




INTEROFFICE MEMORANDUM

DATE August 13, 2024

TO: Members of the Board of School Directors

FROM: Mr. Paul Geib 

RE: Audit #2025-005: Expulsion Audit

C: Mr. Eduardo Galvan
Mr. Matt Chason
Dr. Tina Owen-Moore
Mr. Matthew Boswell
Mr. Michael Harris
Ms. Nicole Coleman
Mr. Terry Strong
Mr. Yusaid Moua

Transmitted herewith is our report on *Audit #2025-005 –Expulsion Audit*. The audit report and recommendations have been reviewed in detail with the Administration. Their concerns relative to the audit criteria, findings and conclusions along with responses to the audit recommendations have been incorporated in the audit report. The responses show general concurrence with all of the recommendations and include action plans for implementation. A follow up audit will be scheduled 12 months from report issuance. If you have any questions regarding this report or would like the report to be placed on a committee agenda, please contact our office.

We appreciate the cooperation and assistance we received from MPS personnel as we conducted the audit.

Attachment

Expulsion Audit

Audit: 2025-005

August 2024



MILWAUKEE
PUBLIC SCHOOLS

Office of Accountability and Efficiency-Audit Services

**EXPULSION AUDIT
AUDIT: 2025-005**

AUGUST 2024

**MILWAUKEE PUBLIC SCHOOLS
BOARD OF SCHOOL DIRECTORS**

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Senior Director, Office of Accountability and Efficiency
Matt Chason

Audit Team

Paul Geib – Chief Auditor
Yusaid Moua – Performance Auditor II

I. Background

District Student Enrollment Demographic

The Milwaukee Public Schools District (MPS) is the largest public school district in the State of Wisconsin. As of January 3, 2024, the district has a total enrollment of 67,378 students ranging from K3 to 12th grade. As shown in Exhibit I, this total enrollment consists of 33,373 (49.5%) Black/African American students, 19,060 (28.3%) Hispanic/Latino students, 5,936 (8.8%) Asian students, 5,823 (8.6%) White students, 2,870 (4.3%) two or more race students, 255 (0.4%) American Indian students, and 61 (0.1%) Pacific Islander students. Exhibit II also shows that the district enrollment per grade level is in the 4,000 students range with the exception of kindergarten and 9th grade, which exceeded 5,000 students. The least enrollment is in K3 with just 839 students.

Audit Standards & Approach

On February 29, 2024, the Milwaukee Board of School Directors approved *Resolution 2324R-007-Audit Review of Expulsion Process*. MPS Audit Services conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence described in the Detailed Findings and Recommendations section of this report provides a reasonable basis for our findings and conclusions based on our audit objectives.

Audit Services has relied on the internal controls followed by the Department of Student Services over data accuracy, access and security to ensure the accuracy and completeness of the student expulsion data. In addition, Audit Services placed reliance on the accuracy and completeness of the January 3rd, 2024, enrollment count data provided by the Department of Research, Assessment, and Data. Data includes student enrollment by school, grade level, and race, and other data which may be subject to the external auditors' review and testing.

State Statues & District Policies and Procedures on Student Expulsion

The district student expulsion process is governed by state statute *119.25-Expulsion of Pupils* and *120.13-School Board Powers(1)(c)*. There are no federal laws that govern the district student expulsion process. Per the Department of Student Services, based on these two state statutes, the district developed three administrative policies and procedures related to the student expulsion process: (1) *Administrative Policy 8.32-Student Expulsion*; (2) *Administrative Procedures 8.32-Student Expulsion: Hearing Conducted by Board of School Directors or Designated Independent Hearing Officer*; and (3) *Administrative Policy 8.33-Student Expulsion: Independent Hearing Officer*.

Student Discipline and Suspension Process

The district's student discipline and suspension process initiated the expulsion process. The Department of Student Services oversees the student discipline, suspension, and expulsion process. Based on the district administrative policies and procedures, the department collaborated with school and district leaders to develop the *Administrative Guide to Discipline and Behavior Management Tool* for central services staff that support school-based discipline and school administrators. This manual provides guidance for applying the appropriate action level to the student code of conduct violations. The department provides mandatory training annually in August for returning school administrators and central services staff that support school-based discipline. New school administrators are required to attend mandatory Deep Dive Into Discipline training. These training courses are held on the second Thursday of each month to accommodate new administrators as they are assigned throughout the year.

In addition, the department also does on demand training for administrators as needed. The department also collaborates with other departments to publish the *Parents/Student Handbook on Rights, Responsibilities, and Discipline* for our students, parents, or guardians. A letter is mailed to each household every August informing them where they can download a copy of the handbook and that they can also request a hard copy at the school. The department updates these two manuals annually and any changes are reviewed and approved by the city attorney.

When a student violates a code of conduct, the school administrator (Principal, Assistant Principal, or Teacher-In-Charge) investigates the violation, which can include taking statements from witnesses, reviewing security camera footage, taking pictures, and following the procedures in the *Administrative Guide to Discipline and Behavior Management Tool* to determine the action level for the violation. Within the manual, each code of conduct violation is identified, a definition is provided for each violation, an action level of one to four is assigned depending on the nature and seriousness of the violation, and the procedures are listed for the school administrator to properly address the violation. Per the student code of conduct, action level 1 requires a conference and intervention, action level 2 requires a suspension, action level 3 requires a referral to the Department of Student Services, and action level 4 requires an expulsion recommendation.

