Special Education Behavior Supports, Policies and Practices in Tennessee Schools: Issues and Solutions

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**Introduction**

 For much of the history of the United States public education system, children with disabilities have been explicitly excluded from an education in their local public schools. While lawmakers found good reason to establish compulsory education laws, citing the societal benefit of an educated populace, many conversely believed that children with disabilities were either impossible to educate, unworthy of education or detrimental to the education of their non-disabled peers. The 1919 Wisconsin Supreme Court decision in *Beattie vs Board of Education of Antigo* permitted schools to expel children based on disability, citing their presence as “harmful to the best interests of the school” (Casetext 2024). Many states, including Tennessee, established laws formally excluding children with disabilities from the states’ public schools, arguing that children with disabilities would not benefit from a public school education.

This belief meant that prior to 1975, only 1 in 5 children with disabilities were educated in public schools (US Department of Education 2024). In order to gain access to any form of education, parents of children with disabilities were left to improvise among few options. Some enrolled their children in special or private schools, others established small education collectives with other parents of children with disabilities. Still other parents, facing few choices and the absence of any state support, were told that institutionalization was the only opportunity for their child to receive some form of education, training, services or support.

However, the ruling in *Brown vs Board of Education* established that public schools could not segregate students based on race, opening the door for parents and advocacy organizations to challenge state laws that segregated (or excluded) based on disability. *PARC vs Pennsylvania* and *Mills vs Board of Education of District of Columbia* extended the protections of Brown v Board to students with disabilities, laying the ground work for change. That change was realized in the 1975 passage of the Education for All Handicapped Children Act (EHA), which established the right to public education for kids with disabilities. EHA was reauthorized and expanded in the Individuals with Disabilities Education Act (IDEA) in 1990, which created the special education system we know today.

With the inclusion of students with disabilities in our public schools, attitudes and beliefs about their capacities to learn and integrate into our societal institutions also began to change. With the advent of the inclusion movement, the belief that children with disabilities, with some degree of individualized support, could thrive in educational settings with their non-disabled peers, became embedded in our systems of schooling. In the last 34 years, students with disabilities have seen far greater access to a quality public school education and have consequently graduated at higher rates, received post-secondary education and training at higher rates and have found greater job prospects and wages available to them as adults.

These gains have demonstrated undeniable proof of concept for IDEA and special education. However, the benefits of special education have not extended equally to all students with disabilities. Poorly crafted laws and policies, deficient Special Education implementation and practices, as well as inadequate school resourcing remain barriers to achieving the actualization of IDEA for all students. Further, persistent attitudes and beliefs about students with disabilities have tokenized some, marginalized many and been detrimental to all, presenting an additional barrier toward realizing the goals of IDEA.

These barriers are both the cause and function of one of the most persistent issues contributing to the perpetuation of the achievement gap for students with disabilities: the inability for schools to effectively work with students with behavioral needs. The research on the benefits of inclusion for students with disabilities is clear and positive, but a meta-analysis by Reid et al (2004) found that students with disabilities who manifest unwanted classroom behaviors are less likely than their peers with different disabilities to be included in a general education setting, and less likely to benefit when they are included.

In part, this is because the needs of students with disabilities who manifest school-based behaviors are not well-understood in Tennessee, and consequently many purported solutions miss the mark. However, the stalled success of inclusion for them continues to be front-and-center among teachers and lawmakers alike. This emphasis and attention on the manifestations of behavior-related disabilities has produced an array of uninformed and piecemeal efforts that have thus far proved unsuccessful, and in many instances, harmful. Conversely, efforts founded in practice and based in evidence have met resistance from decision-makers, often characterized as “soft” or “weak”. Nevertheless, the state has thus far failed to create an effective system of policies, practices and protections that have reduced unwanted behavior, improved opportunities for students with behavior needs and elevated their success in our schools and beyond.

For many students, these unwanted school behaviors are often a function of the child’s disability, and those behaviors contribute to academic deficits. Given the vast improvement in public school education for students with disabilities, IDEA represents the best path toward achieving this parity. However, public schools, including those in Tennessee, continue to struggle to support the academic and behavioral growth for students with behavioral needs through successful application of the principles of IDEA. Likewise, our General Assembly often fails to fully understand these students and their needs, often offering misguided legislation that leads schools further astray of fair and effective application of evidence-based intervention and IDEA. The path forward is not a sidestep of IDEA, but an embrace of it – Tennessee can lead the way in this goal.

The purpose of this white paper is to examine the state of Special Education in the state of Tennessee, focusing on issues related to the ability of the state’s public schools to support students with students with disabilities that present behavior needs in thriving. In identifying and describing policies and practices impacting students with behavior needs, this white paper will also identify potential avenues to better educate this population. Part 1 will identify root causes to the achievement gap of students with behavior needs. Part 2 will characterize these root causes in their tangible manifestations in school policies and practices. Part 3 will offer policy solutions to address the primary problems afflicting the education of students with behavior needs.

Who are students with behavior needs?

 Students with behavior needs are a heterogenous population with varying degrees and manifestations of need. Most students with behavior needs manifest those behaviors as a function of their disability. Other students may not have a recognized disability, either because they have not been evaluated for a disability or have been evaluated and do not qualify for special education services under IDEA. Still other students may manifest behavior needs on a temporary basis, or as a result of environmental stimuli, such as school environment, peers, trauma, poverty or community environment.

The group of students with behavior needs and IDEA-qualifying disabilities have varied diagnoses, including Emotional/Behavioral Disorder (EBD), Emotional Disturbance (ED), Autism Spectrum Disorder (ASD), “Other Health Impairment” (OHI) or “multiple disabilities”. Students with other disabilities categories, such as Specific Learning Disability, may also manifest behaviors related to their disability. However, it is important to note that not *all* students within these disability categories manifest unwanted classroom behaviors.The functions of unwanted classroom behaviors are likewise varied. IDEA, in the evaluation and intervention process, identifies escape/avoidance, attention-seeking, seeking access and sensory stimulation as potential reasons students engage in these behaviors.

In Tennessee during the 2021-22 school year (last year of published data), 118,219 students receive special education services under IDEA (Tennessee Department of Education 2022). However, because behavior needs are so varied across disability type, manifestation and function, it is unclear how many students in the state would be considered “students with behavior needs”. However, proper implementation of evidence-based intervention, at the individual, classroom and school-wide level benefit all students, including those with and without disabilities.

Individuals with Disabilities Education Act (IDEA)

IDEA lays out the foundational tenets of Special Education in the United States in 6 “pillars”: individualized education, the right to a “free and appropriate education” (FAPE), education in the “least restrictive environment” (LRE), the use of appropriate evaluation of necessary services, enhanced involvement between parents and teachers, and procedural safeguards that ensure the rights of students with disabilities and their families are met. The following will briefly describe each of these pillars:

* Individualized Education: this pillar requires that students with disabilities receive an Individualized Education Program (IEP) that identifies accommodations, modifications and instructional approaches that best suit the needs of that student. An accommodation is a change to *how* a student is taught, whereas a modification is a change to *what* a student is taught. For example, an accommodation might be to receive written notes in advance of a lecture to support completing a class assignment, and a modification might be that a student receives an alternative assignment.

IEP’s also include both goals and objectives based on a student’s “present levels of achievement and functional performance” (PLAAFP). A goal identifies a measurable outcome that a student could reasonably be expected to achieve within the one-year period of an IEP. Objectives are incremental, measurable outcomes that would indicate progress toward achieving a goal. Goals and objectives can be for academic progress, as well as social, emotional or behavioral progress. For example, a mathematics goal might be that a student be able to multiple 2-digit numbers with 80% accuracy, and the objectives for this goal include multiplying 1-digit numbers, multiplying 2-digit by 1-digit numbers and multiplying 2-digit numbers with 60% accuracy.

* Free and Appropriate Public Education (FAPE): FAPE requires that schools that receive federal funding educate students with disabilities based on the student’s IEP. This includes choosing appropriate curriculum and instructional strategies that, to the greatest extent possible, allow students access to the general education, grade-level curriculum. The right to FAPE also includes the provision of supports and services provided in an IEP that facilitate grade-level access. For example, a student’s IEP might include speech-language pathologist services for 60 minutes per week, which allows a student to be better prepared to communicate their understanding of grade level curriculum in a way that demonstrates their level of mastery.
* Least Restrictive Environment (LRE): LRE requires that students with disabilities are educated alongside their non-disabled peers to the greatest extent possible, based on the disability-related needs of that student. Schools and IEP teams must provide disability-related justification for placement outside the general education setting. Students with disabilities must likewise have “meaningful access” to same-age peers without disabilities. While based on the specific needs of the student, this may include things like non-segregated lunch time, access to recess and opportunities to be included in field trips, school events and extracurricular activities. School systems must also ensure that it maintains the full range of placement options, including therapeutic options and alternative settings.
* Appropriate Evaluation: schools are required to affirmatively seek out and evaluate students who may have a disability (with parent permission). This imperative is referred to as “child find” and initial evaluations are triggered when a student’s academic progress is deemed inadequate, and a disability is suspected to be the cause. Schools are required to use multiple, varied and high-quality evaluation instruments and assessments, and they must be administered by a trained professional. Evaluations must be also comprehensive, in that they must evaluate all aspects – academic, behavioral, social, etc. – of a suspected disability.

