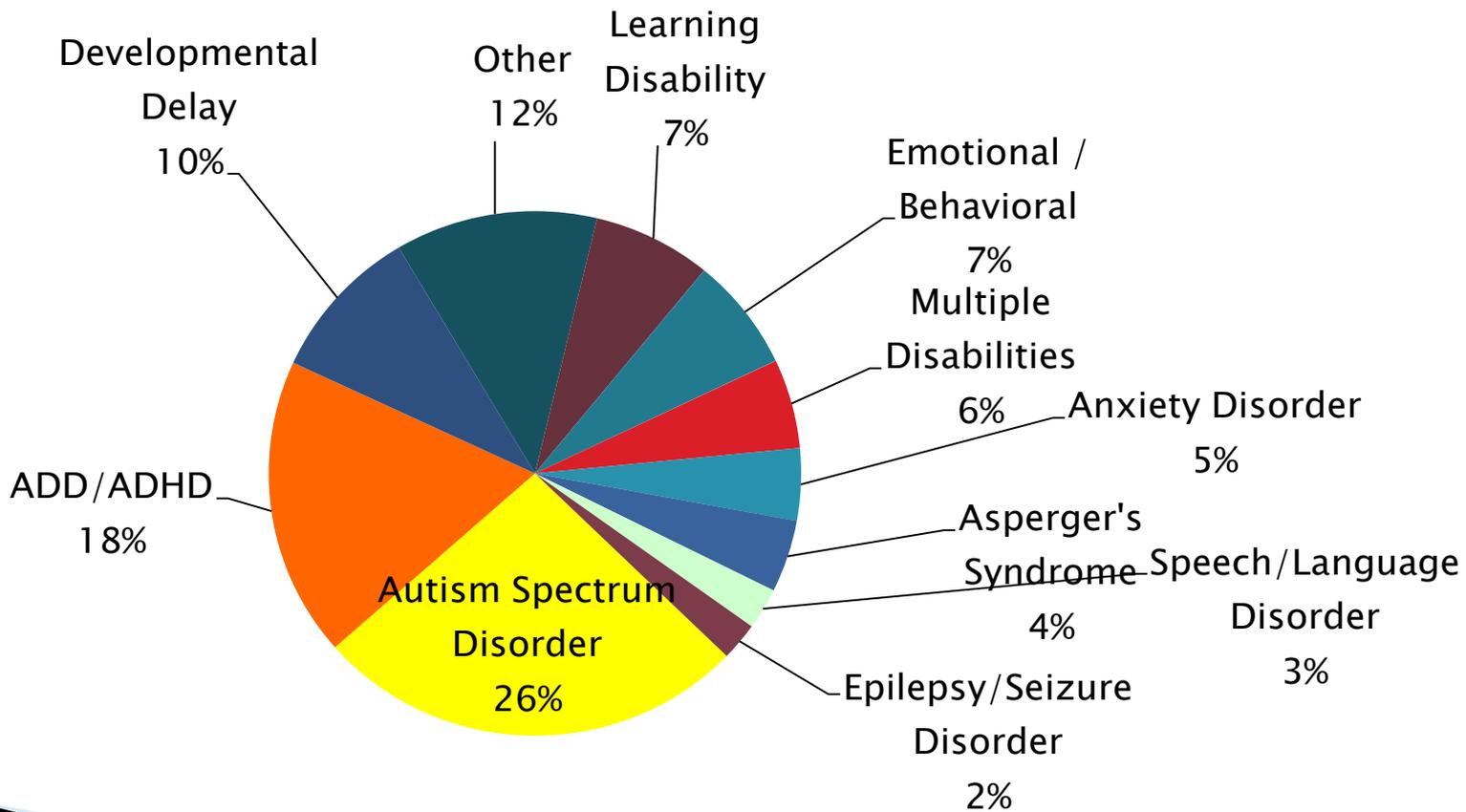
- ▶ Students of color are up to 2.5x more likely to experience exclusionary discipline.
- ▶ Students on Free/reduced lunch
 - Represent 47% of student population
 - Represent 58% of total discipline incidents
- ▶ How might this be contributing to Achievement Gap and Dropout statistics?