Any violation determined by the school administrator as action level 1 is handled at the school level and does not require a 3-day school-based suspension, and is not referred to the Department of Student Services. Any violation determined by the school administrator as action level 2 is handled at the school level, requires a 1-3-day school-based suspension, the student is returned to school after their suspension period ends, and is not referred to the Department of Student Services. Any violation determined by the school administrator as action level 3 or 4 requires a 3-day school-based suspension and is referred to the Department of Student Services for review for an expulsion recommendation. The school administrator can only issue a school-based suspension up to 3 days maximum for action level 2, 3, and 4 violations. All incidents are required to be recorded in Infinite Campus (IC), a suspension letter is issued and uploaded into IC, and the parent or guardian is informed of the student suspension. For a student who is detained, incarcerated, or hospitalized, the suspension does not start until after the student is released and the school has been notified. A student who receives special education services may be suspended for a cumulative total of ten school days per school year, unless educational services in accordance with the Individualized Education Program are provided during the suspension. It should be noted that the school administrator holds a school conference with the student before a decision to suspend the student. However, in emergencies, when the school administrator feels that the student's presence in the school is an immediate danger or may disrupt the school's orderly operation, suspension may occur without a school conference. In cases of emergency suspensions, the parent or guardian must be notified before the student is sent home during the school day.

The school administrator reports action level 3 and 4 violations to the Department of Student Services via the *Report of Conduct* form. This form is completed by the school administrator and emailed to the Department of Student Services within 24 hours of the student suspension. A Student Services supervisor calls the school administrator back within 24 hours of receiving the *Report of Conduct* and based on the supervisor consultation and review with the school administrator, the supervisor determines if a Central Services preliminary conference is needed (action level 3 and 4 requires a conference). The Student Services supervisor considers multiple factors and variables to determine if an incident can be resolved or addressed without a preliminary conference including (1) the student's age, (2) the amount of time and number of staff involved to restore order, (3) the degree of injury to students and/or staff, (4) the number of students and staff involved in the incident, (5) involvement by the Milwaukee Police Department (MPD)

and/or fire department, (6) amount of financial loss, (7) documented previous offenses, and (8) school-level interventions. If the Student Services supervisor determines that the violation is an action level 1 or 2, a Central Services preliminary conference is not needed, no conference is held, and the student violation is referred to the school administrator to handle at the school level. If the violation is an action level 3 or 4, a Central Services preliminary conference is scheduled, and the supervisor upgrades the 3-days school-based suspension to a 5-day Central Services suspension in IC. Per the department manual, the Student Services supervisor must schedule the Central Services preliminary conference and hold the conference within the recommended 5-day timeline. A student must be allowed to return to school after the 5-day suspension period ends, whether the Central Services preliminary conference has been held or not, unless they are within the 15-day timeline (student can be suspended up to 15 days if the student received an expulsion recommendation).

The Department of Student Services has two types of Central Services preliminary conferences, the *Preliminary Expulsion Hearing (PEH)* is for regular education students and the *Investigative Review (IR)* is for special education students (Individualize Educational Plan (IEP) or 504 students). The purpose of the Central Services preliminary conference is to determine whether the student violation can be substantiated based on the school administrator's investigation and the support documents gathered by the school administrator known as the Principal's Packet. A sample of all required documents for the packet is included in the department manual. This packet is completed by the school administrator and is emailed to the department and parent or guardian by 12pm the day before the Central Services preliminary conference. The Central Services preliminary conference is held virtually and students and parent or guardian are notified via letter sent by mail. The department maintains a notarized affidavit of mailing. For a PEH conference, the Student Services supervisor, school administrator, parent or guardian, student, legal counsel (optional), and others (optional) attend the conference. In addition to the ones mentioned for the PEH conference, for an IR conference, in cases involving special need students (IEP), the Special Services supervisor or LEA must attend the IR conference and in cases involving 504 students, the 504 supervisors must attend the IR conference to gather information for their IEP and 504 student evaluation. At the end of the Central Services preliminary conference, the Student Services supervisor must make a determination to recommend or not recommend the student for an expulsion hearing. This decision is documented on the *Central Services Conference Disposition* form. If the Student Services supervisor does not recommend the student for an expulsion hearing, the student is returned to school or assigned to a different school by the supervisor and no further action is needed. The action level 3 violations that are recommended for an expulsion hearing at the end of the Central Services preliminary conference are upgraded to action level 4 and recommended for an expulsion hearing. If the supervisor is recommending the student for an expulsion hearing, for a regular student, the supervisor sets up the date, time, and place of the expulsion hearing. The student and parent or guardian received the *Notice of Student Expulsion Hearing which is sent by mail*. The department maintains a notarized affidavit of mailing.

For a special education student (IEP and 504) that is being recommended for an expulsion hearing, the student is referred to the Department of Specialized Services to conduct a *Manifestation Determination*. A *Manifestation Determination* is a process done by the Department of Specialized Services to determine if a special education student's violation occurred as result of a direct and substantial relationship to their disability. It should be noted that under certain situations, 504 students do not get the protection of the manifestation determination. If the 504 students use drugs inside the school building, the 504 students lose the manifestation determination protection. If the *Manifestation Determination* reveals that the violation occurred as result of the special education student disability, the Department of Student Services recommendation for an expulsion hearing cannot move forward and no further action is needed. If the *Manifestation Determination* reveals that the violation that occurred is not related to the special

education student disability, the Department of Student Services recommendation for an expulsion hearing moves forward. The Student Services supervisor sets up the date, time, and place of the expulsion hearing. The student and parent or guardian received the *Notice of Student Expulsion Hearing* which is sent by mail. The department maintains a notarized affidavit of mailing. It should be noted that all action level 4 student violations for special education students need a *Manifestation Determination* and some action level 3 violations for special education students that are not being recommended for an expulsion hearing require an IEP Review/Revise to address changes needed to address the student behavior.

Student Expulsion Process

Once the Department of Student Services recommends the student for an expulsion hearing, the Student Services supervisor has 15 days from the first day of suspension to complete the process. The 15-day timeline does not include holidays, vacations periods, weekends, and conference days when students are not in attendance. By law, the department must allow for no less than 5-days when mailing the Notice of Student Expulsion Hearing with an Independent Hearing Officer (IHO). The expulsion hearing should occur within 15 days, but if unable to do so, the student should be returned to a school placement or be provided homebound instruction, pending the expulsion hearing. The expulsion hearing is held at the Central Services building in Room 136. The IHO, Student Services supervisor, school administrator, parent or guardian, student, legal counsel (optional), and others (optional) attend the expulsion hearing. It should be noted that at the expulsion hearing, the Department of Specialized Services is not required to be at the hearing because the specialized services team already obtained the information needed and conducted their *Manifestation Determination*.

