



AMC 2026

Session 2

**From Classroom to
Courtroom: Teens, Law
Enforcement & School
Discipline**

Presented by:

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Paisley S. Hoffman

Nicholson Goetz & Otis, S.C., Madison

About the Presenters...

Eileen Fredericks has been a staff attorney in the Madison trial office of the Wisconsin State Public Defender (SPD) in the youth defense unit since 2009. In addition, she is the youth defense practice coordinator for the SPD. In this position, she helps with trainings related to juvenile law and is available as a resource to all attorneys taking juvenile cases around the state. Eileen has previously worked in the SPD's Milwaukee youth and mental health office and the SPD's Kenosha office. She graduated from the University of Notre Dame and attended the University of Wisconsin Law School hoping to become a lawyer for children and teens. While attending law school, Eileen also earned her master's degree in social work to better understand the needs and struggles of many of the people she represents and to learn how better to assist people in coping with life's troubles. She is the 2023 recipient of the SPD's Chiarkas Award for her contributions to creating a more just legal system for youth in Wisconsin.

Paisley Hoffman is the Senior Associate Attorney at Nicholson Goetz & Otis, S.C., where she represents clients throughout Wisconsin in complex criminal defense, juvenile, and family law matters. Her criminal practice focuses on defending adults and juveniles accused of serious felony offenses, including child abuse allegations, sexual assault charges, homicide, and firearm-related crimes. In addition to criminal defense, Paisley maintains a robust family law practice, handling matters such as divorce, paternity, and post judgment custody and placement disputes. Paisley holds a Master of Social Work with a concentration in mental health, which enhances her ability to understand family dynamics and interpersonal relationships. Paisley has been recognized as a Super Lawyers® Wisconsin Rising Star every year since 2020, reflecting her excellence in and out of the courtroom. Since January 2022, she has served as part-time faculty at Madison College, teaching Legal Writing and Family Law in the paralegal program. Paisley has been awarded the Hanson Memorial Advocate's Prize for successfully trying homicide cases and the Kuchler-Nicholson-Stilling award for successfully trying sexual assault cases.

From Classroom to Courtroom: Teens, Law Enforcement, and School Discipline

Attorney Paisley Hoffman
Nicholson Goetz & Otis, S.C.

Attorney Eileen Fredericks
State Public Defender's Office

I. Criminal and Juvenile Law in the School Setting: The Legal Rights of Students

- a. Common Crimes: While there are many offenses that may be committed in the school setting, some of the most common school offenses are:
 - i. Terrorist Threats (Wis. Stat. § 947.019)
 - ii. Battery (Wis. Stat. § 940.60)
 - iii. Disorderly Conduct (Wis. Stat. § 947.01)
 - iv. Possession of a Controlled Substance (Wis. Stat. Ch. 961)
 - v. Sexual Assault (Wis. Stat. §§940.225, 948.02)
 - vi. Possession of a Dangerous Weapon (Wis. Stat. §948.60)

- b. Interrogation in Schools: Case law provides some guidelines for interrogations that occur at school. Courts have recognized that juveniles should be treated differently for purposes of interrogations, confessions, etc.
 - i. *In re Gault*, 387 U.S. 1 (1967)
 1. Landmark case holding that the Due Process clause of the Fourteenth Amendment requires juvenile proceedings to measure up to the essential due process requirements for adults. Children charged in delinquency proceedings require the assistance of an attorney.
 - ii. *J.D.B. v. North Carolina*, 564 U.S. 261 (2011)
 1. Due process considerations for voluntariness of a confession permit consideration of the child's age. In other words, a child's age is appropriate to consider when determining whether the child was in custody for purposes of *Miranda* warnings.
 - iii. *State v. K.R.C.*, 2026 WI 10
 1. Student questioned by law enforcement at school where child would not have felt free to leave required *Miranda* warnings.