Schools are required to re-evaluate students every 3 years, and adjust their IEP accordingly. Parents also have the right to request re-evaluation when they believe that the previous evaluation does not appropriately inform an IEP. Evaluations are required to be completed within 60 days of parental or implied consent.

* Meaningful Parent Involvement: schools are required to ensure that parents have “meaningful opportunities” to be actively involved in the special education process. This includes processes such as IEP meetings, evaluations/re-evaluations, Functional Behavior Assessments and Behavior Intervention Plans and placement decisions. This pillar of IDEA also meaningfully involve students, to the greatest extent possible, in these decisions. This also includes transition planning beginning at age 14 to develop a plan for post-secondary education, occupation, training and community inclusion.
* Procedural Safeguards: procedural safeguards protect the rights of students with disabilities and their parents/guardians during the special education process. Parents are entitled to prior written notice for IEP team meetings and IEP team decisions. They must also be provided written information about student and parent rights under IDEA. Parents are also entitled to student records, including access to and copies of student educational records. Procedural safeguards also establish processes for resolving conflict between parents/students and the school related to the provision of special education services. These procedures include resolution and mediation, formal written complaints and due process hearings. The federal Office of Civil Rights is responsible for monitoring violations of procedural safeguards, as well as other violations of IDEA.

Ultimately, IDEA recognizes the individual and case-by-case nature of disability within an educational context, and provides a structure by which schools may understand and educate students with disabilities. IDEA can be complicated and resource-intensive, which makes successful and consistent application difficult. This is especially true for students with behavior needs, who are often misunderstood and marginalized in their classrooms and schools already. Nonetheless, IDEA and its quality application represent the best and most effective means by which students with disabilities can be included in our schools, succeed in their goals and be prepared to thrive in lives of their choosing within our communities.

**Part 1: Root Causes**

 A meta-analysis conducted by Woods, et al. (2023) characterized the research on the effectiveness of “business-as-usual” provision of special education. The authors define “business-as-usual” as the type and intensity of Special Education services and interventions delivered and the placement of students with disabilities since the reauthorization of IDEA. These should be considered common special education practices that are most widely used in Tennessee.

 The meta-analysis found that the most rigorous of studies showed small but positive effects of specific types of intervention for students with disabilities in the areas of academic achievement, graduation, postsecondary outcomes and “other” outcomes, but negative to null effect on behavior. This would indicate that while our schools, to at least a minor extent, adequately implement evidence-based academic interventions and practices, the types of interventions and the quality of their implementation meant to address the behavior needs of students with disabilities are mostly ineffective. (Woods, et al 2023). The following will attempt to describe some of the causes of this inefficacy, and how these manifest as behavior policies and practices in Tennessee public schools.

*Root Cause #1: Special Education Teacher Shortages and Turnover*

 A study of teacher shortages in Tennessee found that during the 2019-2020 school year, 85% of school districts in the state said that they had a shortage of special education teachers and had too few high-quality applicants to fill their vacant special education positions (Edwards et al 2023). Given the disruption of the pandemic and its correlate acceleration of teacher turnover and shortages, it is likely that even more Tennessee school districts are seeing open Special Education teaching positions and a lack of quality applicants to fill them.

 Teacher turnover and attrition are the primary drivers of teaching shortages nationally and in Tennessee (Schmidt and Decourcey 2022). The Tennessee Department of Education has not publicly post teacher turnover data for any school year since the beginning of the 2018-2019 school year to its data and research page. However, between the 2017-2018 school year and the 2018-2019 school year, the state Department of Education found that only 79% of Special Education teachers were retained in the school in which they taught the previous year, with 8% leaving the state or leaving the profession altogether. This trend was worse for urban schools and priority schools, leaving the most vulnerable Special Education students, those that also lived in poverty or attended ineffective public schools, facing the brunt of the teacher attrition crisis.

 Teacher shortages and teacher turnover have numerous detrimental effects for all students. Teacher shortages in turnover lead to larger classes, cut offerings and the use of inexperienced teachers, all of which negatively impact student achievement (Sutcher, Darling-Hammond and Carver 2019) (Kini and Podalski 2016). Teachers are less likely to collaborate and improve their instruction in schools with high turnover (Guin 2004). Even students who don’t themselves come into contact with teachers new to the school suffer the negative effects of teacher turnover (Ronfeldt, Loeb and Wyckoff 2013). Further, teacher shortages and turnover is expensive, with one study estimating a cost of $20,000 per vacancy in urban schools (Barnes, Crowe and Schafer 2007) (Sutcher, Darling-Hammond and Carver 2019).

 Very little available research focuses on the effects of teacher turnover specifically for students with disabilities. However, in theory, circumstances that generate causal effects, such as teacher turnover, have a disproportionate and exacerbated effect on people with disabilities. For example, the impact of the pandemic-related switch to remote learning, which led to generalized learning loss across the student spectrum, was disproportionately larger for students with disabilities (Blad 2022).

Thus, extending this logic further, it is likely that students with disabilities face disproportionately negative impacts from the increase in teacher turnover and teacher shortages in Tennessee. This would indicate that the impact of teacher turnover and shortages helps to partially explain the persistent achievement gap between Tennessee students with and without disabilities. To reiterate, this impacts the states most vulnerable students doubly, with students with disabilities of color and students with disabilities living in poverty facing even greater hurdles to success in the state.

In Tennessee, the number of vacancies, or the exact degree of turnover, is difficult to discern. Hiring decisions are rightfully left to districts, who are more attuned to the needs of their local schools. Thus, one metric is the narrative descriptor “open positions” and “unfilled positions”. Both of these metrics were higher following the 2022-2023 school year in Tennessee, and have been on the rise for several years. SCORE, a Tennessee-based education research organization, estimated that there were approximately 1,000 teaching vacancies across the state during the 2022-2023 school year, which equates to a 1.6% vacancy rate (SCORE 2024). Vacancies and turnover are higher for high-needs licensure areas, including Special Education. In 2022, special education positions represented the 4th highest vacancy rate among endorsement areas in Tennessee.

The causes of the teacher shortages are multiple and varied. One component is a lacking workforce pipeline, with ongoing and dramatic declines in enrollment and completion of educator preparation programs (EPPs) in the state (SCORE 2024). While these career decisions are distinct to the individual, the diminishing enrollment in and completion of these programs are likely due to both economic and social factors, including low salary, student debt, societal hostility to the profession and changing expectations of the role. As an aging teaching population retires, the effects of the state training and licensing fewer teachers will likely exacerbate teacher shortages and turnover. In recent years, the state has enacted other alternative licensure programs intended to increase the number of new teachers. However, Partelow (2019) finds that teachers credentialed through alternative means and programs are less likely to stay in their teaching positions in the long term.

Not only is the state producing fewer trained teachers, Tennessee schools are struggling to retain their existing teaching workforce. 8% of the state’s teaching workforce left their previous school following the 2021-2022 school year. This equates to 5,365 teachers leaving yearly. Turnover and retention are also highly localized, with some schools reporting zero turnover, and others reporting rates as high as 83.3% of teachers leaving (Tennessee Department of Education 2023).

The most common reason for teachers leaving their current school, or the profession entirely, is dissatisfaction with their school’s leadership at 35%. 19% of vacating teachers cited “the types of students I teach” as an important factor in their decision to leave, possibly implying that the type of student refers to those manifesting classroom behaviors. These two reasons are intertwined with the education of students with behavior needs. Administrators and school leadership are often responsible for curating and maintaining a beneficial school culture, and may see students with behavior needs as a threat to that culture. This can lead to haphazard and frequently changing discipline policies, difficulty in applying policies consistently or fairly, as well as pressure to “take shortcuts”, or choose interventions that are not evidence-based (like suspension), to address concerns about behavior. Teachers may see a failure to enact consistent behavior policies that reduce the perception of the occurrence of “discipline issues” as a failure then of their administrators.