At the beginning of the expulsion hearing, each attendee states their full name, title, and position into the record. If the student and parent or guardian is present at the expulsion hearing, the IHO informs the parent or guardian that the hearing can be opened or closed. An open hearing means anyone can enter the hearing and participate in the hearing at any time. A closed hearing means only those names that have been read into the record are allowed to participate in the hearing. If the student and parent or guardian is not present at the expulsion hearing to elect an opened or closed hearing, the Department of Student Services allows the IHO to make that decision. If the IHO elects a closed hearing, the student and parent or guardian are an exception, meaning if they happen to arrive later during the hearing, they can still participate in the hearing. In the expulsion hearing, the Student Services supervisor reads the expulsion recommendation from the Department of Student Services and presents the evidence from the Principal's Packet. The school administrator, student, and parent or guardian are also given an opportunity to speak. At the end of the expulsion hearing, the IHO makes a decision to approve, reverse, or modify the expulsion recommendation from the Department of Student Services. The IHO has the authority to assign the length of the expulsion, any early reinstatement conditions, and MPS Partnership school placement or online academic support. The IHO does not have the authority to assign placement at a specific school. Student enrollment assignments are handled by the Department of Student Services for regular students and the Department of Specialized Services for special education students (IEP and 504). The IHO decision is documented on the *Proposed Finding of facts and Conclusion of Law* form and is communicated to the student and parent or guardian before they leave the hearing. This information is then transferred to the *Expulsion Order*. The *Expulsion Order* goes to the school Board for review and approval at the monthly Board meeting.

The district does not expel students in K3 to 2nd grade due to Administrative Policy 8.53-Early Childhood Student Behavior. On rare occasions, this group of students may be suspended, and have a preliminary expulsion hearing. State statute mandates that all students are to be expelled for one year if they possess a firearm. The students in 3rd to 5th grade can be expelled and get assigned to another MPS school instead

of an alternative school site because the district does not have an alternative school site for this group of students. On January 8, 2024, Administrative Policy 8.31-Student Suspension was updated to reflect “A student in kindergarten through fifth grade that presents an imminent danger to the physical, emotional, or mental safety of specific students and/or staff may be suspended with the approval of the Regional Superintendent or designee.” The students in 6th to 12th grade can be expelled and get assigned to an alternative school site (Banner Preparatory School of Milwaukee, Lad Lake Synergy, and Southeastern Education Center-closed effective 07/01/24) or be provided online academic support (Edgenuity). The school Board requires that the district provides a school placement or online academic support to all MPS expelled students.

Review of Expulsion Order

Within 30 days, the Board reviews and chooses to approve, modify, or reverse the IHO’s decision. The Board has access to all expulsion orders submitted by the IHO. The Board’s decision is communicated to the student and parent or guardian via a letter sent by mail with a copy of the *Expulsion Order*. The department maintains a notarized affidavit of mailing. When the student is expelled with educational services by the IHO, the order of the IHO is enforced while the school Board reviews the expulsion order. If the expulsion with educational services is approved by the school Board, the student and parent or guardian may appeal the school Board’s decision to the Wisconsin Department of Public Instruction (DPI). Within 60 days, DPI reviews the Board’s decision and makes a decision to approve, reverse, or modify the expulsion. The expulsion decision is enforced while DPI reviews the expulsion. Within 30 days, the DPI decision may be appealed to the circuit court of the county in which the school is located.

Early Reinstatement and Revocation of Early Reinstatement

Per the Department of Student Services, the district had only one expelled student with an early reinstatement condition for the review period. This student and parent or guardian did not appeal the early reinstatement condition to the school Board within 15-days after the date on which the expulsion order was issued. The student and parent or guardian were made aware of this requirement via the *Notice of Student Expulsion Hearing*. This student also did not fulfill the early reinstatement conditions specified in the *Expulsion Order* and was expelled until the end of the expulsion period.

Expulsion Records

The Department of Student Services maintains the student expulsion records. There is a folder for each student that is expelled from the district. The Principal’s Packet and other documents including letters sent to students and parents or guardians, student expulsion calendar, the PEH and IR preliminary conference summary, and expulsion hearing summary are maintained in this folder. The department also maintains the expulsion recording files in a department shared drive which are not part of the student folder. School placement or online academic support records for special education students (IEP or 504) are maintained by the Department of Specialized Services. Per the department, there is no revocation of early reinstatement for the period under review.

II. Scope and Objectives

The scope of this audit included a review of the expulsion process including expelled students, early reinstatement students, and revocation of early reinstatement students for the period of July 1, 2022, to January 31, 2024 if applicable. The scope did not include the student disciplinary and suspension process. Any action level 1 and 2 violations that were resolved at the school level, any action level 3 violations that were referred to the Department of Student Services for a Central Services preliminary conference that did not result in an expulsion recommendation due to a *Manifestation Determination* or lack of supporting

evidence, and any action level 4 violations that went to the IHO for an expulsion hearing and the IHO reversed the expulsion recommendation (if any) were not included in this audit and may be a separate review in the future. However, if Audit Services identifies any issues that are not part of the expulsion process during our review of the expulsion process, we will communicate such issues and make recommendations to the Department of Student Services.

To ensure that the expulsion procedural requirements outlined in the Wisconsin State Statutes are met and followed by the district, the following audit objectives are addressed.

1. Do policies, procedures, guidelines, and manuals exist for the district to follow for student expulsion?
2. Are the district's policies, procedures, guidelines, and manuals for student expulsion in compliance with the Wisconsin State Statutes?
3. Do the district's expulsion processes agree to the Wisconsin statutory requirements including, but not limited to:
 - adequate notice requirements are being met in the expulsion hearing notification letter sent to the students and parents/guardians,
 - the expellable offenses are valid and indicated in both the hearing notice and referenced in the written findings,
 - due process hearing requirements are met,
 - students rights to testify or waive that right are upheld,
 - the law enforcement records will not constitute the sole basis for expulsion,
 - proper minutes and/or recordings are kept of the hearing,
 - expulsion orders include required findings.
4. Do the district's early reinstatement and revocation of early reinstatement processes agree to the Wisconsin statutory requirements?