- c. The Fourth Amendment in Schools:
 - i. *New Jersey v. T.L.O.*, 469 U.S. 325 (1985)
 1. Fourth Amendment applies to searches conducted at schools.
 - ii. *In re the Interest of Isiah B.*, 176 Wis. 2d 639 (1993)
 1. Students do not have a reasonable expectation of privacy in their lockers. Schools may adopt policies regarding ownership of locker and provide notice to students.
 - iii. *In re the Interest of Angelia D.B.*, 211 Wis. 2d 140 (1997)
 1. Standard for a search of student at school is whether there are reasonable grounds – rather than probable cause.
 - iv. *State v. Schloegel*, 2009 WI App 85

1. A search of vehicle is reasonable when a student is suspected of violating rules, has received notice of a policy, and has consented to search of vehicle as part of agreement to park vehicle at school.

II. **School Discipline: Student's Rights Related to Suspension, Expulsion, and Special Education**

a. Basic Requirements:

- i. Due process clause forbids arbitrary deprivation of liberty
- ii. Suspension for 10+ days requires opportunity to be heard
- iii. Basic right to be heard means a hearing appropriate and consistent with the nature of the case
- iv. Notice of hearing is required.

b. Case Law Regarding School Discipline:

- i. *Goss v. Lopez*, 419 U.S. 565 (1975)
 1. Students are entitled to the protection under the due process clause for suspensions up 10 days. This requires a notice of violations and an opportunity to provide their version of events. There are some occasions where that notice and ability to hear from student are not feasible before removal of student.
- ii. *Butler v. Oak Creek-Franklin School Dist.*, 172 F. Supp. 2d 1102 (E.D. Wis. 2001)
 1. Due process in student discipline requires schools to provide students with sufficiently specific notice of both the rule allegedly violated and the conduct underlying the accusation so the student can prepare a defense.

c. Expulsion:

- i. Governed by Wis. Stat. §120.13
 1. Schools can seek to expel students for actions that occur at school
 2. Wisconsin law does not require school districts to provide any educational services to non-special education students during a period of expulsion.
 3. If a school district pursues an expulsion hearing, a student and parent/guardian must be provided separate notice of an expulsion hearing at least 5 days in advance of the hearing. This notice must contain the provisions listed in the expulsion statute, including notice that a student may be represented by counsel at the expulsion hearing.
- ii. Notice Requirements: Notice must be provided to student and parent (separately) at least 5 days prior to the expulsion hearing.
- iii. Right to Present a Defense: The district must allow a student the opportunity to present evidence that will mitigate the punishment, and the district has a constitutional obligation to consider mitigating evidence before deciding to expel the student. *Betts v. Board of Education*, 466 F.2d 629, 633 (7th Cir. 1972)

d. Special Education & Expulsion

- i. When a student has an Individualized Education Plan (IEP), there are different requirements prior to imposition of school discipline.
 1. Manifestation Hearing: must occur within 10 days of the alleged violation. If determined that behavior was a manifestation of disability, student cannot be expelled (20 USC § 1415 (2)(1)(E))
- ii. If an IEP was not in place, then a disability determination can be requested. School may proceed with expulsion pending the results of that determination. (20 USC § 1415(k)(5)(D)(ii)).
- iii. Numerous laws are implicated in school discipline for students with special education protections. For example, Individuals with Disabilities in Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973, Title IX, Anti-Bullying Act (Wis. Stat. §118.46), Section 1983, FERPA, NCLB, Fostering Connections Act

III. How Criminal Behavior Impacts Title IX Investigations and Wisconsin Interscholastic Athletic Association (WIAA)

a. Title IX

- i. Title IX provides protections against sex-based discrimination/harassment in school. When a Title IX complaint is received, the school will initiate an investigation.
- ii. Students may have an advisor assist during the process. That advisor can be, but does not need to be, an attorney. Both the complainant and the respondent have the right to use an advisor.
- iii. Respondent is presumed innocent during this process.
- iv. If there is a finding that sex-based discrimination/harassment, disciplinary sanctions can be imposed including detention, suspension, expulsion, or other remedies like no contact orders
- v. Title IX process must be conducted in a timely manner. This means cannot always wait to see what happens during a law enforcement investigation or delinquency proceedings before deciding whether to make a statement.

