



WASHINGTON STATE

Office of the Education Ombudsman

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Legislative Priorities

Public Policy Recommendations

2012

The Office of the Education Ombudsman (OEO) resolves complaints from parents and students about K-12 public schools, identifies strategies to close the achievement gap, and promotes family engagement in education.



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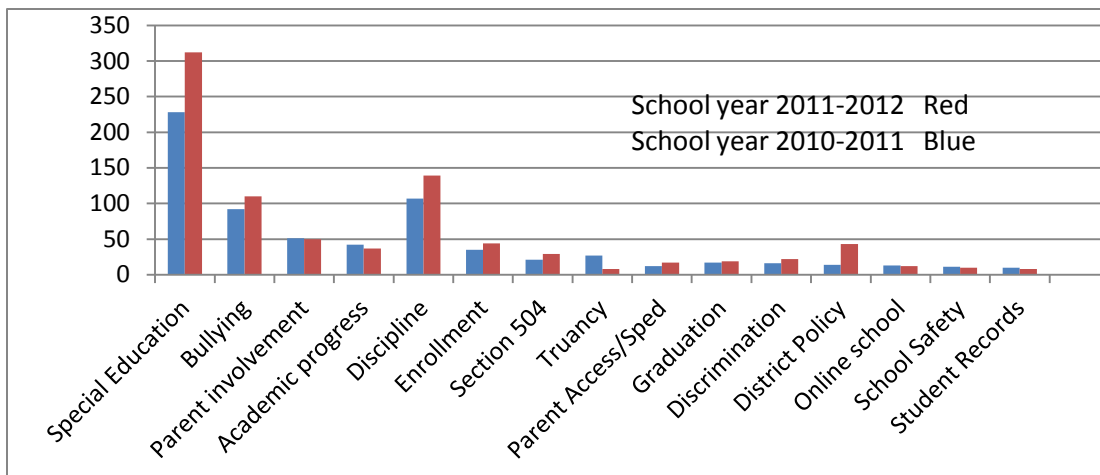
The Office of the Education Ombudsman (OEO) is a state-wide agency within the Governor's Office. OEO has been charged by the legislature to: resolve complaints from parents and students about K-12 public schools, identify and recommend strategies for closing the achievement gap and promote parent/family involvement in education.

RCW 43.06B.010 requires OEO to provide the Governor, elected officials, and the Board of Education with annual recommendations for the improvement of the public education system, based on casework data collected.

2011-2012 Fiscal Year

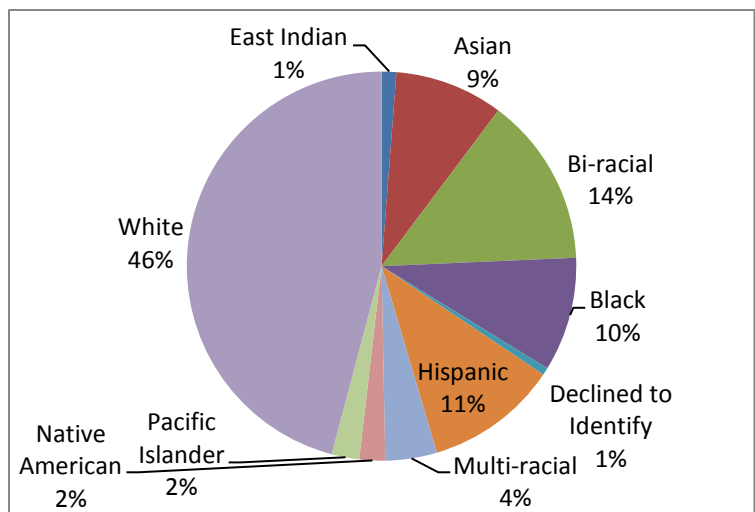
Last fiscal year, OEO handled 1,101 complaints from parents and students regarding 153 school districts across the state. The top most frequent complaint issues were: Special Education, school discipline, bullying, parent involvement, enrollment, section 504 and school district policies.

Top 15 complaint issues in Fiscal Year 2011 – 2012 (Compared to the previous Fiscal Year).



Race/ethnicity of students served

During the Fiscal Year 2011-2012, 46% of all students served by OEO identified themselves as white, 14% bi-racial, 11% Hispanic, 10% Black, 9% Asian, 4% Multi-racial, 2% Native American, 2% Pacific Islander, 1% East Indian and 1% declined to identify his/her ethnicity.



OEO recommends the following legislative actions based on case work data collected during the 2011-2012 fiscal year.

