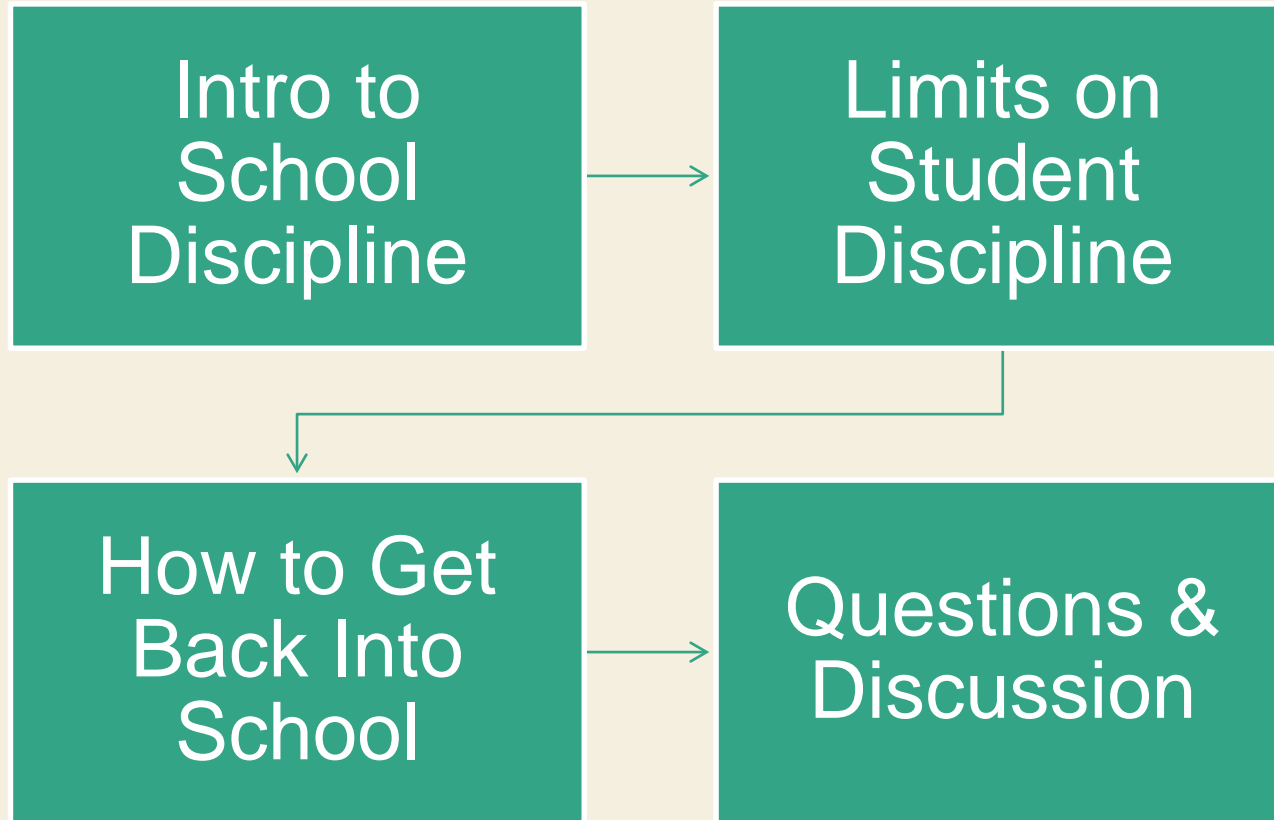




School Discipline and Its Relevance to Juvenile Defense