b. WIAA

- i. Rules that student athletes need to follow are governed by WIAA statewide eligibility standards and the member school's code of conduct
- ii. After an alleged rule violation is reported, the school district or athletic department will investigate. This process will vary by school but may include interviewing, reviewing evidence, speaking with parents or witnesses.
- iii. If a violation is found to have occurred, school will determine the discipline. If violation of certain rules is found, WIAA requires suspension for at least one game/contest/meet.
- iv. Schools are permitted to impose stronger discipline (multi-game suspension, removal from team, athletic probation)

- v. A student charged and/or convicted of a felony shall, upon the filing of felony charges, become ineligible for all further participation until the student has paid his/her debt to society and the courts consider the sentence served
- vi. WIAA High School Rules at a Glance:
<https://www.wiaawi.org/Portals/0/PDF/Eligibility/WIAARules2025-26.pdf>

From Classroom to Courtroom: Teens, Law Enforcement, and School Discipline

Eileen E. Fredericks & Paisley S. Hoffman

Additional Resource

- Rachael K. Cox, *Obey or Abey: An Empirical Examination of Abeyance Agreements in Public School Discipline*, 117 Nw. U. L. Rev. 1427 (2023).
<https://scholarlycommons.law.northwestern.edu/nulr/vol117/iss5/4>



From Classroom to Courtroom: Teens, Law Enforcement, and School Discipline



Paisley Hoffman, Nicholson Goetz & Otis, S.C.
Eileen Fredericks, Wisconsin State Public Defender's Office



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Roadmap

- 01 Criminal and Juvenile Law in the School Setting. The Legal Rights of Students.
- 02 School Discipline: Student's Rights related to Suspension, Expulsion, and Special Education.
- 03 How criminal behavior impacts Title IX Investigations and Wisconsin Interscholastic Athletic Association (WIAA) Athletics



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Roadmap



01

Criminal and Juvenile Law in the School Setting. The Legal Rights of Students.

- A. Common Crimes
- B. Interrogation in Schools
- C. Searches in Schools



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Quick Write

- What do you think are the most common offenses charged from an incident at school?

STATE OF WISCONSIN, CIRCUIT COURT, COUNTY Juvenile
 IN THE INTEREST OF **Petition under Chapter 938**
 Name Delinquency (under age 17)
 Protection or Services (under age 16)
 Civil Law/Ordinances (under age 16)
 Date of Birth Case No. _____
 D.A. Case No. _____

I STATE ON INFORMATION AND BELIEF THAT THE FOLLOWING IS TRUE:
 (If unknown or cannot be ascertained, so state)

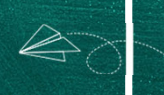
1. Juvenile's Name _____ Date of Birth _____ Sex Male Female Race _____ Height _____ Weight _____ Hair Color _____ Eye Color _____
 Juvenile's Street and City Address _____
 Juvenile has previously been adopted? Yes No See attached for additional parties
 Parent 1's Name and Address _____ See attached for additional parties Parent 1's Date of Birth _____ Deceased
 Legal Status: Birth Adoption Abandon Other Unknown Unknown Unknown Unknown
 Parent 1's Name and Address _____ See attached for additional parties Parent 1's Date of Birth _____ Deceased
 Legal Status: Birth Adoption Abandon Other Unknown Unknown
 Unknown Legal Guardian Foster Parent Rescued from _____ None of preceding representations
 (Name) _____
 (Address) _____
 Juvenile in temporary custody? No Yes, Date _____ Time _____ a.m. p.m.
 Where held: Not disclosed - threat of removal - danger to juvenile/physical
 custody. Yes, Language: _____ Party Name(s): _____
 Is an interpreter needed? No Yes

2. Name and Address of Juvenile's School _____

3. If petition alleges jurisdiction under §938.13(6), (8), (9), Wis. Stats., is the juvenile subject to federal Indian Child Welfare Act (25 U.S.C. § 1901-1915)?
 No
 Indeterminate (Explain: _____)
 The Indian juvenile is currently placed in-home; therefore, the federal Indian Child Welfare Act does not apply.
 (For an Indian juvenile who is placed out-of-home, use the Indian Child Welfare Act version [IW-172] of this Petition.)