To address the audit's objectives, Audit Services:

1. held meetings with the departmental director, manager, and staff as necessary throughout the audit process;
2. conducted interviews with the departmental manager and staff;
3. reviewed the state statutes and district administrative policies and procedures;
4. reviewed the departmental guideline and manual also known as internal controls related to student expulsion;
5. reviewed supporting documents including student expulsion records and listened to the expulsion recordings for the sample tested.

For the review period, July 1, 2022, to January 31, 2024, the district had 231 expelled students ranging from 6th to 12th grade and no students from K3 to 5th grade were expelled per the Infinite Campus data provided by the Department of Student Services. There was only 1 of 231 expelled students that was issued an early reinstatement condition, and no students have revocation of early reinstatement. At random, Audit Services selected a sample judgment of 50 of 231 (21.6%) for our review. Our fifty samples included thirty-eight regular education students including one early reinstatement student, nine IEP students, and three 504 students.

Exhibit III shows 6th to 12th grade student expulsion percentage by race for the 231 expelled students. Per Exhibit III, the expulsion percentage for Black/African American students is 79.2%, Hispanic/Latino

students is 11.7%, students with two or more race are 5.2%, White students is 2.6%, and Asian students is 1.3%.

Exhibit IV shows 6th to 12th grade student expulsion percentage by grade level for the 231 expelled students. Per Exhibit IV, the expulsion percentage for 9th grade students is 28.1%, 10th grade students is 25.5%, 8th grade students is 14.3%, 11th grade students is 13.0%, 12th grade students is 7.4%, 7th grade students is 6.5%, and 6th grade students is 5.2%.

Exhibit V shows 6th to 12th grade student expulsion percentage by offense for the 231 expelled students. Per Exhibit V, the top five offenses that lead to an expulsion include (1) endangerment of physical safety/mental well-being (42.4%), (2) possession/ownership/use of weapon other than gun (20.8%), (3) possession/ownership/use of drugs (13.4%), (4) possession/ownership/use of gun (8.7%), and (5) battery (7.8%).

Exhibit VI shows the top ten schools with the highest high school students (9th – 12th grade) expulsion percentage by school site. Per Exhibit VI, the school with the highest high school student expulsion rate is Hamilton High School (11.7%), Madison Academic High School (9.9%), Bradley Tech High School (9.4%), Marshall High School (9.4%), Riverside University High School (8.2%), Washington High School of Information Technology (8.2%), Obama SCTE (5.3%), Vincent School of Agriculture Science (4.7%), Pulaski High School (3.5%) and South Division High School (3.5%).

Exhibit VII shows the top six schools with the highest middle school students (6th - 8th grade) expulsion percentage by school site. Per Exhibit VII, the school with the highest middle school student expulsion rate is Morse Middle School (13.3%), King IB Middle School (11.7%), Hartford University School (6.7%), Roosevelt Middle School (6.7%), Green Tree Preparatory Academy (5.0%), and Lincoln Center of the Arts (5.0%).

III. Conclusion

Our review concluded that the Department of Student Services has guidelines, policies, procedures, and controls in place for the district to review, recommend, and approve student expulsion. The process is adequate as designed and operated in accordance with the state statues and district administrative policies and procedures. Our review identified certain enhancements that can be made to further strengthen the processes, and our recommendations and best business practices are noted below.

IV. Audit’s Results, Detailed Findings, and Recommendations

The following findings and observations were noted as a result of Audit Services’ testing.

A. State Statues, Policies, Procedures, Guidelines, and Manuals

The district’s current 2023-24 Administrator Guide to Discipline and Behavior Management Tool is missing certain language per the state statues and Administrative 8.32 Policy and Procedures.

Finding #1

Certain statutory and Administrative 8.32 Policy and Procedures language is not included in the 2023-24 Administrative Guide to Discipline and Behavior Management Tool. This includes the following.

- (1) Wis. State Statue 120.13-School Board Powers (1)(c)(2) requires that *“The school board may expel from school a pupil who is **at least 16 years old** if the school board finds that the pupil repeatedly engaged in conduct while at school or while under the supervision of a school authority that disrupted the ability of school authorities to maintain order or an educational atmosphere at school or at an activity supervised by a school authority and that such conduct does not constitute grounds for expulsion under subd. 1 and is satisfied that the interest of the school demands the pupil's expulsion.”*

The district Administrative Policy 8.32-Student Expulsion (1)(f) and Administrative Procedures 8.32-Student Expulsion: Hearing conducted by Board of School Directors or Designated Independent Hearing Officer (4)(b)(6) also require that a student may be expelled from school if the Board or IHO finds that *“The student who is **at least 16 years old** repeatedly engaged in conduct, while at school or while under the supervision of a school authority, that disrupted the ability of school authorities to maintain order or an educational atmosphere at school or at an activity supervised by a school authority, and that such conduct does not constitute grounds for expulsion under sec. 120.13(1)(c), Wis. Stats., and the interest of the school demands the student’s expulsion.”*

- (2) Wis. State Statue 120.13-School Board Powers (1)(c)(2m) requires that *“The school board shall commence proceedings under subd. 3. and expel a pupil from school for not less than one year whenever it finds that the pupil, while at school or while under the supervision of a school authority, possessed a firearm, as defined in 18 USC 921 (a) (3). Annually, the school board shall report to the department the information specified under 20 USC 8921 (d) (1) and (2). This subdivision does not apply to the possession of a firearm while legally hunting in a school forest if allowed under sub. (38).”*

The district Administrative Policy 8.32-Student Expulsion (1)(g) and Administrative Procedures 8.32-Student Expulsion: Hearing conducted by Board of School Directors or Designated Independent Hearing Officer (4)(b)(7) also require that a student may be expelled from school if the Board or IHO finds that *“The student, while at school or while under the supervision of a school authority, possessed a firearm, as defined in 18 U.S.C., §921(a)(3), in which case the student shall be expelled from school for not less than one year.”*

The Wis. State Statue 120.13-School Board Powers (1)(c)(2) language is on the department 2023-24 Administrator Guide to Discipline and Behavior Management Tool, page 34, but it did not include the “at least 16 years old.” The Wis. State Statue 120.13-School Board Powers (1)(c)(2m) ground for expulsion, possessed a firearm, is not listed on the department 2023-24 Administrator Guide to Discipline and Behavior Management Tool, page 34 under the expulsion guidelines.