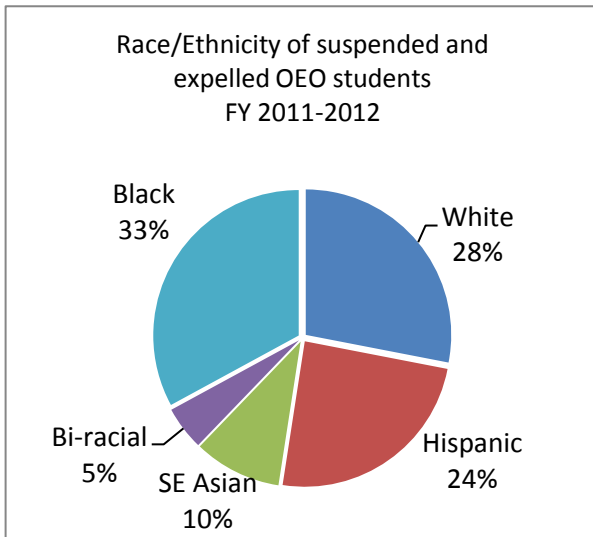
A. Alternative to zero tolerance policies

Suspensions and expulsions contribute to school drop outs and to the achievement gap

The number of complaints regarding expulsions and suspensions received by OEO has grown steadily in the last few years. During the 2011-2012 fiscal year OEO intervened in 143 serious discipline cases, this number

represented an increase of 13% over the previous fiscal year. In some cases Ombudsmen were able to help expelled students re-enter the system by enrolling in another school district or alternative program or help long-term suspended students get temporary instruction.

But these favorable outcomes were not the norm. Reversals and amendments to suspensions and expulsions are hard if not impossible to obtain and many of the students we worked with ended up unable re-enter any school district. Those who were able to come back to school found themselves significantly behind academically and many dropped out of school shortly after.



Race/ethnicity of disciplined students

OEO's data from Fiscal year 2011 – 2012 mirrors national data regarding suspended and expelled students in that the majority of them were students of color and low income. While the majority of cases pertained to middle and high school students, we also saw a concerning trend in the number of expulsions of elementary school students – even as young as six years old.

In most of these cases students and their families complained about arbitrary school administrative decisions and a discipline system that remove students from school with limited or no options to continue their education,. In many cases parents who have exhausted their options have looked at private schools or GED programs in community colleges for their children but they have been unable to pay the cost.

OEO has found that the Washington Administrative Code and school districts' zero tolerance policies leave the door open for arbitrary decisions regarding student suspensions and expulsions, provide no guidelines for alternative disciplinary methods, and do not protect the rights of students to continue to receive an education after expulsion. We understand that state discipline policies were designed to keep students safe in school, and we agree with that premise, however current practices lead to student drop outs and may disproportionately affect students of color.

Concerns about Expulsions

Washington's public schools are not obligated to educate students that have been long-term suspended or expelled. Expelled students can sometimes come back to their own school district or re-enter the K-12 education system through alternative programs if available or apply for enrollment in another school district.

Enrollment acceptance in a school district other than the student's home district falls under the discretion of the administrators of that school district. Depending on various factors, including the severity of the cause of their expulsion, the student may not be accepted in any other school district. However, if the student commits a crime and becomes part of the juvenile justice system, the student is entitled to receive instruction while in juvenile detention.

WAC 392-400-275 states that a student may be expelled but there is no wording about alternative education options for the expelled student. Section 4 states that the school district shall notify the appropriate local and state authorities, including juvenile authorities, in order that such authorities may address the student's education needs. OEO has repeatedly found that in many cases it is unclear who the *authorities* are and whether or not they provide alternative education programs.

Recommendations

We believe the time has come for Washington State to take time to review, revise and update disciplinary laws in order to move away from punitive policies and toward systems of prevention and interventions geared to keeping students in school and learning. This should be a particular priority if we are serious about closing the achievement gap and reducing the number of dropouts. We recommend that the legislature:

Creates a short-term, state-level K-12 discipline task force formed by legislators, educators, parents, students and community members tasked with the following duties:

- Review disciplinary data collected by the new CEDARS system created by OSPI and implemented in school districts as of 2012. Assess the effectiveness and usefulness of the data collected and determine whether improvements are needed.
- Determine the impact of suspension and expulsions on student dropouts and the achievement of students of color.
- Study and recommend effective, research-based, disciplinary alternatives to zero tolerance policies.
- Study the alternative education options available to expelled students across the state.
- Recommend amendments to relevant state laws and WACs to the legislature.