We know that well-trained, experienced teachers and consistent, continuous staffing are beneficial to students. Likewise, we know that shortages and turnover have a negative impact on students’ education and this impact is especially problematic for students with disabilities. As with most states in the country, Tennessee is struggling to produce and keep enough teachers in its public schools. The causes of the state’s teacher turnover and shortage are varied, but extensive. However, the state is currently taking steps in an attempt to address the causes of this shortage, including the promise to raise teacher salaries across the board and alternative pathways to licensure (such as apprenticeship). Districts have also established recruitment and retention strategies such as retention bonuses and higher salary schedules for teaching in high-need endorsement areas (like special education). Nevertheless, teacher turnover and vacancies continue to play a prominent role in exacerbating the achievement gap for students with behavior needs.

*Root Cause #2: General Education and Special Education teachers are under-prepared and under-resourced to work with students with behavior needs*

 Since the reauthorization of IDEA, the federal Department of Education has put a strong emphasis on enforcing placement of students with disabilities in the Least Restrictive Environment (LRE). This has led to a movement towards “inclusive” classrooms, or general education classrooms that serve students with and without disabilities. As of 2021, 73% of students with IEP’s in Tennessee spent 80% or more of their daily instructional time in general education settings, and 86% spent at 40% or more of their time in general education settings (Tennessee Department of Education 2021). As such, general education teachers have taken on a larger role in educating students with disabilities, including differentiating instruction, modifying curriculum and implementing interventions.

 Research has shown the positive impacts of general education inclusion for both students with and without disabilities (Kart and Kart 2021). However, for students with behavior needs, inclusion has not demonstrated the same positive impact as it has for students with other types of disabilities (Reid et al 2004). This disparity is likely driven in large part by the lack of both tangible and perceived knowledge and skill, inadequate resources and the under-preparedness of general education teachers to work with students with disabilities.

 General education teachers broadly feel unprepared to work with students with disabilities as a whole. To begin, research has shown that general education teachers have varying degrees of approval or acceptance of the benefits of inclusion practices for students with disabilities (Gilmour 2018) (Rosenzweig 2009) (Ablin 2021). Overall, general education teachers feel less prepared to work to work with students with disabilities, with one study finding only 17% of general education teachers felt “very well prepared” to work with students with mild to moderate disabilities. Teachers also perceived students with behavioral needs to be more difficult to work with, and felt even less prepared to meet their needs (Chhabra et al 2009). Furthermore, teachers do not feel as if they have adequate resources and ongoing support to work with students with disabilities in their general education classrooms (Brendon 2015) (Ablin 2021).

 If general education teachers feel as though they are unprepared to work with students with disabilities, particularly those with behavior needs, they are less likely to be effective with those students. One study showed that teachers attitudes toward inclusion, which are impactful to the quality of their practice with students with disabilities, were strongly related to their perceived efficacy in implementing special education interventions, and vice versa (Hernandez et al 2016). The study showed that teachers who felt well-prepared to implement inclusion practices were more persistent and patient in implementing special education strategies with students, leading to better results for those students. Conversely, those teachers who felt unprepared were more likely to give up implementing intervention strategies, to the detriment of their special education students’ achievement. This phenomenon was exacerbated for students with Emotional/Behavioral Disorders (EBD).

Another study showed that general education teachers had broadly negative perceptions of students with EBD and inclusion, and felt even less prepared to work with them than students with other forms of disability (Alkahtani 2022). Cassady (2011) found that general education teachers were less accepting of students with emotional/behavioral disorders in an inclusive classroom. Patton (2018) found that general education teachers characterized students with emotional/behavioral disorders as disruptive and challenging in the general education setting.

Given the work of Hernandez et al, this would indicate that general education teachers are least prepared to work with students with behavioral needs, have more negative perceptions of their inclusion in the classroom, and are thus less likely to effectively work with them. The academic and social achievement of students with EBD specifically, which lags behind that of students with other disabilities, and far behind that of peers without disabilities, seems to bear this out.

The perceptions of general education teachers toward students with disabilities in Tennessee reflect that of broader trends. In the 2023 survey of Tennessee general education teachers, 42% said they found it difficult to differentiate instruction and 34% lacked training in instructional strategies for students with learning differences. In terms of students with behavioral needs, only 41% said that they knew how to support students’ behavioral success (ex. implement a behavior plan), 62% said that classroom disruptions from students with disabilities were a major problem and 47% said they lacked support personnel to work with students with disabilities in their classrooms (Tennessee Department of Education 2024). This would indicate that a great number of Tennessee general education teachers are finding it particularly difficult to work with students with behavior needs, possibly negatively impacting the quality of the education that they provide to them.

Perceived self-efficacy was not the only issue that general education teachers felt inhibited their ability to successfully work with students with disabilities. In Tennessee, 31% of general education teachers say that they do not have the appropriate curricular materials necessary to meet the needs of students with mild or moderate disabilities. For severe disabilities, 39% of Tennessee teachers said that their access to resources was inadequate (Tennessee Department of Education 2024). Kelly et al (1974) completed one of the few available studies of teacher perceptions of the severity of behavioral disabilities, finding that teachers perceived students with behavior needs to be more severely disabled, citing broader interpretations of behaviors as manifest of the disability. The study argued that this interpretation of behavior increased teacher perceptions that behavioral disabilities were more severe. Given the survey findings, Tennessee teachers may perceive their students with behavior needs to be more severely disabled, and thus, more inadequately resourced than their peers with other forms of disability.

Much of this perception of unpreparedness could be linked to teacher preparation programs. In a non-empirical survey of the websites of the 10 largest teacher preparation programs (TPP) in Tennessee, 7 listed the courses of study for elementary education undergraduate programs, and one listed the courses of study for middle school undergraduate program. While all courses had requirements that included a course that alluded to study of teaching students with disabilities, only 3 of the 8 required more than 2 of these courses. The University of Tennessee – Knoxville and University of Tennessee – Chattanooga (listed middle school degree program) each required 3 such courses (UT-Chattanooga included one as an elective option available to students). The University of Memphis offers a specific licensure course of study, called Teaching All Learners (TAL), which requires 6 special education-related courses, including one focused specifically on supporting students with behavior needs.

Each of these programs required approximately 120 class hours to graduate, meaning that the majority of the largest teacher preparation programs in the state require less than 10% of a course of study to focus on students with disabilities. Only two of the programs even offered a course in working with students with behavior needs. It is unsurprising, then, that general education teachers feel underprepared to work with students with disabilities, particularly those with behavior needs.

One study by Zimmerman (2006) showed that teachers who took formal special education-related courses were more likely than those who did not to say that students with emotional or behavioral disorders should be in general education classrooms. As Hernandez et al showed in the previously cited works, attitudes toward inclusion and students with disabilities were predicative of the quality of instruction and intervention provided to those students. The works of Alkhatani, Patton and Cassady showed that this effect was more prominent for students with emotional behavioral disorders. Given Zimmerman’s conclusions, it is likely that additional requirements for special education-related courses would improve the education of students with behavioral needs.

TPPs possibly require so few special education-related courses or instruction for pre-service general education teachers because they are not required too. The Tennessee Code Annotated defers to rules promulgated by the State Board of Education (SBOE), which does not specify in its rules regarding educator preparation (0520-02-04) that any TPP or teacher candidate be instructed in special education techniques, strategies, intervention or law. It does say that candidates graduating from a qualified TPP must prepare teachers to provide “Response to Instruction and Intervention” (RTI2) at the tiers 1 and 2 level, which are whole class or small group interventions, and definitively not special education.

The SBOE rules, as well as the TCA, do not mandate that teacher candidates are trained in any sort behavioral intervention either, only that “All teacher training institutions are encouraged to offer, and encourage all students to take, a course specifically designed for prevention and intervention strategies in behavioral/emotional disorders.” (TCA 49-5-5608) This is not to say that Tennessee TPP’s do not offer these courses, only that the lack of direction from the state may influence the lack of requirements or available course options for general education teachers in order to graduate and become licensed.

Thus, the state outputs general education teachers in Tennessee who feel unprepared to teach students with behavioral needs, lack adequate formal training to do so, and perceive a lack of resources in meeting their needs. Given the research showing that a lack of educator self-efficacy, tangible skills and/or resources leads to lower quality instruction for students with disabilities, we can begin to explain why students with behavior needs are not having them met, nor are they having their academic needs met, perpetuating the outcomes and achievement gap for students with behavior needs.

 Special education teachers, however, report greater levels of preparedness to work with students with disabilities than general education, and self-reported that they were more likely to engage in intervention and inclusion strategies than their general education colleagues as well (Zagona et al 2017) (Kaczorowski and Kline 2019). Further, Tennessee requires that special education teachers have a bachelor’s or master’s degree in special education to receive a license to teach students with special needs (Vanderbilt University 2019). Greater perceived self-efficacy, as well as more concentrated and directed training would indicate that special education teachers are more capable of working with students with disabilities than general education teachers.