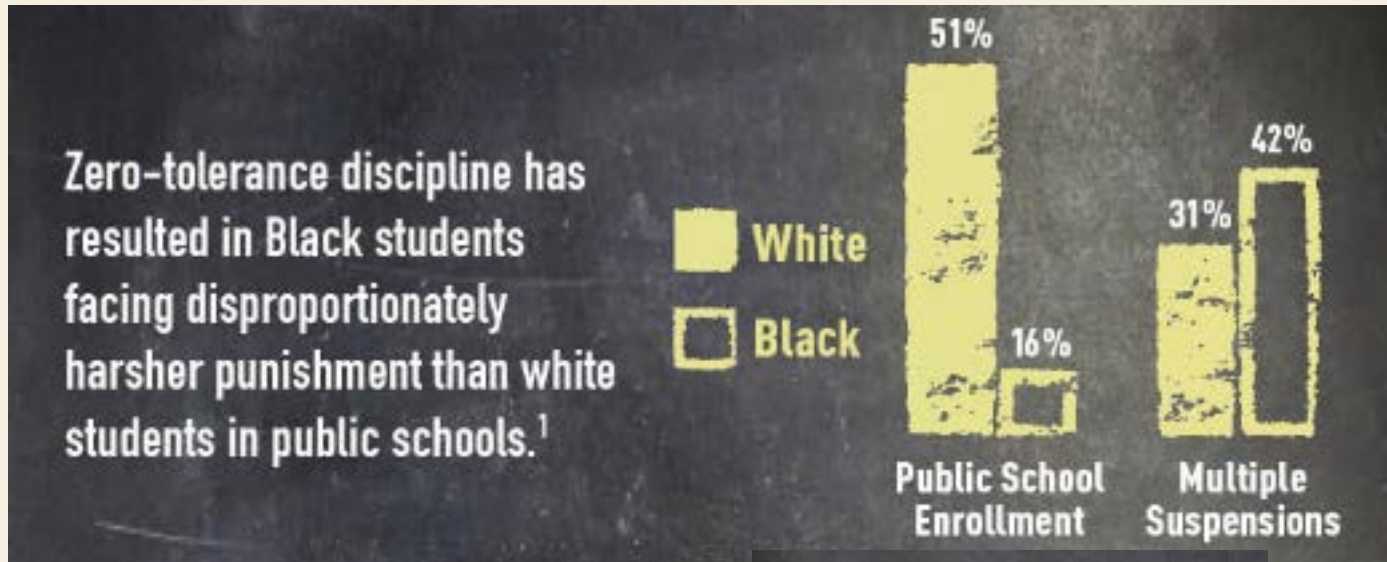
*Chen-Chen Jiang
chen-chen.jiang@teamchild.org
July 19, 2019*