B. Language Access for ELL students

Unmet interpretation and translation needs of limited English speaking parents

According to the Office of the Superintendent of Public Instruction (OSPI), more than two-thirds of Washington's schools serve ELL students and their families.¹ The number of foreign languages spoken in students' homes has increased by 25% over the last 5 years to include over 200 different languages.

Washington public schools have both an educational and legal responsibility to communicate effectively with all parents and students to ensure that they understand academic options and how their actions and school actions may affect the academic future of their children. Both federal and state laws echo this imperative by requiring that information is provided to parents in a language they can understand and, in addition, a growing body of national research demonstrates that effective home-school communication contributes to the closing of the achievement gap as it is an essential component of student academic success.²

Limited English speaking parents complain regularly to OEO that they are not provided with interpretation or translation services particularly when their children are involved in *high-stakes situations* at school. Rather than a qualified interpreter, the only interpreter made available by the school may be someone untrained or their own child, who is directly involved in the situation or may be too young. This compromises the accuracy and quality of interpretation and places student confidentiality rights at risk. Under such conditions, there can be no guarantee that crucial information, which can affect the educational future of a student, would be understood or interpreted correctly so parents can make informed decisions.

High-stakes situations include, but are not limited to, those where a student is involved in or is at risk of becoming involved in, a disciplinary action (suspension, expulsion); legal consequences (juvenile justice); emergencies (immediate health or safety); truancy proceedings; bullying/harassment; Special Education, and behavioral issues.

OEO has found students, as young as 8 years old, acting as interpreters for their parents. Using students as interpreters is highly problematic as it may place them in the position of interpreting on matters they are the subject of --a clear conflict of interest, or that they do not understand. They may have limited vocabulary both in English and in their home language to explain complex educational situations.

In addition LEP parents report to OEO that this practice upsets cultural standards regarding the proper hierarchy between parents and children and undermines parental authority. All of these elements further contribute to the negative change in family dynamics that refugee and immigrant families experience in a new country.

Important education-related documents for parents, such as Special Education IEPs, are either not routinely translated in a language parents can understand or poorly translated using immediate electronic means, which are prone to significant errors.

¹ http://nces.ed.gov/surveys/sass/tables/sass0708_2009321_s1s_02.asp

² Joyce Epstein, National Network of Partnership Schools

While many school districts employ bilingual staff and ensure they are available on-site to help parents, these staff members may not have been trained specifically as interpreters or are bound by confidentiality and ethic protocols.

OEO recognizes that this issue presents a daunting challenge for schools and districts given the number of foreign languages spoken in Washington schools and the lack of sufficient funding and staffing. However, the provision of accurate and timely interpretation and translation for LEP parents is critical to eliminate inequities, levels the playing field for English language learners and contributes to raising the academic performance of these students.

Relevant legislation

Federal and state legislation listed below is specific enough to require translation or interpretation in particular contexts and list various factors that must be considered when determining the schools' legal obligation. But it does not provide schools and school districts with guidance regarding when and how such requirements are to be implemented. This leaves the day-to-day procedures for local schools and districts to develop.

The Federal and state statutes and regulations that protect parents' rights to language access are:

Title VI of the Civil Rights Act of 1964³

- Prohibits differential treatment on the basis of race, color, or national origin.
- Directs School districts to communicate with and provide public notification materials to limited English proficient parents in a language they can understand.⁴

Federal Executive Order 13166

- Requires that programs and activities operated and/or funded with federal monies be made meaningfully accessible to limited English proficient persons.

RCW 49.60 (Washington Law against Discrimination)

- Prohibits discrimination on the basis of numerous protected classes, including: creed, color, national origin.

ESEA Title I, Part A (Improving the Academic Achievement of the Disadvantaged)

- Requires local education agencies (LEAs) to implement effective means of outreach to parents of LEP students to inform those parents of how they can be involved in the education of their children and be active participants in assisting their children to attain English proficiency, achieve at high levels in core academic subjects, and meet the state academic standards. (Title I, Part A, Sec. 1118)

ESEA Title I, Part C (Migrant & Bilingual Education)

- Requires an LEA to conduct parental involvement activities "in a manner that provides for the same parental involvement as is required for programs and projects under Title I, Part A, Sec. 1118, unless extraordinary circumstances make such provision impractical."
- Parental involvement activities shall be conducted in a format and language understandable to parents. (Title I, Part C, Sec. 1304)

ESEA Title III (Language Instruction for LEP & Immigrant Students)

³ 42 U.S.C. 2000d et seq.; See also: 35 C.F.R. 100.3(b) (2).