 However, efficacy for special education teachers is less about perceptions of preparedness to work with students with disabilities as it is a resource issue. According to the Council for Exceptional Children’s 2019 State of the Special Education Profession Survey Report, 79% of special education teachers reported that they had insufficient or no time to plan lessons, 86% said they had no or insufficient time to plan with partners (like related services professionals, paraprofessionals, etc.) and 89% said they had no or insufficient time to plan with IEP team members (like general education teachers, administrators, family members, etc.). Thus, only 8% of special education teachers surveyed perceived general education teachers as “well-prepared” to help students meet their IEP goals (Fowler, et al 2019).

 The survey asked special education teachers what was most important to successfully meeting the needs of their students. Survey respondents rated “adequate resources to meet IEP requirements for students” as the most important, with 57% of the 1,467 respondents ranking this issue/need highest. 43% of survey respondents cited small class sizes/caseloads as most important to their success, and 37% said that administrators who support the IEP process as most important. In an open-ended inquiry, 31% of respondents cited “more planning time to work with the IEP team, other colleagues, plan instruction and (complete) paperwork” as an additional component of success (Fowler, et al 2019).

 In Tennessee, 41% of special education teachers said that they did not have adequate time to provide individualized instruction. 33% of respondents said that their colleagues do not understand the roles and responsibilities of special education teachers. Only 6% said that they provide training and resources to general education teachers, essentially leaving general education teachers to rely on their minimal training during their teacher preparation program to guide their work with students with disabilities. Only 32% of Tennessee special education teachers say that they have access to the necessary tools to assess students with behavior disabilities and meet their needs (Tennessee Department of Education 2022).

 It’s clear that special education teachers feel as though they have the skills and dispositions to work with students with disabilities, but do not feel as though they have the resources or support of their general education teaching colleagues or administrators. Park and Shin (2020) found that access to resources and support of school personnel had a large effect on burnout and turnover. Wisniewski and Gargiulo (1997) found that teacher burnout is higher for special education teachers who work with students with behavior needs, indicating that while resources and support are vital to all teachers, adequate access is even more important for ensuring the quality of special education for with students with behavior needs. Thus, higher levels of burnout of these special education teachers, as well as the instructional detriments that come with burnout, can be at least partially attributed to a lack of extant resources and support in schools.

 This perception of a lack of resources to teach students with disabilities is not without merit. IDEA, which established federal funding for meeting the needs of students in special education, has never been fully funded to its statutory intent by Congress. The law promises to fund 40% of the costs to states of educating students with disabilities, but in 2020, federal funding only accounted for 13.2% of the national cost of special education (Council for Exceptional Children 2022). This left states to attempt to cover the $14.76 billion shortfall.

 In Tennessee, per-pupil spending was ranked 42nd in the country during the 2020-2021 school year (US Census Bureau 2022). The 2020-2021 school year is before the state transitioned to a student-based funding model, from the previous BEP, which allocated funding based upon enrollment. The new model, TISA, provides additional funds for students with disabilities, depending on the cost of need associated with the disability. Additionally, the state promised to include an injection of $1 billion in state funds annually to the funding pool. However, an updated 2024 estimate puts Tennessee’s per-pupil spending at 43rd in the US (World Population Review 2024).

 Put together, we can see a picture of general and special education teachers who feel unprepared to work with students with disabilities. We see special education teachers taxed in their perceived ability to deliver instruction, supports and services and overburdened in their capacity to do so. Further, we see both a perceived and actual shortage of resources to meet the needs of students with disabilities. These effects are all exacerbated by the presence student behavior needs, which amplifies each of these effects. Altogether, each of these components diminishes the quality of education for special education students, particularly those with behavior needs.

*Root Cause #3: Lack of access to effective school-based supports and therapies*

 Students with disabilities often have related or ancillary services in their IEP’s to support their needs. These types of services include things like speech-language services, psychological services, counseling, occupational/physical therapy, school health services and social work services, among others. These services are vital to supporting a student’s progress toward their IEP goals. For example, a student with a writing goal may make progress toward that goal with the support of a speech-language pathologist in constructing written sentences to convey an argument. Or a student with behavior needs may have a goal related to talking out of turn, and a school psychologist could work with them to design and implement an intervention supporting appropriate hand-raising.

 Research shows the benefits of related services for students with disabilities. Goorhuis-Brouwer and Knijff (2001) showed that students with language impairments improved their language skills substantially and at a higher rate than those without language impairments after treatment from speech-language pathologists. A meta-analysis by Forness found that related services for students with behavior needs, including behavior modification, cognitive behavior modification and psychotherapy, all services likely to be designed and, in many cases, delivered by school psychologists, all had large effect sizes showing their substantial positive impact toward achievement of IEP goals (Forness 2002).

 Like teachers, schools are facing a related services providers shortage. The National Association of School Psychologists (2021) reports that during the 2019-2020 school year, the national average ratio for school psychologists to students was 1,233 to 1, which is far above the best-practice recommended ratio is 500 to 1. The NASP data dashboard shows that Tennessee has a ratio of one school psychologist to 1,806 students (NASP 2023). Speech-language pathologists (SLP’s) are also in short supply. In the American Speech Language Hearing Association 2022 survey of SLP’s, 31% of respondents said that personnel shortages were one of the greatest challenges facing the workforce (ASHA 2022). In the same survey, 58% said large caseload sizes were challenging to overcome, indicating that there were not enough personnel for manageable caseload sizes.

 The shortage of school psychologists and SLP’s specifically in Tennessee is difficult to enumerate. While Tennessee publishes school-level teacher turnover data (despite the data’s lack of recency), it does not publish “shortages”, per se. This is because the state, for the most part, permits districts to hire their own personnel based on their needs and resources. The State Board of Education is empowered to establish maximum class sizes, but neither the Tennessee Code Annotated, nor the SBOE Rules and Policies, establish maximum caseload or ratios for related service personnel. Thus, we are left with statistical innuendo and anecdata to show how many and where students are not able to access these related services in Tennessee. That said, the General Assembly commissioned a report on the adequacy of SLP’s in state schools, finding not explicitly a shortage, but a perception of a shortage. For example, 64% of school directors are concerned or extremely concerned about their district’s capacity to meet the SLP need in the coming five years (TDOE 2022). Likewise, though not a “shortage”, the Tennessee school psychologist-to-student ratio is high above the national average, as well as the best-practice recommended rate.

 As mental and behavioral health services rise in prominence in the national education discourse, access to these types of services is, like other related service personnel, lacking. Often, these types of services can be provided by school counselors, who play valuable formal and informal roles for students with behavior needs. Only two states match or exceed the best practice recommended ratio for school counselors of 1 counselor to 250 students, New Hampshire and Vermont. However, A review of statistics from the Bureau of Labor Statistics, the American School Counselor Association and National Center for Education Statistics by Charlie Heath (2023) showed that Tennessee had the 8th highest school counselor to student ratio, with 301 counselors to every student, during the 2022-2023 school year. While the Tennessee Department of Education publishes staff count data, it does not delineate data between all other non-teacher, non-administrator staff, instead lumping them together as “other staff”.

Students with disabilities and those with behavioral needs may also receive school nursing services as a related service outlined in their IEP. State law requires that every district have at least one full-time licensed school nurse, and/or that the ratio of students to school nurse be no greater than 3000 to 1 (§ 68-1-1203). According to National Association of School Nurses, best practice ratios for the school nurses range from 1:750 in the general school population to 1:125 for students with more complex health care needs (Durant et al 2011).

According to the 2021 Annual School Health Services Report, there are 2,179.94 full-timer nurses (measured in full-time equivalents – FTE’s) in the state of Tennessee. The report, nor the Tennessee Department of Education data website, publishes nurse-student ratios, and these are difficult to enumerate because the number of school nurses is measured in FTE’s. Further, many LEA’s have full-time nurses that are assigned to multiple schools in a given school day, further obscuring need and ratio. The Tennessee Department of Health states on their website that 58% of Tennessee schools employ a full-time school nurse, but does not identify the year this statistic represents, nor expand on the data any further (Tennessee Department of Health n.d.) Several pieces of legislation have been proposed in the General Assembly in recent years to lower this mandatory ratio, but none have since passed.

While all staff play important roles in the holistic education of students with behavior needs, Board-Certified Behavior Analysts (BCBAs) are playing larger and larger roles in successfully working with these students, particularly those with Autism Spectrum Disorder (ASD). Between 2011 and 2023, the number of open job positions in the US that required a BCBA certification jumped from 789 in 2011 to 57,569 in 2022 (Behavior Analyst Certification Board 2023). These numbers are inclusive of all positions, not just those working with schools and students, but demonstrate the growing use of these behavior experts to support people with behavior needs. According to BACB, there were 1,057 job postings in Tennessee during 2022 alone.