*INTRO TO
SCHOOL DISCIPLINE*

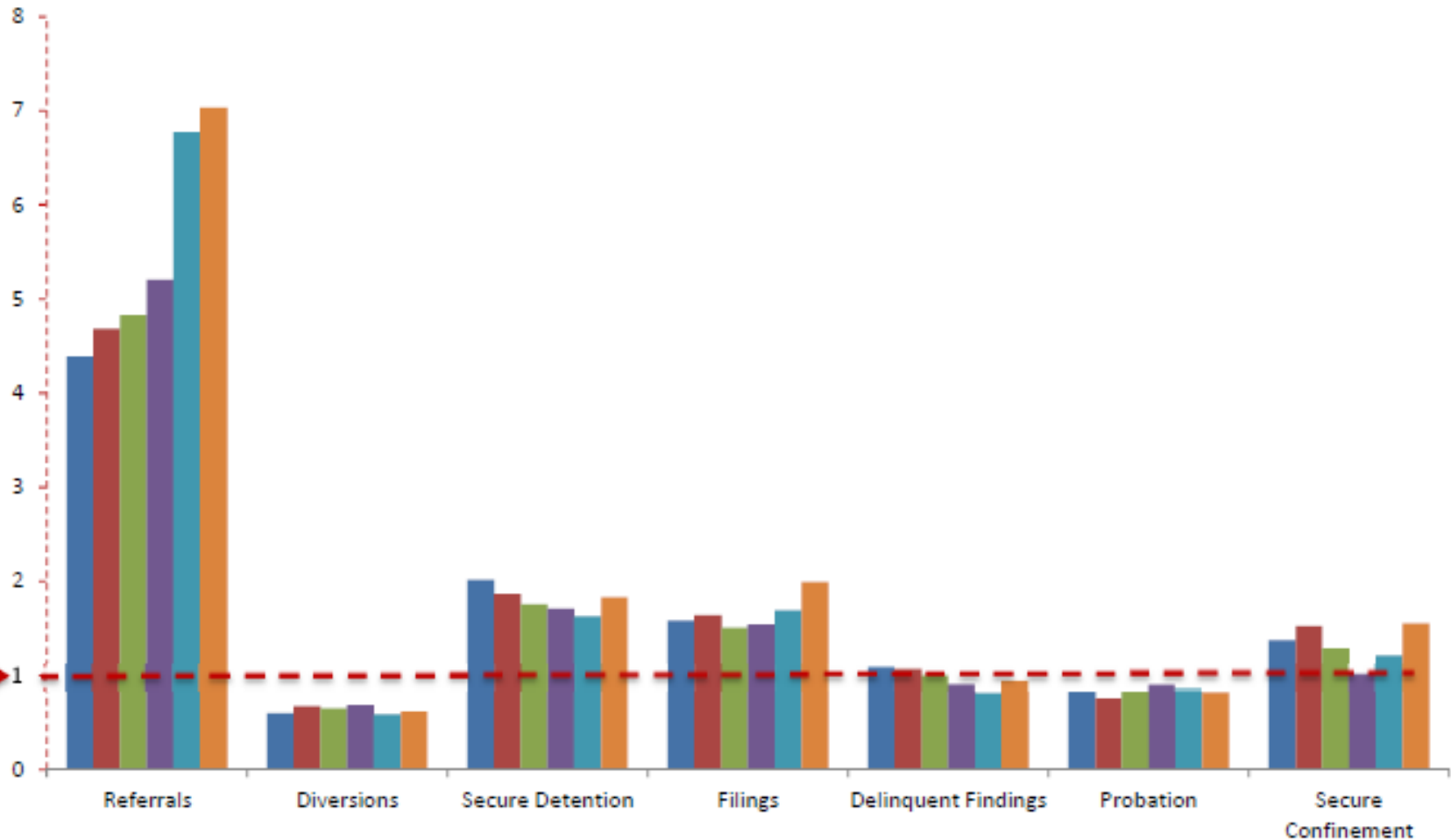
Disproportionality in Discipline . . .



... Disproportionality in Criminal Justice

King County Juvenile Justice Disproportionality -African American- Incremental Change by Decision Point

■ 2010 ■ 2011 ■ 2012 ■ 2013 ■ 2014 ■ 2015



Caucasian Rate

5



Why discipline matters

Stakes are high

Local district's study found two tipping points strongly related to eventual dropout:

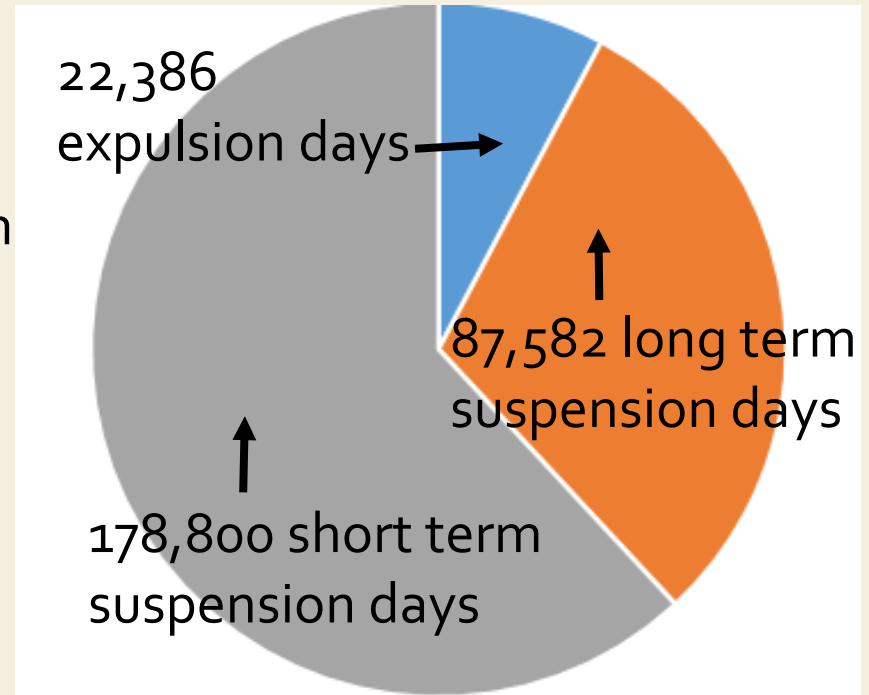
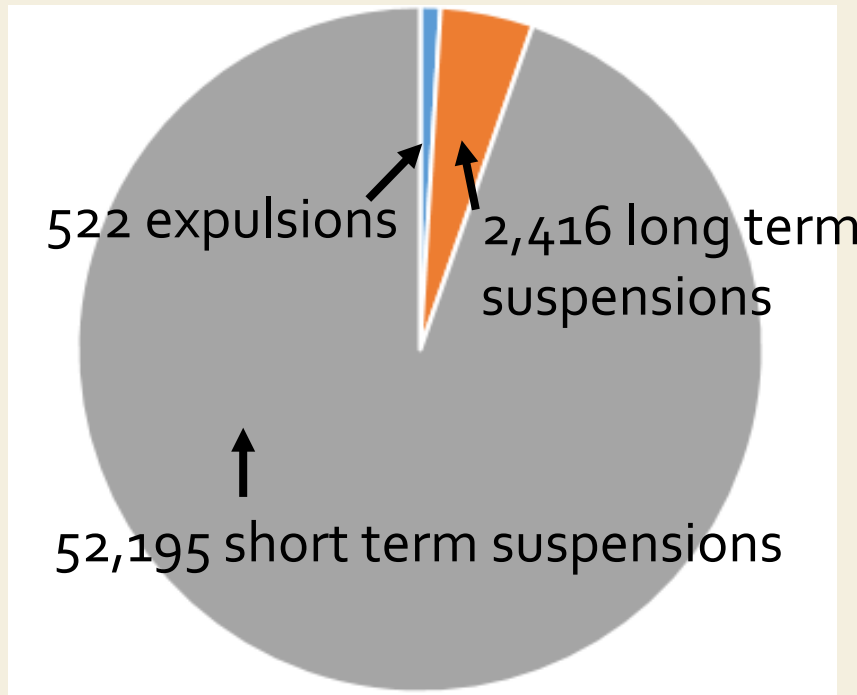
- Two days of unexcused absence in any school year
- A single out-of-school suspension in any middle school or early high school grade

Why discipline matters

In the 2017-2018 school year:

54,356 total exclusion incidents

288,767 total exclusion days



* Does not include emergency expulsion days, in school suspensions, or other missed instruction



LIMITS ON SCHOOL DISCIPLINE



Forms of Out of School Discipline

Short term suspension (STS)

- Removal for 10 school days or less

Long term suspension (LTS)

- Suspension for more than 10 school days, no longer than one academic term

Expulsion (E)

- Exclusion for a definite period of time no longer than one academic term

Emergency expulsion (EE)

- Immediate removal
- Must be converted to another form of corrective action w/in 10 school days

Limits on LTS and E

Substantive Protections

- Cannot be used as discretionary discipline
- Nature and circumstances of the violation must reasonably warrant suspension/expulsion.
- Must have considered one or more other forms of discipline

Procedural Protections

- Right to notice in home language
 - Initial Notice
 - Written Notice
- Right to have an opportunity to be heard
- Chance to appeal

Discretionary Discipline

Disciplinary action taken by a school district for student behavior that violates rules of student conduct adopted by a school district board of directors under RCW [28A.600.010](#) and [28A.600.015](#)



LTS and E cannot be used to respond to ordinary violations of school rules

RCW 28A.600.015(6)