⁴ See: Office of Civil Rights, May 25, 1970 Memorandum; provides clarification that "adequate notice" may entail notice in "language other than English."

- LEAs using funds provided under ESEA Title III shall implement an effective means of outreach to parents of LEP children to inform such parents of how they can be involved in the education of their children, and be active participants in assisting their children to learn English, to achieve at high levels in core academic subjects, and to meet the state academic standards. (Title III, Sec. 3302)

Revised Code of Washington 28A.180.040 (2)

- States that school district board directors shall: “wherever feasible, ensure that communications to parents emanating from the school are appropriately bilingual for those parents of pupils in the bilingual instruction program.”⁵

Washington Administrative Code 392-160-010 (2)

- Further states that school district board directors “shall communicate, whenever feasible, with parents of students in the bilingual program, or alternative instruction program in a language they can understand.”

Recommendations

In raising this issue and presenting the following recommendations to the legislature, OEO seeks to help the Washington public school system meet legal mandates, develop best practices and share resources.

1. Develop a sample Language Access Policy and Procedures and require school districts’ adoption. This policy will help their compliance with federal and state laws and ensure equity for ELL students. The sample policy and procedure should include:

- Standards for interpretation/translation in “high-stakes situations” impacting student learning.
- Provisions to ensure that interpreters utilized in schools are trained adults who understand the American public education system.
- Provision to ensure that in schools with high LEP/ELL student enrollment, all staff receives training in cultural competence and how to work with interpreters and translators.
- Procedures to establish an ELL parent communication system.
- Procedures to partner with ethnic community-based organizations that can assist schools with interpretation and translation.

2. Develop a state training program for Education Interpreters/Translators

- This program will teach bilingual staff, parents and community members about the public school system, education terminology, and interpretation methods and techniques.
- Trained individuals will get a certificate that will allow them to volunteer or work as public school interpreters.

3. Develop a state-level clearinghouse of translated materials for school districts.

- Conduct a state-wide inventory of all existing translated materials in school districts.
- Determine a prioritization system and devise strategies for overcoming proprietary issues of translated materials among school districts.
- Publish all translated materials online for school districts to download.

⁵ RCW 28A.180.040. School board duties.

C. Family Engagement in Education

Parents are an untapped educational resource in Washington State

Decades of studies have documented that, regardless of a family's economic, ethnic, or cultural background, the level of involvement of families in the education of their children is key determining factor of student learning. Family engagement (also called family or parent involvement) is defined as the equal partnership between schools and families focused on student academic achievement. The partnership entails a shared vision and a shared responsibility for student success.

Complaints regarding barriers to parental involvement are frequently handled by OEO Ombudsmen. The most frequent underlying issue in those cases is the lack of clarity from parents and educators about the roles they play as equal partners in education and how they should work together. This is particularly evident in low performing schools with a high rate of diversity where educators are at a loss as to how outreach and engage families of color. In some struggling schools there has been a decrease in family engagement and an increase in adversary relationships between parents and educators which have greatly impacted students.

Diverse families are also key stakeholders to close the achievement gap if they become engaged as equal partners with schools to improve the educational outcomes of their children.

In this time of education reform efforts and with over 2 million parents of public school students in our state, we have a unique opportunity to harness the social capital that families can bring to school communities and leverage our education investments by integrating family engagement as a legitimate part of public education.

Random acts of engagement

Currently Washington schools practice what we call *random acts of engagement* as there is no state law that delineates how they should go about partnering with all families. Every school building and every school district engages families in different ways even when they are located in the same school district. Some schools do it well and some do it poorly. Families have different school engagement experiences depending on where they live and who they are.

Some school districts have adopted family engagement policies and procedures, others have outdated policies and no procedures, while others have no policies in place at all. Schools that receive federal funding for family involvement as part of their Title I status are given some guidance on how to spend those funds to engage families but no consequences if they do not use funds appropriately.

Uniformity in practice is essential to integrate families into the educational experience according to national research. Experts have found that the systemic implementation of family involvement practices across districts and school buildings define and support the role that parents and educators play as partners in student achievement.

The National PTA advocated for uniform engagement practices in schools back in 1997 by developing the National School-Family Partnerships standards. These standards, which were updated in 2007, have been adopted by states and school districts nationwide.

The state legislature can play the important role of helping Washington State public schools move from *random acts of family engagement* to systemic family engagement focused on student achievement.