4. Under section(s) _____, the juvenile is
 delinquent
 in need of protection or services, suspension, care or rehabilitation
 in violation of civil law and/or ordinances
 because: _____ See attached

WS-CJ-1028 Petition under Chapter 938 - Delinquency, Protection or Services, Civil and Ordinances §938.25 and 938.205, Wisconsin Statutes. This form shall not be modified. It may be supplemented with additional material. Page 1 of 2



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Common Offenses in Schools

- Terrorist threats
- Battery
- Disorderly conduct
- Possession of a controlled substance
- Sexual assault
- Possession of a dangerous weapon

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Interrogation in Schools

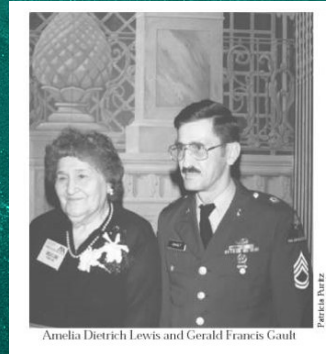
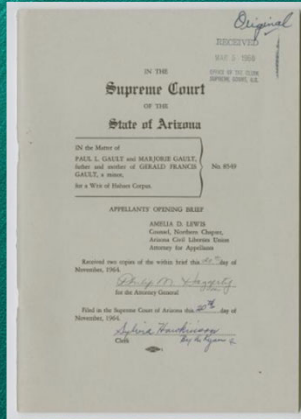
THE SIXTH AMENDMENT

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.



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In re Gault, 387 U.S. 1 (1967)



Amelia Dietrich Lewis and Gerald Francis Gault

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J.D.B. v. North Carolina, 564 U.S. 261 (2011)



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State v. K.R.C., 2026 WI 10



“The [JDB] Court’s reasoning highlights the special care we must take when analyzing the interrogation of children.”

State v. K.R.C., 2026 WI 10, ¶22

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The 4th Amendment in Schools

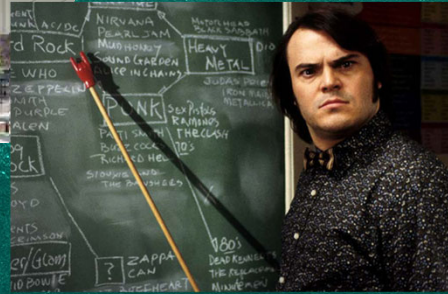
The 4th Amendment

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.



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New Jersey v. T.L.O., 469 U.S. 325 (1985)



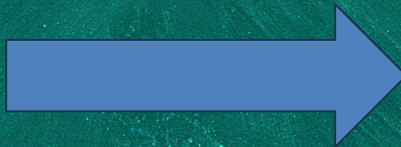
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In the Interest of Isiah B., 176 Wis. 2d 639 (1993)



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In the Interest of Angelia D.B., 211 Wis. 2d 140 (1997)



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State v. Schloegel, 2009 WI app 85



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Roadmap



02

School Discipline: Student's Rights related to Suspension, Expulsion, and Special Education.



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What are a student's Rights in Student Discipline?

- Due process clause forbids arbitrary deprivation of liberty
- Suspension of 10+ days requires opportunity to be heard
- Basic right to be heard means a hearing appropriate and consistent with the nature of the case
- Notice of hearing is required