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Discretionary Discipline

But action taken in response to the following is not considered discretionary discipline (the following can be punished by a LTS or E):

- (a) A violation of RCW [28A.600.420](#); [Firearms]
- (b) An offense in RCW [13.04.155](#); [Violent offense; sex offense; inhaling toxic fumes; controlled substance violation; liquor violation; any crime under several RCW chapters (harassment, arson, assault, others...)]
- (c) Two or more violations of RCW [9A.46.120](#), [9.41.280](#), [28A.600.455](#), [28A.635.020](#), or [28A.635.060](#) within a three-year period [gang activity, weapons, willful disobedience, destruction of school property]; or
- (d) Behavior that adversely impacts the health or safety of other students or educational staff.



RCW 28A.600.015(6)

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Changes in 2019-2020

Beginning in the 2019-2020 school year:

- Long-term suspension must not be for discretionary discipline behavior, and the school must decide that unless the student serves a long-term suspension, his return would pose an imminent danger to students or staff, OR his return would pose an imminent threat of material and substantial disruption of the educational process.
- Expulsion must not be for discretionary discipline behavior, and the school must decide that unless the student serves an expulsion, his return would pose an imminent danger to students or staff.
- No students in kindergarten through 4th grade may be long-term suspended or expelled. (except for possession of firearms)

WAC 392-400-440; 445

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Limits on Emergency Expulsions

- May be expelled immediately if
 - “sufficient cause to believe that the student’s presence poses an immediate and continuing danger to other students or school personnel; or poses an immediate and continuing threat of material and substantial disruption of the educational process.” WAC 392-400-510(1).
 - Requires that the behavior results in “extreme disruption of the educational process” that creates “a substantial barrier to learning for other students” and school officials “have exhausted reasonable attempts at administering other forms of discipline.” WAC 392-400-510(2).
- Must end or be converted to another form of corrective action within 10 school days
- Must have notice w/i 24 hours that includes reasons why the EE is warranted
- Must follow requirements once converted

WAC 392-400-510

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*HOW TO GET BACK
INTO SCHOOL*

Ways to Get Back into School

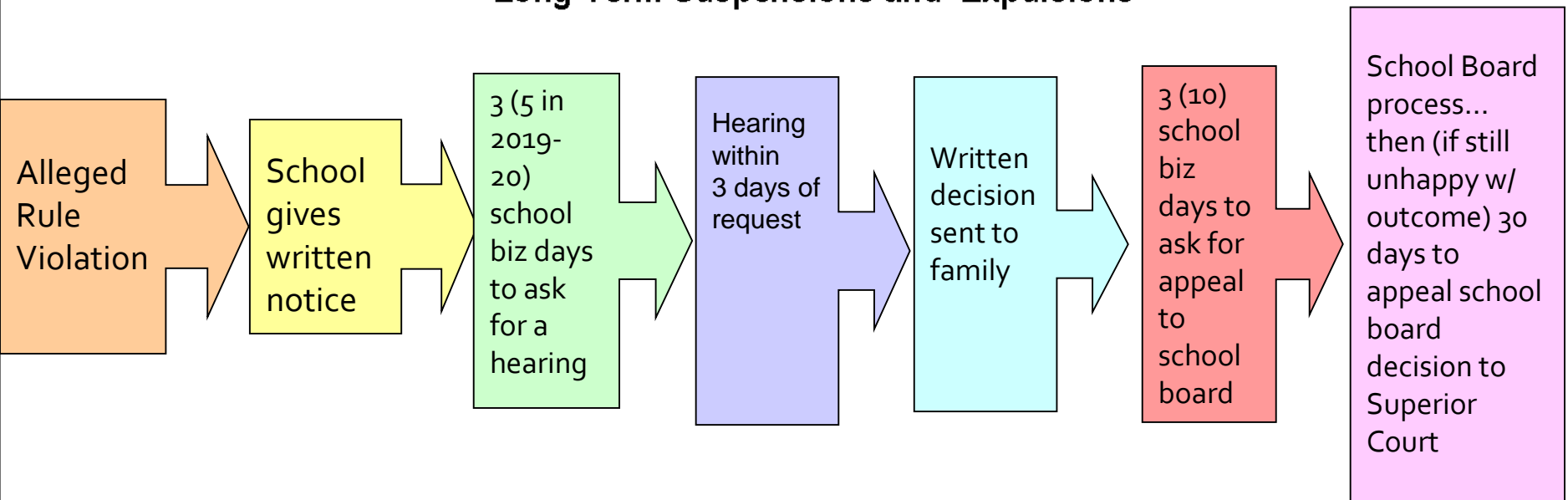
1. Challenge the discipline itself →
Discipline Hearing or Conference with
Principal
2. Try to return to school → Petition for
Readmission or Reengagement Meeting
3. Get education in the meantime →
Provisional Education Services