<http://www.dignityinschools.org/>

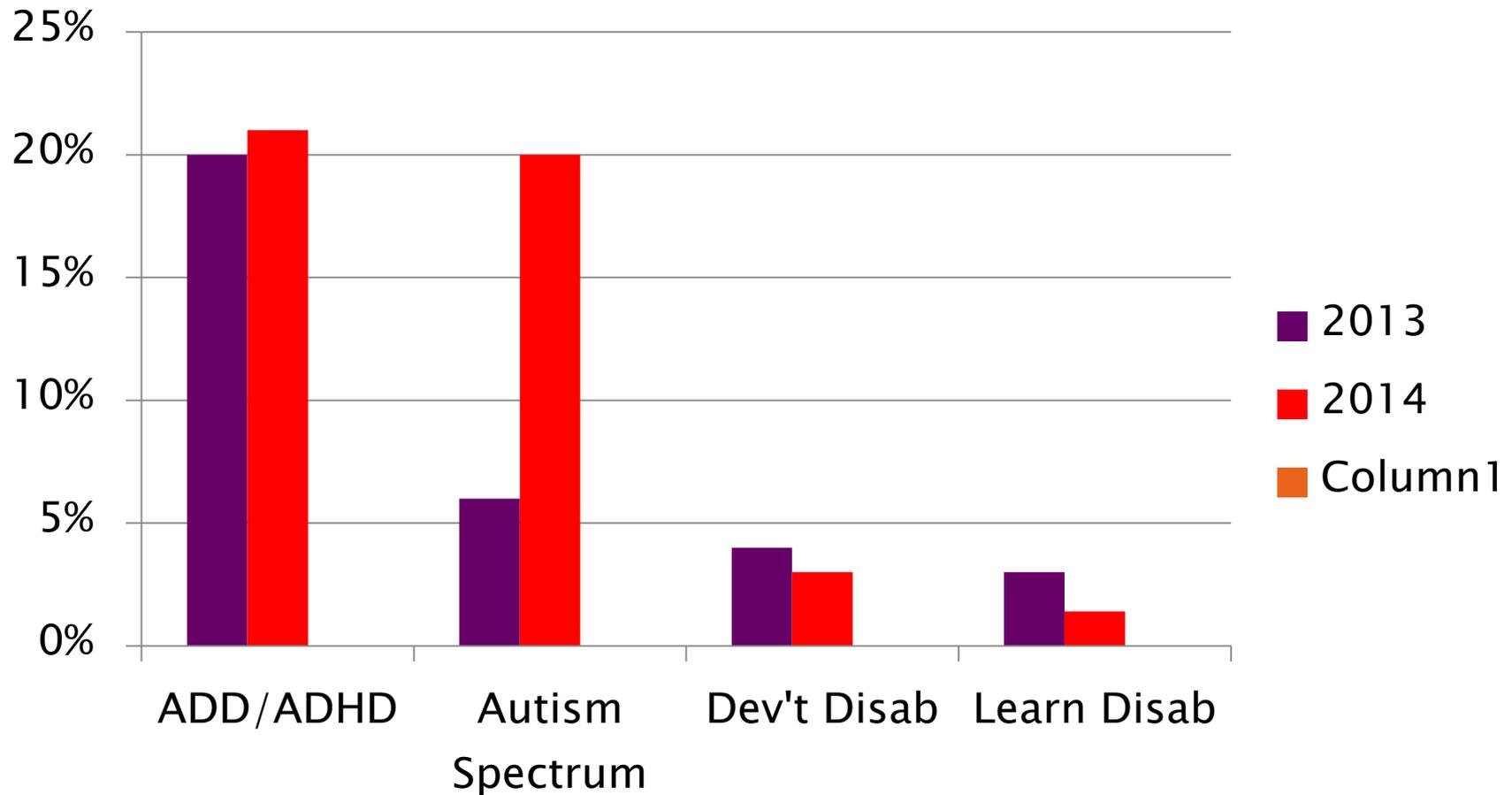
What overall patterns does OEO see from our casework?

- Over 60% of the almost 1000 cases we address annually involve **students with disabilities** (IEP or 504)
- In at least 2/3 of those cases, the student has a disability with a significant **social/emotional &/or behavioral** component
 - Autism, ADHD, Asperger's, Anxiety Disorder, PTSD, Social/Emotional Disturbance, Traumatic Brain Injury
- Strong correlation between SPED and Discipline issues – related to behavior and conduct.
- These same students are more likely to experience **bullying** and have **inconsistent attendance**
- In 25% of all cases, students are currently out of school – many more have been recently and will be again.

Types of Disabilities of Students Served by OEO



Discipline overlapping with SPED categories



Inconsistent use of Administrator and Board discretion

Majority of exclusionary discipline incidents were for behaviors where long-term suspensions or expulsions was NOT mandated under state law or regulations

Schools and districts interpret certain behaviors as deserving of certain kinds of exclusion.

Some schools/districts rely more heavily upon exclusionary practices than others to address the same behaviors.

** See "Reclaiming Students: The Educational and Economic Costs of Exclusionary Discipline in WA State," a Report by TeamChild and WA Appleseed, November 2012.*

“Patchwork of punishment practices”

- ▶ ...coupled with large variations in exclusionary discipline data suggests that:

IT'S POSSIBLE TO DO THINGS DIFFERENTLY

**Some Schools and District are already –
successfully – using new approaches.**

Discipline Under the IDEA and Section 504

- ▶ Any disciplinary removal of a student with a disability from their current placement for more than **10 school days** is a “change of placement”.
- ▶ Informal removals that are not called “suspensions” may likely be counted as suspensions and will count toward the 10 day limitation.