The department’s 2023-24 Administrative Guide to Discipline and Behavior Management Tool was not updated to reflect the complete language. Failure to update the district manual to reflect the complete language required by state statutes and Administrative 8.32 Policy and Procedures could lead staff to follow the incorrect procedures.

Recommendation

The Department of Student Services should add the language “**at least 16 years old**” and the *Wis. State Statute 120.13-School Board Powers (1)(c)(2m)* ground for expulsion, possessed a firearm, to the department’s 2023-24 *Administrator Guide to Discipline and Behavior Management Tool*, page 34.

Administration’s Response to Recommendation #1

The risk of staff following the incorrect procedures is minimal because expulsion recommendations are made and executed by the Department of Student Services following a Preliminary Expulsion Hearing or Investigative review. Staff are required to follow the student code of conduct to ensure that the appropriate violations are referred to the Department of Student Services. The primary list of expulsion guidelines and criteria are outlined in *Wis. State Statute 120.13-School Board Powers (1)(c)(1)* and have been included as numerated items, 1-5 in the 2023-24 *Administrator Guide to Discipline and a-e of Administrative Policy 8.32 - Student Expulsion*. While “at least 16 years old” is the relative clause in a secondary subsection of the statute, 120.13 (1)(c)(2), *the absence of this phrase does not directly impact the department’s adherence to the statutory guidelines for expulsion. All of the department’s expulsion recommendations meet one of the criteria outlined in a-e of the 7 guidelines listed below.*

- (a) student is guilty of repeated refusal or neglect to obey Board or school rules; or*
- (b) the student knowingly conveyed, or caused to be conveyed, any threat or false information concerning an attempt or alleged attempt being made to destroy any school property by means of explosive; or*
- (c) the student engaged in conduct, while at school or while under the supervision of a school authority, which endangered the property, health, or safety of others; or*
- (d) the student, while not at school or while not under the supervision of a school authority, engaged in conduct which endangered the property, health, or safety of others at school or under the supervision of a school authority; or*
- (e) the student endangered the property, health, or safety of any employee or school board member of the school district in which the pupil is enrolled;*
- (f) the student who is at least 16 years old repeatedly engaged in conduct, while at school or while under the supervision of a school authority, that disrupted the ability of school authorities to maintain order or an educational atmosphere at school or at an activity supervised by a school authority, and that such conduct does not constitute grounds for expulsion under sec. 120.13(1)(c), and the interest of the school demands the student’s expulsion; or*
- (g) the student shall be expelled from school for not less than one year whenever the board or independent hearing officer finds that the student, while at school or while under the supervision of a school authority, possessed a firearm, as defined in 18 U.S.C. §921(a)(3).*

The department will update the 2024-25 *Administrator Guide to Discipline* to include the statement “at least 16 years old” so that the guideline reflects the exact language in the statute. Enumeration 6 of the expulsion guidelines on page 34 will be reflected as follows:

“At least 16 years old, the pupil repeatedly engaged in conduct while at school or while under the supervision of a school authority that disrupted the ability of school authorities to maintain order or an educational atmosphere at school or at an activity.”

- a. Student Services will add language from the State Statute to page 34 of the *Administrator Guide* to

Discipline to address the act of possessing a firearm.

B. Notice of Student Expulsion Hearing

One Notice of Student Expulsion Hearing included a sentence that did not comply with Wis. State Statue 120.13(1)(e)(4)(f).

Finding #2

For 1 of 50 (2%) samples tested, the notice of expulsion hearing did not include the statement under Wis. State Statue 120.13(1)(e)(4)(f) "*That the hearing officer or panel shall keep a full record of the hearing and, upon request, the hearing officer or panel shall direct that a transcript of the record be prepared and that a copy of the transcript be given to the student and, if the student is a minor, the student's parent or guardian.*" Instead, the notice of expulsion hearing includes the incorrect statement found under Wis. State Statue 120.13(1)(c)(4)(f) "*The board must keep written minutes of the hearing.*" This sentence does not comply with Wis. State Statue 120.13(1)(e)(4)(f).

Failure to include the required statement under Wis. State Statue 120.13(1)(e)(4)(f) on the notice of expulsion hearing could lead to an expulsion reversal by the Wisconsin Department of Public Instructions, if the parent or guardian appeals the Board decision to the State.

Recommendation

The Department of Student Services should ensure that all notices of expulsion hearing include all the information specified in the Wis. State Statue 120.13(1)(e)(4).

Administration's Response to Recommendation #2

This change is currently reflected in the Notice of Expulsion Hearing. This change was effective on May 3, 2022, following a reversal of expulsion by the Department of Public Instruction. The Notice of Student Expulsion Hearing (NSEH) was updated to meet all of the statutory notice requirements by using the exact wording from the statute. As of November 2022, the change was reflected in written communications.

C. Expulsion Recording

The department uses Google meet to record the expulsion hearing. There are issues with the current recording process including no recording maintained on file, recordings with no video and audio, recording that has video but no audio, and incomplete recordings. Per the Department of Student Services, this was due to technical difficulties or human error of forgetting to unmute the device.

Finding #3

For seven of 50 (14%) samples tested, the expulsion hearing recording has issues including two samples that did not have a recording on file, two samples had a recording on file but the recording did not have clear video and audio, two samples have a recording on file with video but did not have audio, and one sample has only 5 minutes of the recording toward the end of the expulsion hearing on file.