Discipline Hearing or Conference with Principal

- Opportunity to challenge the discipline itself
 - LTS/E → Discipline hearing
 - STS → Conference with the principal
- Student and family can challenge the evidence provided by the school and present own case
- Can appeal discipline hearing to the school board and Superior Court (for STS, appeal to superintendent)

Timelines for Challenging LTS & E

A Quick Look at Timelines for Challenging Long-Term Suspensions and Expulsions



Readmission

- Essentially an application to return to school
- Focus is not on what happened but on whether youth is ready to return to school
- Can make this request any time and repeatedly (can do while appealing school discipline)
- Each school district has different readmission procedures. Ask at the District.



Petition for Readmission

Propose a PLAN to the District

- Consider submitting statements written by the youth, family, and others who know the youth
- Address school's concerns for safety and other issues

Be prepared to consult with the family and youth if charges are pending

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Reengagement Meetings

- Held within 20 days of imposition of LTS or E but no later than 5 days of the end of the discipline – OR, as soon as reasonably possible, if family requests a meeting
- To discuss a plan to reengage the student in a school program
- These are not to take the place of readmission petitions or appeals

WAC 392-400-710

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Reengagement Plans Must Consider:

Shortening the length of the discipline

Supportive interventions that aid in the student's academic success

- Culturally sensitive & culturally responsive plan tailored to student's individual circumstances
- Keep the student engaged and on track to graduate
- Tailored to the student's individual circumstances
- Help student remedy situation that led to discipline

Consider list of issues, include nature of incident, student's history and family, community resources, shortening the length of removal, providing academic + nonacademic supports...

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Education Services during Removal

- Districts must provide educational services to suspended or expelled students
- District must provide written notice of services to student/ family as soon as possible after initiating removal
- Services must enable student to:
 - Continue to participate in gen ed curriculum
 - Meet ed standards w/in district
 - Complete subject, grade-level, and graduation requirements

WAC 392-400-610

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Education Services during Removal

WAC 392-400-610

- Districts must consult w/ student, parent(s), teachers
- Districts must consider student's access to tech, transportation, and other resources
- District CAN provide services in an alternative setting
 - Should be “comparable, equitable, and appropriate to the regular ed setting student would have been in w/o the discipline”
 - Examples include: alternative high schools, one-on-one tutoring, and online learning
- Differing requirements based on length of removal

Reoccurring Issues with Education Services

Whether schools are providing provisional education services.

- No services (esp. in small districts)
- Services only if families push
- Referral to services only
- Gap in middle school services

Whether those services are comparable, equitable, and appropriate to the regular classroom

- Online, alternative school, or blend
- Offering only few hours of tutoring
- Lack of class specificity
- Notice of services

Experience from Cases Confirm Lack of Educational Services

- District is requiring parents to set up a reengagement meeting to discuss educational services before providing those services
- District is claiming to be setting up the equipment needed for educational services for almost 2 months
- District relied almost entirely on homework packets

More Resources

- [Refer](#) clients to TeamChild
- Review or refer families to the TeamChild [advocacy manual](#)
- Consult with us!

QUESTIONS & DISCUSSION