It’s difficult to define the adequacy of the number of BCBAs and the extent that they are accessible to need. Yingling et al (2022) found that in 2021, 37.4% of counties in the US had no BCBA, and 8.2% had no BCBA in a neighboring county either. These numbers, however, represented a substantial increase in access to BCBA’s in just the prior 3 years. The same study, focused primarily on access for people with ASD, showed that the rate of increase for ASD diagnoses was about 7%, whereas the rate of increase for new BCBA’s was 21%, indicating that, should these trends hold steady, access will continue to increase. All that is to say, this study represents all BCBA’s, including those who work with adults, and only provides generalized evidence of a provider shortage in public schools. Syed (2023), however, estimates that only 12.2% of BCBA’s self-identify as working in education.

A study of BCBA’s in public schools found that 25.5% had caseloads larger than 41 students, however, the vast majority, 45.75%, had between 1 and 20 students in their caseloads (Lyons 2023). That said, caseloads are not the best means of determining access – it does not account for the intensity of services nor the number of hours provided on a case-by-case basis. Syed estimates that an “ethical” caseload in a school setting is 6 to 10 students per 40-hour work week (Syed 2023).

It is even harder to determine whether the number of BCBA’s serving Tennessee students is adequate. According to the BACB website, there are 1,100 certificated BCBA’s in Tennessee (BCBA and BCBA-D), as of 2024. If the Syed’s estimate is correct, that 12.2% of BCBA’s work in education, only 132 BCBA’s work in Tennessee schools as of 2021. The latest data available that delineates Tennessee students with disabilities counts across disability type is from the 2019-2020 school year. This data shows that approximately 17,098 Tennessee students have IEP’s labeling them as having Autism or an Emotional Disturbance (EBD). These two groups represent the most likely subgroups to receive in-school services from a BCBA.

It is extremely difficult to say how many of these students have BCBA services in their IEP, or don’t but would benefit from the service, because the decision to pursue treatment depends on need, geography, socio-economic status, insurance status, availability, among other factors. However, should all of these 17,098 have BCBA services in their IEP and provided by their public school (which is very unlikely), the current student to analyst ratio is about 1 to 130. To meet the highest level of the “ethical” threshold proposed by Syed, the state would need 1,710 BCBA’s to work in the state’s public schools (assuming every child with Autism or EBD receives this service in their IEP). Assuming only half would benefit from this IEP service, the state still needs to increase the pool of BCBA’s working in public schools by 365% to meet this need.

As evidenced by the above estimation, it is very likely safe to say that there is an unmet need for school-based BCBA services in Tennessee. Part of what makes these estimations necessary, but also unreliable, is the lack of public-facing data made available by the state and the state Department of Education. Because the state leaves districts to make their own hiring decisions, there can be no discernable “shortage” of staff, because there is no concrete standard of adequate. This is not necessarily a bad thing – districts must have the flexibility to use their resources to meet their needs as they see fit – but it makes measuring vital concerns like teacher and specialist shortages impossible. Without an accurate picture of the shortage of human resources, it is extremely difficult to begin to address them proactively.

One potential proxy for the shortage or related services professionals is the amount of funding used to pay for Compensatory Education for students who are not receiving supports and services found in their IEP. Compensatory education funds are provided when a school is unable to provide a service found in a student’s IEP. For example, if a student is supposed to receive 5 hours per week of speech/language services, but the school does not a have an SLP to provide those services or cannot otherwise deliver them, states education agencies are obligated to pay for those services to be provided to the student elsewhere. This would give advocates a vague but definable sense of the extent of the related service provider shortage, the types and locations of shortages and the number of students who are impacted.

However, the state does not appear to publish details about its use of compensatory education funds, to whom it goes and for what purpose. This is a missed opportunity for the Department of Education and advocates to identify shortages, support schools who are struggling, direct resources and benefit students with disabilities. Even so, compensatory education is a poor proxy for staffing shortages – not all students who are denied services receive this funding, not all compensatory education funding is to account for a provider shortage and it can be difficult for families to understand and advocate for funding for their child as recompense. This is, again, a data collection and transparency problem that obscures a hugely impactful problem that the disability community knows to be true.

The shortage of related services professionals not only limits access to related services for students with disabilities, it reduces the quality of them as well. A study by Boccio et al (2016) found that large caseload sizes for school psychologists led to a reduction in the scope and depth of mental health services they could provide to students, instead requiring that they focus more than 50% of their time to testing and special education intake processes (Benson 2019). Eklund et al (2017) similarly found that increases in caseload size were correlated with decreases in availability and provision of school-based mental health supports. Drew and Gonzalez (2021) found that large caseload sizes led to substantially decreased time for collaboration among special educators and specialists, diminishing the respective impacts of their work with students less effective.

Similar to the shortage of teachers, related service professionals are in short supply because there are not enough professionals to go around, and schools have difficulty recruiting and retaining those that do practice. In part, the lack of access to graduate program is currently constraining the supply of school psychologists, with programs unable to fill their faculty positions. Further, of the current cohort of school psychologists, 20% are eligible for retirement and 24% say they plan to leave the profession in the coming 5 years (NASP 2021) School psychologists cite administrative pressures and excessively large caseloads as primary contributing factors to their retention.

The National Coalition on Personnel Shortages in Special Education and Related Services (n.d.) cite several factors that contribute to the lack of access to all related services for students with IEP’s. Their brief states that poor working conditions (including caseload size), insufficient incentive for prospective professionals to work in education (ex. lack of loan forgiveness programs, etc.), inaccessible graduate programs (lack of program slots), limited willingness to work in high-need communities (poverty, rurality, etc.) and credentialing barriers for school placement.

A partial factor in the shortage of related services personnel in Tennessee is the limited direction from the Tennessee code, the State Board of Education or the state Department of Education about district choices in staffing professionals, as well as how to source and retain them. Again, permitting districts flexibility in making resource decisions, including staffing, is vitally important to maintaining adequate independence to meet the needs of a district’s specific students. While the Tennessee code mandates school nursing at a maximum of 1:3000 or one per district, this is still well above the best practice ratio of a minimum of 1:750 (Durant et al 2011). However, no such required/recommended ratio exists for school psychologists, SLP’s, school counselors or school social workers. While it is important that the state permit district hiring flexibility, it can do more to guide districts in making choices that support students with disabilities.

Students with disabilities, and particularly students with behavior needs, rely on the services and supports provided by related service professionals. With adequate access, students with disabilities are more likely to reach their IEP goals, more likely to benefit from effective intervention and more likely to be successfully included in general education classrooms. Thus, the shortage in Tennessee can exacerbate achievement gaps, perpetuate unwanted classroom behaviors and further isolate and seclude students with behavior needs away from their peers without disabilities.

*Root Cause #4: State legislative and educational environment and attitude*

 As schools increasingly move toward inclusive models of education, the needs of students with behavior needs are not being proactively or effectively addressed. The research on the benefits of inclusion for students with disabilities is clear and positive, but a meta-analysis by Reid et al (2004) found that students with disabilities that manifest unwanted classroom behaviors (emotional-behavioral disorders, autism, etc.) lag far behind their peers with different disabilities in benefitting from the general education setting. This is in part because, as evidenced herein, teachers feel unprepared to work with students with behavior needs and are more ineffective in meeting their needs as a result.

This phenomenon is acutely perceived by general education and special education teachers alike, but also by Tennessee state legislators. In response, state legislators have attempted and succeeded in passing a suite of regressive and punitive discipline policies that disproportionately affect students with behavior needs, thereby severely restricting their educational opportunities and consequent outcomes.

This is in part because the needs of students who demonstrate unwanted behavior in school settings are not well-understood in Tennessee, which directly leads to the development and implementation of legislative and practical policies poorly suited to address them. These policies not only sweep students with behavior needs into more restrictive settings, alternative school placements and the juvenile justice system, they cast a net over other marginalized communities, including students of color and students in poverty.

Ultimately, many of the formal policies put into place, as well as the informal practices used in schools and classrooms, are a function of perception. As noted previously, General Education teachers are less likely to approve of students with behavior needs in their classes, which counterproductively diminishes the quality of education they provide for those students and increases incidents of unwanted behavior (Barnes and Gaines 2015). In some cases, these complaints are raised to legislators, who develop policies on the basis of this perception. Tennessee is no different, with numerous pieces of counterproductive, if not harmful, legislation both proposed and passed in the past several years.