Failure to properly record the expulsion hearing could lead to an expulsion reversal by the Wisconsin Department of Public Instructions, if the parent or guardian appeals the Board decision to the State.

Recommendation

The Department of Student Services should ensure that all expulsion hearings are properly recorded, and all recordings of the expulsion hearing are maintained with complete video and audio.

Administration Response to Recommendation #3

The Department of Student Services has revised the independent hearing officer's script to require the testing of both the speaker and microphone prior to commencing the hearing and when returning from deliberation. This will ensure that the recording is on and not muted. The technology has been updated, which will result in extremely minimal to zero audio/visual recording errors.

D. Opened and Closed Expulsion Hearings

The Independent Hearing Office (IHO) did not elect a close or open hearing when the student and parent or guardian were not present at the hearing. In addition, the Independent Hearing Officer (IHO) did not comply with Administrative Procedures 8.32: Hearing Conducted by Board of School Directors or Designated Independent Hearing Officer 5(b) and 8(a).

Finding #4

- (1) For two of 50 (4%) samples tested, the parent and student were not present at the expulsion hearing and the Independent Hearing Officer (IHO) did not state if the hearing was open or closed.
- (2) For 17 of 50 (32%) samples tested, the Independent Hearing Officer (IHO) did not comply with Administrative Procedures 8.32: Hearing Conducted by Board of School Directors or Designated Independent Hearing Officer 5(b) and 8(a) to keep the hearing open to the public when the student and the parent or guardian were not present.

Recommendation

- (1) The Department of Student Services should ensure that when the student and parent or guardian are not present at the expulsion hearing, the Independent Hearing Officer (IHO) states for the record that the expulsion hearing is open or closed.
- (2) The Department of Student Services should update the Administrative Procedures 8.32 5(b) and 8(a) to reflect the department's current practice allowing the IHO to determine if the expulsion hearing is open or closed when the student and parent or guardian are not present at the hearing.

Administration Response to Recommendation #4

The protection of student records is of the utmost concern for the Department of Student Services. If the parent and student are not present at the hearing, the hearing is automatically closed to protect the privacy of the student record. MPS Administrative Procedures 8.32 (5) Waiver directly addresses the parent and student presence at the expulsion hearing:

- (a) The student/parent/guardian may waive an expulsion hearing by submitting oral or written communication to the Administration or Board; by failing to appear at the hearing; or by leaving the hearing, once having appeared, before the hearing is concluded.
- (b) Notwithstanding such waiver in the above form or any other way, the Board's IHO shall conduct hearings prior to expelling any student, whether or not the student/parent/guardian is present; however, similar procedures will be followed during the course of the hearing as if the student/parent/guardian were present at the time of the hearing. Further, the

student/parent/guardian not being present to request that the hearing be closed, the same shall be open.

The last sentence of (b) is ambiguous, thus the department has always acted to protect the privacy of student records. The department will consider bringing forth an updated version of Administrative Procedure 8.32 5(b) and 8(a) during the next round of policy review. In the meantime, the IHO script will be updated to reflect a clear statement rendering the hearing closed in the absence of the parent or student for the purpose of protecting their privacy and student records. In addition, 8.32 Policy and Procedure will be updated to note that meetings will be closed when parents and students are not present.

E. Central Services Preliminary Conference: PEH and IR 5-day Timeline

The department manual requires that the PEH or IR conference must be scheduled within the 5-day timeline. Audit Services review revealed that this was not the current practice. The department tries to schedule the PEH or IR conference within the 5-day timeline, but the PEH or IR conference is allowed to exceed the 5-day timeline allowing the student and parent or guardian the due process. In addition, the students that exceed the 5-day timeline were not returned to school or given a temporary placement after the 5-day period ended.

Finding #5

For 21 of 50 (42%) samples tested, a Preliminary Expulsion Hearing (PEH) or Investigative Review (IR) conference was not held within 5-days from the first day of the student suspension and when the conference was held beyond the 5-day period the student was not returned to school or given temporary placement after the 5-day suspension period ended. Per the Department of Student Services, the PEH and IR conference are usually held within 5-days, unless the parent or guardian is not able to attend the conference then the conference is held beyond the 5-days following the due process to accommodate the parent or guardian's availability.

The 2023-24 Administrative Guide to Discipline and Behavior Management Tool, page 34, was not updated to reflect the department's current practice and to agree to the Wis. State Statue 120.13(1)(b)(4), Administrative Policy 8.31, and Administrative Policy 8.28. Failure to update the department manual to reflect its current practice and to agree to State statues and district administrative policies could lead staff to follow the incorrect procedures.

Recommendation

The Department of Student Services should ensure that page 34 of the manual is updated to reflect the department's current practice and to agree to the Wis. State Statue 120.13(1)(b)(4), Administrative Policy 8.31, and Administrative Policy 8.28 including (1) changing language from must to may and (2) the student is returned to school or given temporary placement if the PEH or IR conference was not held within 5-days.

Administration's Response to Recommendation #5

To ensure that parents are able to fully participate in their child's conference, it is the department's practice to accommodate parental requests for scheduling accommodations. The 2024-25 Administrator's Guide to Discipline has been updated to reflect the language from must to may on p. 34, which will allow the department to continue to honor the requests of parents. Additionally, it has been the standard

practice of the department to hold the PEH within a five-day window. Therefore, the department practice and standard functions above Wisconsin state statute 120.13(1)(b)(4).

As it relates to returning a student to school or giving them a temporary placement after 5 days, the statute allows for students to be suspended for up to 15 days if notice of expulsion hearing has been issued. The 15-day timeline begins with the 1st day of suspension, not at the conclusion of the preliminary expulsion hearing. Students with IEPs are allowed to return to their school after the 5th day, however regular education students may be out for no more than 15-days. Under these circumstances, a temporary placement is not required. Student Services will update the Administrator's Guide to Discipline to align temporary placements to the State Statutory requirements which only requires a temporary placement on day 16.