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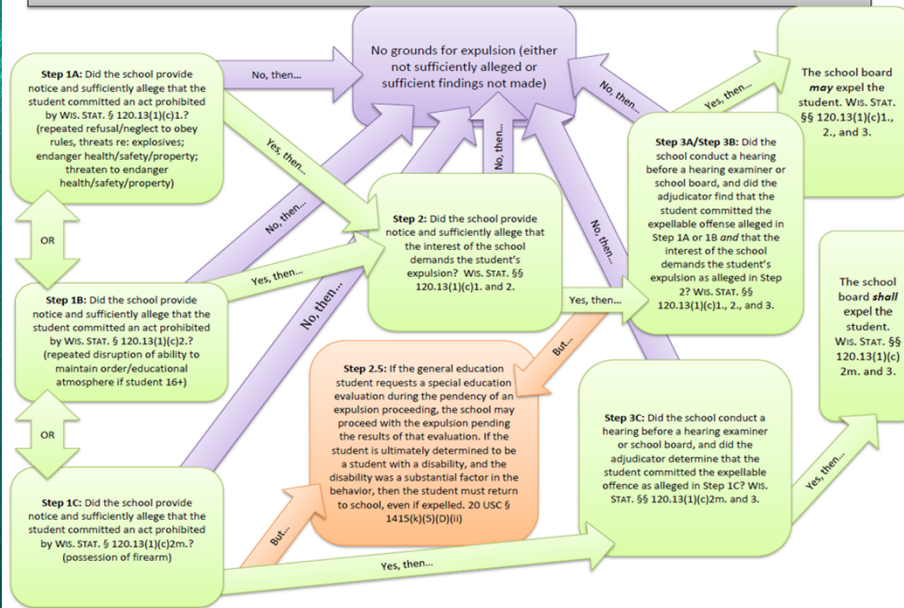
GOSS V. LOPEZ, 419 U.S. 565 (1975)



We hold that the plaintiff students here involved a legitimate claim of entitlement to a public education and the school authorities could not deprive any one of them of that expectation for more than a negligible period of time without meeting with him, informing him of the charge and the evidence and permitting him to present his side of the story. It is our view that these rudimentary requirements are no more than the fair-minded school administrator would have - in accord of his own volition and that, in any event, they will provide a significant hedge against mistaken or arbitrary suspensions.

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WISCONSIN PUBLIC SCHOOL EXPULSIONS: GENERAL EDUCATION STUDENTS



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Discovery:

FERPA (Family Educational Rights and Privacy Act) Release

Public Records request

Subpoenas

[NAME OF SCHOOL DISTRICT]

In the Matter of the Expulsion of:
[Student's name]

SUBPOENA

STATE OF WISCONSIN
DANE COUNTY

TO: [name of person being served with subpoena]
[address of person being served with subpoena]

Pursuant to Wis. STAT. § 805.07(1) and *Racine Unified School Dist. v. Thompson*, 107 Wis. 2d 657, 321 N.W.2d 334 (Cl. App. 1982), you are hereby commanded to appear in person before the [school district's board of education], or its duly-appointed hearing examiner, at [location of expulsion hearing], on [date and time of expulsion hearing] to testify or give evidence as a witness.

Failure to appear may result in punishment for contempt, which may include monetary penalties, imprisonment, and other sanctions.

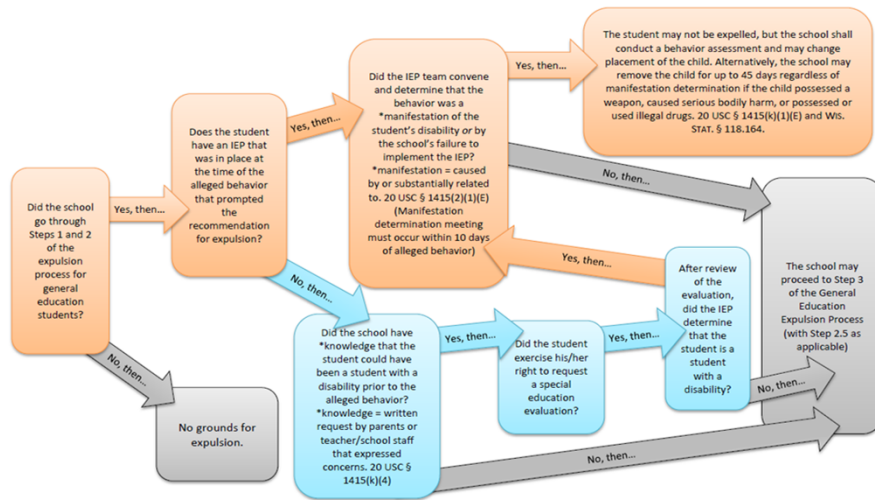
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Standard of proof