In 2021, the Tennessee General Assembly passed the “Teacher’s Discipline Act”, which provided options for general education teachers to frequently and sometimes permanently remove “disruptive” students from their classroom. While classroom disruption is a valid concern, removal is an ineffective and harmful solution. Further, this is a one-size-fits-all approach to classroom management that is antithetical to the spirit of IDEA and the construction of an Individualized Education Program. Champions of the law demonstrate the common perception that students with behavior needs are “bad” and disruptive to the learning of other students. For example, the director of one of the state’s teachers’ unions, and impetus to the law, is quoted as saying:

*“It’s challenging for the teacher to have to continue to teach when there are disruptive students that are blocking the learning from students who truly want an education and want to learn”* (Kelly 2023)

*“But we live in a civil society, and rules matter. If we don’t have consequences for continued bad behavior, we’ll have more bad behavior.”* (Aldrich 2021)

*"Teaching is a challenging and difficult job. It is made even more difficult when classroom discipline is out of control… And sometimes when it becomes a chronic discipline issue, we do need to have punishment."*(Yue 2021)

 This law is particularly impactful for students with behavior needs. First, it sets the expectation that they will indeed be disruptive, and that the disruption must first be met with punishment. Second, it fails to address root causes of behavior needs, only vaguely alluding to “counseling” (which, as noted above, has limited availability for Tennessee students and of which research shows to be a mostly ineffective school-based behavioral intervention). Third, it provides opportunities for teachers and administrators to circumvent IEP’s (despite the bill’s language), because it provides a backstop for ceasing interventions, failing to implement Behavior Intervention Plans (BIP’s) and limiting consultation with special education teachers and relevant related service professionals. But ultimately, it betrays a profound misunderstanding of classroom behavior, and flies in the face of decades of research highlighting the ineffectiveness of punitive approaches to addressing behavior needs.

 In 2023, the Tennessee General Assembly attempted to pass a bill that would have allowed school security officers to place students with disabilities in mechanical restraints, like handcuffs. The impetus to this bill was the idea that children with disabilities, emphasizing those with behavior needs, are inherently violent and must be restrained. The author of the bill is quoted as saying:

*“Cain slew Abel – Cain slew Abel… Children can be violent.” & “Well, I think it’s about protecting people from harming themselves and harming others”* (O’Brian 2023)

In committee, Representative Warner stated:

*“I don’t see a problem with handcuffing a kid with just a reading disability” (Rep. Warner, K-12 House Subcommittee video)*

 Again, the proactive solution identified here, under the premise that “children can be violent”, is to legally protect the rights of security officers to put them in handcuffs. It denies any support to the students involved, does not account for a student’s IEP and conversely serves to escalate and entrench behaviors, as evidenced by decades of empirical evidence. This bill did not make it out of committee, but the premise was not the source of its failure in the General Assembly – it was the overwhelming opposition of parents and disability advocates that ultimately stopped the legislation from passing.

 There have also been numerous bills proposed in the General Assembly that would add criminal penalties to any discipline handled by the school for instances of assault on a teacher, including one that required a minimum of 30 days in jail. The legislature also recently passed a law that would make even a threat of violence a “zero-tolerance” rule, requiring a student to be expelled for a year or more. Another bill made threats of violence directed toward a school a misdemeanor offense. During the 2023 special session, a bill was proposed to make threats of violence toward a school a Class D felony.

 While violence in schools is not an acceptable behavior and must be addressed, these proposals ultimately misunderstand how to best address students with behavior needs manifesting who are unwanted behaviors. These “solutions” deem violence and disruption from violent, disruptive children as inevitable, and thus must be punished rather than prevented. However, a meta-analysis on school-based behavior interventions find that “punishment” is one of the least effective means to improve student behavior, and, in fact, can exacerbate and entrench unwanted school-based behaviors (Sugai et al 2002).

 Previous sections have touched on general education teacher perceptions of students with disabilities, but it’s worth reiterating self-reported data. In Tennessee, 55% of teachers said that disruptions from students with disabilities negatively impacted their teaching, and 35% said they were unprepared to meet students’ behavior needs. In the same survey, 32% said that school leadership failed to effectively “manage discipline and behavior problems”. (Tennessee Department of Education 2023) This last statistic suggests a desire for “punishment” in response to unwanted behavior, given that school principals and other administrators would rarely engage in a classroom-level intervention for a student. The wording of the question also belies a belief that “discipline and behavior problems” are things to be “managed”, rather than things that can be proactively addressed through implementation of evidence-based interventions.

 The underlying causes of negative perceptions of students with behavior needs and a default to punitive behavior practices are likely multiple and complex. The explanation is in all likelihood a combination of historical behavioral practices in schools, a broader cultural preference toward punishment as the primary form of justice, and a lack of knowledge or resources about students with disabilities. For example, despite enormous sums of research demonstrating the inefficacy and harms of the use of corporal punishment in schools, at least 66 school districts in the state continue to permit its use as a consequence for behaviors, as of the 2020-2021 school year. During that school year, 33 districts submitted their required corporal punishment reports, which showed that students with disabilities made up 18% of all instances of use, while only representing about 13% of the state’s student population. It is also of note that 37 districts simply failed to report their policies and/or usage, as mandated by law.

 Again, the perception of students with behavior needs, particularly in the context of Tennessee at this moment, is and would be difficult to measure. The Tennessee Department of Education conducts a teacher survey each year which asks specifically about the challenges in working with student with disabilities, but does not ask questions specifically about students with behavior needs. There are, as cited previously, vague allusions to behavior management and discipline, but these really only serve as poor proxies for this student group.

 However, it is undeniable that the default approach to working with students with behavior needs – in the context of under-resourcing, under-preparation of teachers, teacher shortages and turnover and a lack of supportive services for evidence-based intervention – is regressive and punitive as a rule in Tennessee. This is a sentiment that continues to grow, as evidenced by the continued on ongoing legislative proposals to criminalize and remove students who manifest behaviors in the school setting. Conversely, it is likewise undeniable that this approach is not working, as evidenced by the large achievement gap, high dropout rates and high rates of engagement with the juvenile justice system among this student population in our state.

Part 2: Manifestations

 This section will discuss the use of problematic, counterproductive and harmful behavior policies and practices for students with disabilities in Tennessee schools. Those policies and practices identified in this section could be characterized as symptoms of the underlying, root causes described prior. These praxis-level manifestations are frequent, if unseen, occurrences in Tennessee schools, and directly contribute to factors that sustain the educational gap facing students with behavior needs.

*Manifestation #1 – Formal and Informal Exclusionary Discipline Practices*

 Exclusionary discipline practices are means by which students are removed from the learning environment. Formal exclusionary discipline practices, such as suspension, expulsion, and removal from a given classroom, are common and well-known. These practices have increasingly come under scrutiny as their impacts have become better understood. The literature is substantial in outlining the associations between formal exclusionary discipline and negative school outcomes.

A meta-analysis of 35 studies by Noltmeyer, Ward and Mcloughlin (2015) found a strong inverse correlation between suspension and academic achievement, demonstrating substantial evidence that exclusionary discipline practices are strongly associated with poor academic achievement and higher dropout rates. Jones et al (2018) found that students who faced exclusionary discipline were more likely to feel disengaged with their school, and are subsequently more likely to continue with behaviors that led to their exclusionary discipline in the first place. Some advocates of these policies say that the removals are necessary in order to maintain a positive school climate, but LiCalsi, Osher and Bailey (2021) found that increases in the rate of out-of-school suspension did not improve perceptions of school climate for students or teachers. Gerlinger, et al (2021), in a meta-analysis of 40 primary studies found exclusionary discipline, like suspension, to be a strong predictor of further delinquent behaviors and engagement with the juvenile justice system. The literature clearly demonstrates that exclusionary discipline is not only harmful to the academic and social development of children, it does not achieve the ostensible goal of improving behavior in the short or long term, nor improving a school climate.

Tennessee students with disabilities are disproportionately subject to formal exclusionary discipline practices. In 2021-2022 (the last year of available data), 12.5% of students with disabilities were formally disciplined, which includes in-school suspension, out-of-school suspension, expulsion and transfer to alternative placement (Tennessee Department of Education 2022). This rate of discipline was tied for highest share of a given student demographic group formally disciplined in Tennessee. This is especially concerning because IDEA establishes important safeguards that limit excessive exclusionary discipline, including manifestation determinations and requirements of the school to take affirmative action to address behaviors resulting in frequent removal. This would indicate that despite formal structures meant to address and mitigate behaviors in light of removal, students with disabilities are nonetheless removed at the highest rate of all student demographic groups.