Recommendations

Though the engagement of parents in schools cannot be mandated, legislation can ensure that all public schools provide parents with equal access and opportunities to become involved and stay involved in their children's education and in schools; it can provide guidance for educators as to how to best engage parents, and provide resources for schools to partner with families around student success. It can ensure that access and opportunities experienced by engaged parents are also extended to other family members and caregivers of every child.

We recommend that the legislature enacts the state's first Family Engagement in Education Act which would include:

- Standards for family and community engagement for Washington public schools --with particular attention to the culturally relevant family/community engagement methods to close of the achievement gap.
- A blueprint for school districts to restructure their operations to better engage families and communities. Good district organization for engagement should include: policies, procedures, staffing, funding sources, data collection, assessment tools and evaluations.
- A requirement that all school districts adopt the sample Family Engagement policy developed by WSSDA and OEO in 2010.
- Guidance regarding research-based strategies to engage all families.
- The creation of a state-level, clearinghouse/repository for the collection, dissemination and replication of best practices among school districts and innovative approaches to engage diverse families and communities.

D. Parent Access to Special Education Classrooms

A critical component of school-family partnerships

Since the inception of the OEO, Ombudsmen have addressed a great number of disputes and conflicts regarding parent and evaluators' access to special education classrooms. These cases require persistence and the ability to navigate through districts' written and unwritten policies, confusing processes, and arbitrary decisions that render some cases impossible to resolve in a manner that fully benefits the student.

Current state and district policies related to classroom access have resulted in barriers which prevent parents and/or their private evaluators from observing students in the special education setting and parents across the state report great frustration with these impediments.

While one of the purposes of the IDEA Amendments of 1997 is to "strengthen and expand the role of parents of children with disabilities in their identification, evaluation, and educational placement," the determination of who has access to observe children in the special education setting is currently not federally legislated but left to individual state laws and school district policies.⁶

Pursuant to the Individuals with Disabilities Education Act, parents may be entitled to a second opinion about the efficacy of their child's program and ask for an independent evaluation. Those evaluations are often conducted by an outside professional who requires access to observe the student at the school. Such evaluations can only be collaborative and productive when the evaluator can observe how the student functions and interacts in the actual learning environment in order to take advantage of the opportunity of an independent fresh look at the school program.

Having discussed this issue with many school officials, OEO understands their concerns, such as: the privacy⁷ of the other children in the classroom, the potential disruption of the learning environment, the student "acting up" when being observed, and teachers' concern that parents would in effect evaluate them.

However, this impasse directly impacts students by causing serious delays in solving problems, identifying concerns and modifying IEPs.

Parents, as equal partners with schools, must be involved in decisions that affect their children and must have timely and reasonable access to observe their children's classrooms, particularly in cases where a child is unable to communicate what may be happening within the educational environment.

Onerous procedures that require parents to sign lengthy and legal statements of confidentiality, schedule several days in advance, or be unnecessarily restricted in terms of when they can observe the classroom cause delays in the delivery of appropriate educational services and undermine the trust needed for families and schools to work together. These concerns are significantly compounded for families of color and/or non-English speaking families.

When necessary, evaluators should also be allowed access to the classroom to observe and assist the school and the parent in ensuring that students with special needs receive an appropriate education.

⁶ <http://www.wrightslaw.com/law/osep/idea.classrm.observe.pdf>

⁷ The U.S. Supreme Court's decision in [Owasso v. Falvo](#) establishes that students have no expectation of privacy.

Recommendations

OEO recommends an amendment to the current RCW (28A.605.020) that governs Parent Access to the Classroom. Currently it reads:

“Every school district board of directors shall, after following established procedure, adopt a policy assuring parents access to their child's classroom and/or school sponsored activities for purposes of observing class procedure, teaching material, and class conduct: provided that such observation shall not disrupt the classroom procedure or learning activity.”

A language change should be enacted as follows:

“To ensure that parents of children with disabilities can participate fully and effectively with school personnel in the consideration and development of an appropriate educational program for their child, each school district shall, upon written or verbal request by a parent, afford timely access to the child’s current program or any proposed educational program prior to any IEP meeting or meeting to discuss the child’s educational program, in any case no later than 10 days after the parent’s request. This includes access to any current or proposed educational program by an independent educational evaluator or a qualified professional retained by or on behalf of a parent.

*Such observations may be for the purposes of assessing the child's performance, viewing the child's current educational program, considering the appropriateness of the child's placement, services, or least restrictive environment being provided to or proposed for the child. The school district may **limit interviews of personnel having information relevant to the child's current educational services to meetings or conferences scheduled separately from the observation in the current or proposed classroom, program or placement.**”*

The Office of the Education Ombudsman

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