Not beyond a reasonable doubt, but no declaration of the specific burden. *Butler v. Oak Creek-Franklin School Dist.*, 172 F. Supp. 2d 1102 (E.D. Wis. 2001)

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WISCONSIN PUBLIC SCHOOL EXPULSIONS: SPECIAL EDUCATION STUDENTS



Special Education in Wisconsin



**SUBCHAPTER V
CHILDREN WITH DISABILITIES**

- 115.758 Construction.
- 115.76 Definitions.
- 115.762 Division for learning support.
- 115.77 Local educational agency duties.
- 115.775 Duties of operators of certain charter schools.
- 115.777 Special education referrals.
- 115.78 Individualized education program team; timeline.
- 115.782 Evaluations.
- 115.787 Individualized education programs.
- 115.79 Educational placements.
- 115.791 Reimbursement for private school placement.
- 115.7915 Special Needs Scholarship Program.
- 115.792 Procedural safeguards.
- 115.797 Mediation.
- 115.80 Due process hearings.
- 115.807 Transfer of parental rights at age of majority.
- 115.81 Children in residential care centers.
- 115.812 Placement disputes; school board referrals; interagency cooperation.
- 115.817 Children with disabilities education board.
- 115.82 Admission and transportation of nonresidents.
- 115.88 State aid.
- 115.881 Additional special education aid.
- 115.882 Payment of state aid.
- 115.884 Special education transition grants.
- 115.885 Special education transition readiness grant program.
- 115.897 Exhaustion of remedies.
- 115.898 Rule making.
- 115.90 Noncompliance; remedies.

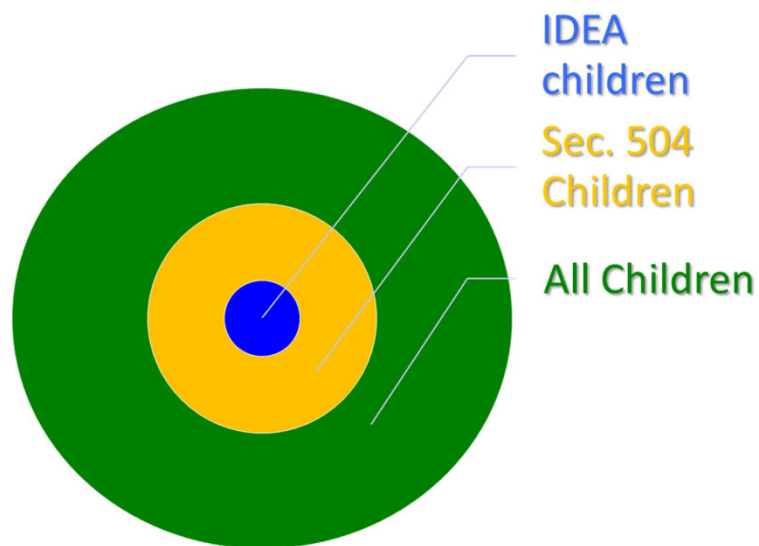
Basics

Federal laws governing special ed:

- Individuals with Disabilities in Education Act (IDEA)
- Section 504 of the Rehabilitation Act of 1973
- Other related laws: Title IX, Anti-Bullying (Wis.Stat. § 118.46), §1983, FERPA, Wis. Public records (ch.19), NCLB, Fostering Connections Act

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Children with a disability



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IEP	§504 Plan
Covers all school-aged children (3-21)	Covers lifespan of the person
Must meet specific, categorical criteria	Must meet definition of having physical or mental impairment
Requires that the disability adversely affects his/her/their educational performance	Requires that a child's impairment substantially limits major life activity
Requires informed consent and parental consent	Does not require written parental consent, only parental notification
Requires re-evaluation at least once every three years and annual reviews	Requires "periodic re-evaluation"
Provides protections regarding student discipline	Provides protections for student discipline

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What is a disability?