Informal exclusionary discipline practices are almost exclusively directed toward students with disabilities. The practices include, but are not limited to, informal removal, inappropriate homebound placement, excessive use of threat assessments and placements in alternative settings or threats of placements in alternative settings, inappropriate use of in-school suspension and exclusion from school transportation. The use of these practices is perhaps more invidious than formal exclusionary discipline, in part because of their informal nature. They often deny students their rights under IDEA, or use the language and mechanisms of IDEA inappropriately, to deny a student adequate access to educational opportunities. They can be defined as follows:

* **Informal removal:** directives to parents/guardians to visit a child’s school and take them home for the day, often as a result of behaviors manifesting from their disability, without recording the removal as a formal suspension/removal
* **Inappropriate homebound placement:** the placement of a student receiving special education services in the hospital/homebound setting (as defined by IDEA) as a result of behaviors manifesting from their disability, or without following proper protocol as defined by IDEA (including for inappropriately lengthy periods of time)
* **Excessive use of threat assessments:** the use of a threat assessment to remove a student who receives special education services for behaviors that are manifestations of their disability, particularly for lengthy periods of time and/or without progress toward the completion of the threat assessment and/or return to school/alternative placement
* **Alternative placement (or threats of alternative placement):** the placement of students receiving special education services in alternative, non-general education settings (such as an alternative school) in inappropriately and/or frequent instances, without proper intervention and data collection (as defined by IDEA) or under coercive circumstances
* **Inappropriate use of in-school suspension (ISS):** frequent use of in-school suspension, or other formal or informal in-school removal from the assigned education setting, as punishment for behaviors that manifest from a disability from a student who receives special education services, particularly without proper documentation, intervention or instruction.
* **Inappropriate suspension from transportation:** the use of long-term prohibitions from using school-supplied transportation arising from behaviors that manifest from a disability, without providing alternative means to access the school or without due process protections afforded to students with disabilities through IDEA
* **Excessive use of shortened school day:** excessive or long-term use of shortened school day as an IEP intervention for behavior that manifests as a disability, often without adequate intervention and documentation, or no plan or timeline for a return to full school day schedule

It is difficult to document the existence or quantify the pervasiveness of the use of informal exclusionary discipline practices, in part, by nature of their informality. For example, informal removal is impossible to accurately quantify because it is characterized by an explicit lack of documentation. In 2022, the national Disability Rights Network published a report on the use of informal removal across the country, but the report was unable to quantify its use. Otherwise, very little comprehensive literature or data exists on informal exclusionary disciplinary practices for students receiving special education services. Its existence has thus far only documented in anecdotes from parents/guardians whose children have been subjected to the practice. Further, some parents may not fully understand that these practices violate the rights of their children and are in fact detrimental to their child’s progress, which makes them unable to identify the practice as such.

It is likely, however, that the existence of these forms of informal exclusionary punishment are a function of a number of root causes. This would include a lack of special education teachers and support personnel. Without these vital professionals available to provide one-to-one coverage or to support in-school interventions, schools may perceive that they do not have resources available to them to avoid engaging in these practices. This could also be a function of teacher and professional turnover, where school staff are underprepared to effectively engage with evidence-based practices and interventions, and resort to simpler, punitive approaches that have been historically common in schools. These practices also reflect a broader attitude about behavior and discipline, where it is believed that cause-and-effect punishment and consequence, particularly those harsh in nature, are the most effective means for behavior change.

*Manifestation #2 – Inadequate construction, implementation and enforcement of Behavior Intervention Plans and Functional Behavior Assessments*

 Functional Behavior Assessments (FBA) and Behavior Intervention Plans (BIP) are vital components of an IEP for a student with behavior needs. An FBA is a formal process for gathering data and anecdotal information on a student with a disability for the purpose of determining the perceived causes of manifestations of behavior. They are required by federal law (IDEA) in some cases, including for students who have been suspended for more than 10 cumulative school days, or have demonstrated a pattern of disruptive or unsafe behaviors, among other instigating factors.

 FBA’s are conducted by the IEP team, usually with special education teachers, school psychologists, BCBA’s (where available) and school social workers playing prominent roles. An FBA primarily examines behavior in two ways: indirectly, which consists of a review of the student’s records and questionnaires completed by members of the IEP team, as well as systemic direct observation, which includes an analysis of antecedents, behaviors and consequences (ABC) in manifestations of behavior need.

For example, if a student has a behavior need that manifests in angry outbursts, the ABC observation structures asks the observer to determine what happened before the outburst (who is around, who is the teacher, what events were occurring, what was about to occur, etc.), how the behavior manifested (shouting, throwing things, etc.) and what happened after (what did the teacher say, what did the students do, what consequences were levied, etc.). They may see that the student often had outbursts at the beginning of math class, and manifested in loud disruptive behavior, and then the student walked out of the classroom. The team could hypothesize that the function of the behavior is to avoid math class (avoidance), and develop an intervention that better supports the student in math and provides alternative consequences that don’t permit avoidance as a result of demonstrating unwanted behavior.

The literature on the impact of effective FBA’s on the reduction of unwanted behavior demonstrates its benefit. A meta-analysis conducted by Hurl et al (2016) found that behavior interventions informed by FBA’s had far greater effects on reducing unwanted behaviors. Gage, Lewis and Stichter (2017) found that across 69 studies, FBA-based interventions reduced unwanted behaviors by 70.5% for students with emotional-behavioral disorders (EBD). Miller and Lee (2017), FBA-based interventions had significantly higher effects in reducing unwanted behavior than non-FBA-based interventions, and interventions that manipulated the Antecedent-Behaviors-Consequence sequence, informed by an FBA, also demonstrated higher effects. A meta-analysis of 27 studies found that FBA-based interventions delivered in the general education setting showed significant reductions in unwanted behavior and significant increases in appropriate behavior (Walker, Chung and Bonnet 2018).

Behavior Intervention Plans (BIP’s) are intervention plans, informed by an FBA, that are used by teachers to address unwanted behaviors. They may make alterations to instruction, types of support and/or the environment. BIP’s define a student’s unwanted behavior manifestations and outline appropriate replacement behaviors, as well as a mediating intervention meant to induce a student to use appropriate behavior. In some cases, BIP’s may contain crisis plans, which are step-by-step, sequential approaches to addressing acute behaviors that may present a threat to the student or their peers. BIP’s also outline a data collection strategy to assess the effectiveness of the BIP in reducing unwanted behaviors. BIP’s are usually constructed by the IEP team and best practice dictates that they are informed by a recently completed FBA. However, BIP’s are intended to be implemented by all members of the school community, including teachers, administrators and noncredentialled staff.

For example, a BIP for the student in the above FBA hypothetical might define the behavior as “instigating an outburst and absconding from math class” and describes the replacement behavior as “quietly entering the class, being seated and beginning an assignment”. To encourage the replacement behavior, the team may determine that the student should be greeted by a paraprofessional who sees the student to their seat, the use of a token economy to reward the behavior, verbal encouragement to maintain the behavior and an end-of-week reward for demonstrating the behavior with consistency. This represents a change in support (token economy) and environment (paraprofessional at the door).

If the example student iterated above has shown that their disruptions sometimes escalate to dangerous behavior, the BIP may lay out steps to de-escalate the behavior. For example, a simple crisis plan to address this behavior might lay out sequential steps as such: “1. Repeat instruction 2. Reminder of reward 3. New personnel 4. Call parent for verbal intervention 5. Call security team 6. Classroom removal”. The sequence helps to ensure reliable and uniform response from personnel and protects the student from unwarranted and unhelpful consequences.

BIP’s have a strong evidence base within the literature when they are paired with an effective FBA, as evidenced above. However, the positive impact of FBA’s and BIP’s is diminished by their technical quality and the fidelity of their implementation. Blood and Neel (2007) found that many BIP’s lacked a corresponding FBA, were not addressing a perceived function of a behavior and failed to individual responses to behavior based on the student. Charlton et al (2021) found that low quality BIP’s also tended to have low-quality implementation fidelity, further diminishing the impact of the plan. Cook et al (2010) identified treatment integrity, or the thoroughness in which an IEP team accurately and consistently implemented the BIP, as the primary mediating factor in producing positive student outcomes, such as lowering the prevalence of unwanted behaviors.

 The number of FBA-informed BIP’s, the extent of their use, the fidelity of their implementation and the quality of their outcomes is difficult to empirically characterize or quantify in Tennessee. Anecdotally, parents and special education advocates have identified low-quality BIP’s and low-fidelity implementation as common in the state’s schools. This is, in part, because there is no clear oversight of FBA and BIP use, quality or implementation. The Tennessee Code is permissive in its guidance regarding who may construct FBA’s and BIP’s, only directing schools to utilize school psychologists, BCBA’s or other trained school personnel “to the extent possible”. Given the shortage of qualified school personnel available in many schools, as described above, FBA’s and BIP’s are likely often constructed by those unprepared to design and implement these tools effectively. Further, teacher turnover and vacancies likely contribute to a reduction in the capacity to collaborate will *all* school personnel to support the effective and consistent application of a BIP across all settings.