F. Department of Specialized Services – Temporary Placement Records

One of the special education students had the expulsion hearing beyond the 15-day period and no support documentation was maintained to show that a temporary school was assigned, or homebound instruction was provided.

Finding #6

For 1 of 50 (2%) samples tested, a Special Education student, the expulsion hearing was not held within 15 days and there was no support documentation provided by the Department of Specialized Services to support that the student was given a school placement or homebound instruction, pending the expulsion hearing.

Failure to properly document that the student was given a school placement or homebound instruction, pending the expulsion hearing and failure to maintain such record could lead to an expulsion reversal by the school Board or Wisconsin Department of Public Instructions.

Recommendation

The Department of Specialized Services needs to ensure that if the expulsion hearing is held beyond the 15 days, proper documents are maintained on file to support that the student is given a school placement or homebound instruction, pending the expulsion hearing.

Administration's Response to Recommendation #6

The Department of Specialized Services provides school placement for students with an IEP. They are responsible for communicating to the Student Services supervisor the specifics of the educational services to be provided pending the expulsion hearing. By September 6, 2024, the department will coordinate with the Department of Specialized Services to develop a process to ensure that the temporary enrollment and/or plan of provision for services is included in the student expulsion file.

G. Expulsion Process: Best Practices

In the process of our audit, we identified the following:

1. For the expulsion hearing, the recording is the only place where the attendees name, position, and title are read into the record. If the recording does not work, there are no other documents that show who attended the expulsion hearing. The Department of Students Services should have a sign-in sheet for each expulsion hearing and require the attendees to provide their name,

position, title, and sign and date the sign-in sheet. The sign-in sheet should be maintained in the student's expulsion file.

2. On the bottom of page 38 of the 2023-24 Administrator Guide to Discipline and Behavior Management Tool, the manual states that *"In cases involving students with special needs, the Special Services supervisor or the LEA must attend the conference conducted by the Student Services supervisor."* It is Audit Services understanding that the Special Services supervisor is from the Department of Specialized Services and the LEA is from the Department of School Administration, two different departments, and only one individual is required to be at the conference. The Department of Student Service should ensure that there is clear communication between the two departments to ensure that a Special Services supervisor or LEA always attends the conference.
3. When the expulsion hearing date is expected to extend beyond the 15-day period, the Department of Student Services must offer a temporary placement to the student. The temporary placement (school assigned or online services) is either documented on an official letter and mailed to the parent or guardian, the Central Services Conference Disposition form, or the Student Services supervisor can call the parent or guardian. For two of the 50 samples tested, the Student Services supervisor called the parent or guardian to notify them of the temporary placement and there was no documentation on file showing if a school was assigned or online service was provided. The student enrollment history also did not show the assigned temporary placement. The Department of Student Services should ensure that when a temporary placement is assigned, it is documented on an official letter or the Central Services Conference Disposition form, and the support document is maintained in the student expulsion file.
4. For the review period, there is only one of 50 samples tested that has an early restatement condition. Per the Department of Student Services, this student and parent or guardian did not appeal the early restatement condition to the school Board and the student did not complete their early reinstatement condition steps. The student served the entirety of their expulsion period. Therefore, the revocation of early reinstatement language per state statute 120.13(1)(h)(4), (5), and (6) did not apply to this student. The department also indicated that the state statute 120.13(1)(h)(4), (5), and (6) are not required to be communicated to the student and parent or guardian. The Department of Student Services may choose to communicate these procedures and steps to a student who has an early reinstatement condition so that the student and parent or guardian are informed of the procedures and steps that should be taken if a revocation of early reinstatement occurs.

Administration's Response to Best Practices Recommendations

1. The department will incorporate a sign-in sheet at expulsion hearings to document who was present during the hearing. The sign-in sheet will be scanned and saved into the student's expulsion file.
2. There has been a longstanding practice of Special Education supervisors attending investigative review conferences. While it is the norm, we are working in conjunction with the Specialized Services Department to clarify IDEA requirements with students participating in a disciplinary conference. At the time of this writing, the department has not received confirmation from DPI, but this item has been tagged to be addressed and updated in the 2024-25 Administrator Guide to Discipline prior to the final publication.

3. The department utilizes a standard temporary placement document whenever a student exceeds 15 suspension days. To ensure that this documentation cannot be overlooked, the department will add a temporary placement option to our expulsion packet checklist. This checklist will be reviewed prior to every expulsion hearing to ensure that the appropriate documents have been prepared and that due process is followed appropriately.
4. Early reinstatement conditions are rarely, if ever, given by the Independent Hearing Officer. However, once a student is reinstated after an expulsion, the reinstatement would not be revoked. If a student were to commit another code of conduct violation after reinstatement, new disciplinary proceedings would commence. The department formally requests that we not update the notices to reflect language regarding revocation of early reinstatement because it would not be a concern given current practice.

Exhibit I

January 3rd 2024 Student Enrollment by Race <i>(K3 - 12th grader)</i>		
Race	Student Count	Percentage
Black/African American	33,373	49.5%
Hispanic/Latino	19,060	28.3%
Asian	5,936	8.8%
White	5,823	8.6%
Two or More Race	2,870	4.3%
American Indian	255	0.4%
Pacific Isle	61	0.1%
Total	67,378	100.0%

Source: Wisconsin Information System for Education Data Dashboard (WISEdash)

Exhibit II

January 3rd 2024 Student Enrollment by Grade Level <i>(K3 - 12th grader)</i>		
Grade Level	Student Count	Percentage
9th grader	6,040	9.0%
Kindergarten (KG)	5,024	7.5%
1st grader	4,966	7.4%
10th grader	4,939	7.3%
2nd grader	4,887	7.3%
4th grader	4,826	7.2%
3rd grader	4,812	7.1%
5th grader	4,661	6.9%
8th grader	4,640	6.9%
7th grader	4,518	6.7%
K4	4,468	6.6%
6th grader	4,392	6.5%
12th grader	4,210	6.2%
11th grader	4,156	6.2%
K3	839	1.2%
Total	67,378	100.0%