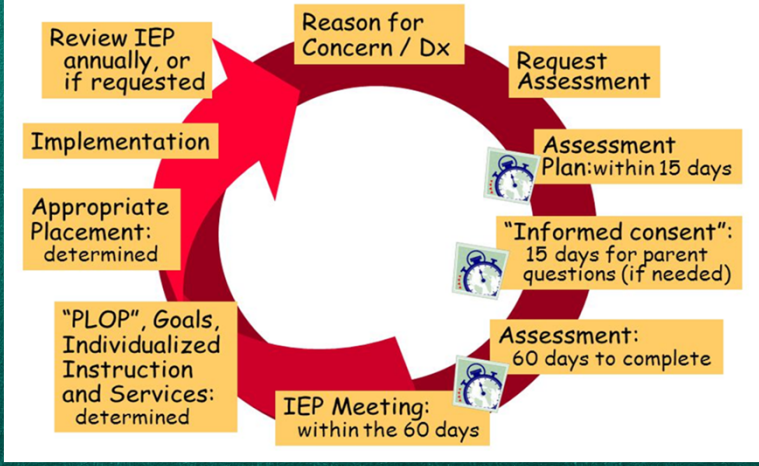
Disability Category Criteria Worksheets and Guides

Wisconsin administrative rules for identifying disability category criteria can be found in Wisconsin Administrative Code, Section PI 11.36. This covers the areas of autism, blind and visually impaired, deaf and hard of hearing, emotional behavioral disabilities, intellectual disabilities, orthopedic impairment, other health impairment, significant developmental delay, speech or language impairments, specific learning disabilities, traumatic brain injury, and the need for special education.

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Process

Cycle of Special Education



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Roadmap



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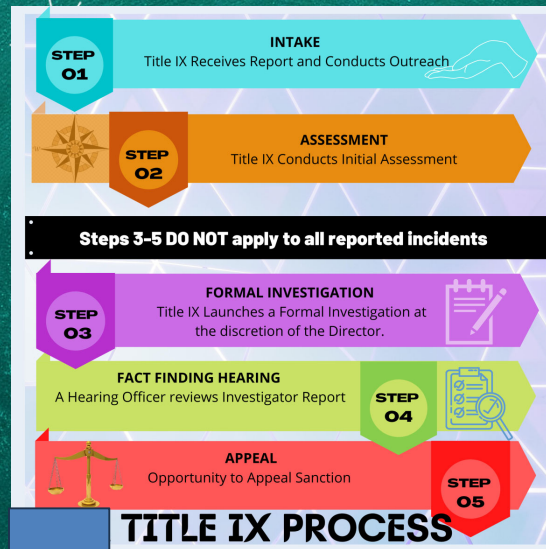
How criminal behavior impacts Title IX Investigations and Wisconsin Interscholastic Athletic Association (WIAA) Athletics

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Title IX

WHAT IS TITLE IX?

Title IX is a federal law, enacted in 1972, stating that no person on the basis of sex shall be "excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."



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Title IX



IF THERE IS A FINDING THAT SEX-BASED DISCRIMINATION/HARASSMENT, DISCIPLINARY SANCTIONS CAN BE IMPOSED INCLUDING DETENTION, SUSPENSION, EXPULSION, OR OTHER REMEDIES LIKE NO CONTACT ORDERS

TITLE IX PROCESS MUST BE CONDUCTED IN A TIMELY MANNER. THIS MEANS CANNOT ALWAYS WAIT TO SEE WHAT HAPPENS DURING A LAW ENFORCEMENT INVESTIGATION OR DELINQUENCY PROCEEDINGS BEFORE DECIDING WHETHER TO MAKE A STATEMENT.



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WIAA

Membership: Over 500 high schools and nearly 400 school districts.
Reach: Impacts approximately 200,000 student-athletes across the state.



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WIAA



PROCESS:
VIOLATION REPORTED
VIOLATION INVESTIGATED
DETERMINATION OF WRONGDOING & CONSEQUENCE
APPEAL WITHIN THE SCHOOL DISTRICT
IN SOME SITUATIONS, CAN APPEAL TO WIAA

IF CHARGED WITH A FELONY, STUDENT IS INELIGIBLE UNDER WIAA RULES, UNTIL THE STUDENT HAS SERVED THEIR SENTENCE FOR THE FELONY



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