Manifestation Determination Meeting required

IDEA

- ▶ Within 10 school days of a decision to make a disciplinary change in placement (or pattern of school removal), a manifestation determination must be made.

Section 504

- ▶ Section 504 prohibits discrimination on the basis of disability, thus when a student is excluded from school for disciplinary purposes, the school must ensure that it is not excluding the student based upon behavior that is a manifestation of the student's disability.

Manifestation Determination – team decision

- ▶ If the conduct in question was caused by or had a direct and substantial relationship to the child's disability
- ▶ If the conduct in question was the direct result of the school's failure to implement the IEP

If the behavior is a manifestation of the disability, school MUST:

- ▶ Review the student's IEP, any teacher observations and parent information
- ▶ Conduct an FBA
- ▶ Implement a Behavior Intervention Plan (BIP)
- ▶ Modify an existing plan as necessary to address the behavior
- ▶ Return the student to their original placement unless there is agreement about a change in placement

What is the purpose of this IDEA requirement?

- ▶ Acknowledges that there may be some underlying factor or cause that is driving the student's behavior -- that may not be entirely within their capacity to control or change.
- ▶ As educators and parents, we should seek to understand and address these deficits.
- ▶ What changes behavior arising out of lack of capacity is support to learn functionally adaptive skills – not punishment.

What about all the other students??

Prevention?

...Positive Behavior Supports

- ▶ In the case of a child whose behavior impedes the child's learning or that of others, the IEP must consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior
- ▶ Not disability category specific
- ▶ Must be based on evaluation (FBA – functional behavioral assessment)
- ▶ GenEd teachers must be part of the solution.

If Not a Manifestation?

- ▶ If a student with a disability exhibits behavior that can be separated from their disability.
- ▶ FAPE must still be provided
- ▶ Should implement an FBA and Behavior Intervention Services designed to address the behavior so it does not recur.
- ▶ Provide services, in another setting, to allow the student to continue to participate in general education curriculum

Removal to IAES – 4 situations

▶ Serious Bodily Injury

- District may remove student to IAES for up to 45 days

▶ Dangerous Behavior

- District may ask a **judge** (by requesting due process hearing) to remove student to IAES for up to 45 days

▶ Guns

- District may remove student to IAES for up to 45 days

▶ Drugs

- District may remove student to IAES for up to 45 days

What definitions are used?

- ▶ The term “**dangerous weapon**” means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2 1/2 inches in length.
- ▶ The term “**serious bodily injury**” means bodily injury which involves – (A) a substantial risk of death; (B) extreme physical pain; (C) protracted and obvious disfigurement; or (D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty

Remedies for SPED Discipline complaints

- ▶ Administrative Complaint
- ▶ OCR
- ▶ OSPI Citizen's Complaint
- ▶ Due Process Hearing
- ▶ Expedited Hearing if related to discipline or manifestation determination

Or...teach behavior and focus on prevention

- ▶ Social Emotional Learning
 - ▶ Positive Behavioral Supports
 - ▶ Multi-tiered Systems of Supports (MTSS)
- Similar to Response to Intervention (“RTI”) in context of social-emotional-behavioral instruction

www.pent.ca.gov/

Resources in Washington State

- ▶ Northwest Positive Behavior Interventions and Support Network, Inc (NWPBIS Network)
pbisnetwork.org
- ▶ NWPBISN – Main Address
1430 Willamette St #2
Eugene, OR 97401
- ▶ NWPBISN – Washington Office
15810 6th Ave NE
Shoreline, WA 98155
- ▶ Lori Lynass, Executive Director
execdirector@pbisnetwork.org

Sound Discipline

- ▶ Jody McVittie
Executive Director
- ▶ 206-782-1595
- ▶ Email:
info@SoundDiscipline.org

- ▶ *“Sound Discipline teaches people to do the right thing, even when no one is looking. Using a research-based, experiential and culturally-responsive approach, Sound Discipline teaches parents and educators to build respectful relationships and use solution-focused problem solving with children and each other. Sound Discipline helps families, schools, and communities eliminate race bias in discipline and foster academic excellence, citizenship, equity, and democracy.”*

Collaborative Problem Solving Approach

- ▶ Dr. Ross W. Greene, PhD, Harvard Medical School, Dept. of Psychiatry,
 - Program based in Dept. of Psychiatry at Massachusetts General Hospital.
- ▶ Book: “Lost at School: Why our kids with behavioral Challenges Are Falling Through the Cracks and How We Can Help Them” © 2008
- ▶ <http://www.livesinthebalance.org/>

Safe and Compassionate Schools

- ▶ OSPI School Safety Center
- ▶ Compassionate Schools – OSPI
- ▶ Questions?
- ▶ Contact
(360) 725-6044
- ▶ For more information on the book and about the Compassionate Schools Initiative in Washington, contact Ron Hertel, (360) 725-4968, ron.hertel@k12.wa.us.

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