Source: Wisconsin Information System for Education Data Dashboard (WISEdash)

Exhibit III

6th - 12th Grade Student Expulsion by Race by Total Population Expelled (07/01/2022 to 01/31/2024)			
No.	Race	Expulsion Count	Percentage
1	Black or African American	183	79.2%
2	Hispanic/Latino	27	11.7%
3	Two or more races	12	5.2%
4	White	6	2.6%
5	Asian	3	1.3%
Total		231	100.0%

Source: Infinite Campus

Exhibit IV

6th - 12th Grade Student Expulsion by Grade Level by Total Population Expelled (07/01/2022 to 01/31/2024)			
No.	Grade Level	Expulsion Count	Percentage
1	9th graders	65	28.1%
2	10th graders	59	25.5%
3	8th graders	33	14.3%
4	11th graders	30	13.0%
5	12th graders	17	7.4%
6	7th graders	15	6.5%
7	6th graders	12	5.2%
Total		231	100.0%

Source: Infinite Campus

Exhibit V

6th - 12th Grade Student Expulsion by Offense by Total Population Expelled (07/01/2022 to 01/31/2024)			
No.	Offense	Expulsion Count	Percentage
1	Endangerment of Physical Safety/Mental Well-being	98	42.4%
2	Possession/Ownership/Use of Weapon Other than Gun	48	20.8%
3	Possession/Ownership/Use of Drugs	31	13.4%
4	Possession/Ownership/Use of Gun	20	8.7%
5	Battery	18	7.8%
6	Intent to Distribute Drugs/Alcohol/Meds	3	1.3%
7	Vandalism	3	1.3%
8	Arson	2	0.9%
9	Bomb Threats	2	0.9%
10	Fighting	1	0.4%
11	Inappropriate use of electronic communication devices	1	0.4%
12	Other Substances/Materials	1	0.4%
13	Robbery	1	0.4%
14	Sexual Assault	1	0.4%
15	Theft	1	0.4%
Total		231	100.0%

Source: Infinite Campus

Exhibit VI

9th - 12th Grade Top Ten School With the Highest High School Student Expulsion Rate by Total Population Expelled <i>(07/01/2022 to 01/31/2024)</i>			
No	School	Expulsion Count	Percentage
1	HAMILTON HS	20	11.7%
2	MADISON ACADEMIC HS	17	9.9%
3	BRADLEY TECHNOLOGY AND TRADE	16	9.4%
4	MARSHALL HS	16	9.4%
5	RIVERSIDE UNIVERSITY HS	14	8.2%
6	WHS OF INFORMATION TECHNOLOGY	14	8.2%
7	OBAMA SCTE	9	5.3%
8	HAROLD S. VINCENT SCHOOL OF AGRICULTURAL SCIENCE	8	4.7%
9	PULASKI HS	6	3.5%
10	SOUTH DIVISION HS	6	3.5%
11	ALLIANCE SCHOOL	5	2.9%
12	BAY VIEW HS	5	2.9%
13	AUDUBON HS	4	2.3%
14	BANNER PREP SCHOOL OF MILW	4	2.3%
15	KING IB HS	4	2.3%
16	NORTH HS	4	2.3%
17	GREEN TREE PREPARATORY ACADEMY	3	1.8%
18	MACDOWELL MONTESSORI SCHOOL	3	1.8%
19	WIS CONSERVATORY LIFELONG LRNG	3	1.8%
20	MILW HS - ARTS	2	1.2%
21	CARMEN NORTHWEST CAMPUS	1	0.6%
22	CARMEN SOUTHEAST CAMPUS	1	0.6%
23	GROPPI HS	1	0.6%
24	MILW SCHOOL OF LANGUAGES	1	0.6%
25	NOVA HS	1	0.6%
26	REAGAN HS	1	0.6%
27	SOUTH ACCELERATED ACADEMY	1	0.6%
28	VINCENT ACCELERATED ACADEMY	1	0.6%
Total Count		171	100.0%

Source: Infinite Campus

Exhibit VII

6th - 8th Grade Top Six School With the Highest Middle School Student Expulsion Rate by Total Population Expelled <i>(07/01/2022 to 01/31/2024)</i>			
No	School	Expulsion Count	Percentage
1	MORSE MS	8	13.3%
2	KING IB MS	7	11.7%
3	HARTFORD UNIVERSITY SCHOOL	4	6.7%
4	ROOSEVELT MS	4	6.7%
5	GREEN TREE PREPARATORY ACADEMY	3	5.0%
6	LINCOLN CENTER OF THE ARTS	3	5.0%
7	AUDUBON TECH & COMM CTR MS	2	3.3%
8	CARSON ACADEMY	2	3.3%
9	CLARKE STREET SCHOOL	2	3.3%
10	FIFTY-THIRD STREET SCHOOL	2	3.3%
11	FRANKLIN SCHOOL	2	3.3%
12	MILW ENVIRONMENTAL SCIENCES	2	3.3%
13	MILW SCHOOL OF LANGUAGES	2	3.3%
14	MORGANDALE SCHOOL	2	3.3%
15	STORY SCHOOL	2	3.3%
16	BETHUNE ACADEMY	1	1.7%
17	CONGRESS SCHOOL	1	1.7%
18	DOUGLAS MS	1	1.7%
19	GOLDA MEIR SCHOOL	1	1.7%
20	HOLMES SCHOOL	1	1.7%
21	KING ES	1	1.7%
22	LANCASTER SCHOOL	1	1.7%
23	RIVER TRAIL SCHOOL OF AGRICULTURAL SCIENCE	1	1.7%
24	SHERMAN SCHOOL	1	1.7%
25	SOUTHEASTERN EDUCATION CENTER	1	1.7%
26	THURSTON WOODS SCHOOL	1	1.7%
27	VIEAU SCHOOL	1	1.7%
28	WIS CONSERVATORY LIFELONG LRNG	1	1.7%
Total Count		60	100.0%

Source: Infinite Campus