The state does not appear to make data publicly available on the use and implementation of FBA’s/BIP’s, nor is it obvious that any auditing or quality-control exists at the school or state level. This would leave the onus of quality and accountability on school staff. Cook et al (2007) found that the majority of BIP’s were developed by IEP teams without relevant training or expertise, and thus, suffered in quality and outcome. Given the anecdotal evidence that poor BIP construction and implementation are common in Tennessee schools, we may be able to point to a lack of training and/or capacity for their use as a root cause for this inefficacy. Further, the shortage of support personnel, the shortage of special education teachers and the extent of school turnover, resulting in the more extensive use of inexperienced teachers, likely negatively impacts the quality of FBA/BIP construction and implementation.

*Manifestation #3 – Excessive and inappropriate use of restraint and seclusion*

 Restraint and seclusion are two commonly used means by which schools attempt to physically address unsafe behavior. Restraint is defined in two ways: physical restraint and mechanical restraint. Physical restraint refers to the use of holds or other physical restrictions that are intended to immobilize or reduce the free movement of an individual. Mechanical restraint is defined by the use of devices or other equipment (such as handcuffs) that restrict an individual’s freedom of movement. Seclusion is defined as the involuntary confinement of individuals in a given space in which they are physically unable to leave.

 IDEA and federal law are somewhat ambiguous about the use of restraint and seclusion for students with disabilities, both in theory and in practice. IDEA, as well as the ADA, Section 504 of the Vocational Rehabilitation Act and Civil Rights Act of 1964, all prohibit discrimination against students with disabilities, under which the improper use of these tactics has been occasionally litigated. Several of these lawsuits addressed the use of restraint and seclusion against students in instances when behavior was determined to be a manifestation of their disability, essentially arguing that their use discriminated against that student because of their disability.

However, the federal government does not extend specific or explicit limitations or regulation on the use of restraint and seclusion in schools, only providing “guidance” and “principles” and distributed to the states. This differs from the federal government’s approach to restraint and seclusion in juvenile justice and mental health facilities, where the use is strictly regulated. States are thus left to enact their own rules and regulations around restraint and seclusion, creating an array of varied policies and practices with differing purposes and effects.

 However, the federal government and courts have historically recognized the harms that stem from the use of restraint and seclusion for students with disabilities. In 2009, the Government Accountability Office (GAO) released a report documenting severe cases of misuse and abusive use of restraint and seclusion practices resulting in physical harm and death to students (Government Accountability Office 2009). In 2012, the Federal Department of Education (DOE) published a “resource document” advising schools to make every effort to avoid the use of restraint and seclusion, and to build support systems to prevent their use (US Department of Education 2012). In 2016, the United States DOE further emphasized, in a “Dear Colleague” letter, that schools should never use restraint or seclusion as punishment for behavior, and that they should only be used in emergency situations in which the safety of a student or their peers is in jeopardy (US Department of Education 2016). Since these advisements, the DOE and Office of Civil Rights (OCR) have instigated litigation against numerous states and school districts for their inappropriate and/or excessive use of restraint and seclusion against students with disabilities.

Some states have likewise passed legislation attempting to crack down on the inappropriate use of these practices, including Tennessee. The state code sets strict guidelines on the circumstances in which restraint and seclusion is permitted, as well as thorough reporting requirements (T.C.A. § 49-10-13). However, both the existing data, as well as the experiences of children with disabilities and their families, show us that these practices are still routine and commonplace in Tennessee schools.

The literature on both restraint and seclusion likewise demonstrate its disproportionate use against students with disabilities, as well as potential physical, psychological and educational harm they can cause. Katsyannis et al (2021) found that students with disabilities were 200% more likely to be subjected to restraint and seclusion as compared to their peers without disabilities. In a year’s long investigation and expose published in CT Insider, Johnston et al (2022) found at least 85 deaths of young people associated with the use of restraint and seclusion since 1989. Mohr, Petty and Mohr (2003) found that the use of restraint was associated with a wide variety of physical harm, including asphyxia, rhabdomyolisis (death by exertion), aspiration and blunt-force trauma. A meta-analysis of 35 studies, conducted by Cheize et al (2019), found that restraint and seclusion were associated with “deleterious physical and psychological consequences”, including post-traumatic stress disorder. There is little to no research available that demonstrates even marginal benefits to the use of restraint and seclusion for students with disabilities.

During the 2022-’23 school year, Tennessee students were subjected to restraint or seclusion 10,394 different times. This resulted in 274 injuries to students and 917 injuries to staff. In 61 instances, parents were not notified within 24 hours, as required by law. 1,380 different students with disabilities were restrained or secluded at school, but it is not reported how many times in total students with disabilities were subjected to the practice (students subjected more than once only count one time) (Tennessee Department of Education 2024).

These counts may also represent an undercount. The US Government Accountability Office found that up to 70% of school districts across the country erroneously reported zero instances of restraint and seclusion, and 600 schools across the US reported more students subjected to these practices than instances of the actual practice (GAO 2020). Given the failure of 37 Tennessee schools to report their corporal punishment data, it is likely that Tennessee is drastically underreporting the use of restraint and seclusion.

The excessive and inappropriate use of restraint and seclusion against Tennessee students with disabilities is likely a function of numerous root causes. Primarily, these practices are likely functions of poor training and preparation of teachers in the state to address unwanted behavior by functional, safe and empirically sound means. Given the lack of teacher-candidate preparation offerings/requirements specifically oriented toward working with students with behavior needs, it is unsurprising that restraint and seclusion are used inappropriately and unsafely. This may also be a resource and capacity issue, with classroom teachers under-resourced and unable to proactively address behaviors or de-escalate crisis situations, leading to the use of restraint and speculation out of a perceived need to ensure safety. Likewise, the lack of licensed specialists and related service providers likely leads to a mismatch between student needs, interventions and resources.

*Manifestation #4 – Poor praxis*

 In education, praxis refers to the ability to enact and apply empirically- and situationally-sound theory and skill in the classroom setting. In this case, poor praxis, whether it be a function of systemic root causes of educational shortcomings or the inability of the practitioner, is the use of ineffective, inefficient, counterproductive and unproven strategies to educate students. We can broadly characterize praxis as the quality of good teaching. This is often measured by teacher evaluation, but the subtleties of high-quality teaching, the situational necessity for instruction or intervention and the impact of quality (or poor) teacher-student relationships is nearly impossible to quantify. To that end, teacher evaluation, as a quantifiable measure of quality praxis, lacks quality evidence (Hallinger, Heck and Murphy 2014). We can also look at student outcomes, which is a commonly used metric for school or teacher quality. Under the latter metric, given the disparate and negative outcomes for students with behavior needs, the unique praxis of teaching this population is sorely lacking in Tennessee.

 As noted, praxis is a difficult, if not impossible, object to evaluate in its cumulative entirety. A “good” teacher is debatable, and even such a “good” teacher may not be equally “good” for all students in all moments and in all circumstances. As such, this section will not attempt to quantify, qualify or compare the relative quality of praxis available to students with behavior needs in the state. This section instead will first attempt to demonstrate poor practice through outcomes data, and then attempt to draw a line between root causes and anecdotal instances and evidence of poor praxis.

 As previously mentioned, educational, social and long-term outcomes for students with behavior needs lag behind their peers with other dishabilles, as well as those without disabilities. And to reiterate, students with behavior needs exist across disability lines and do not represent a homogenous, easily identifiable group. Thus, this paper will attempt to use proxies for “students with behavior needs” to demonstrate this gap.

 One of the most widely cited metrics of student success broadly is graduation rate. During the 2020-2021 school year (the last year of comparable published data delineating student groups), students without disabilities graduated at a rate of 88.7%. Students with disabilities graduated at a rate of 71.3% (Tennessee Department of Education 2022). However, students with an “emotional disturbance” as identified in their IEP, graduated with a regular diploma at a rate of 38.7%. Students with “emotional disturbance” very clearly manifest behavior needs, but other forms of disability may as well, including some manifestations of autism. Only 47.3% of students with Autism graduated with a regular diploma (Tennessee Department of Education 2022). Again, not all students with autism manifest behavior needs, and those that do also don’t always manifest at the same intensity, but its worth noting that even with an increased focus on meeting the needs of students with Autism, fewer than half of those students graduate in a given year. Of note, data taken from the 2020-2021 school year should be considered in the context of remote learning and the disruptions of the Covid-19 pandemic to the state’s public schools.

 Another commonly accepted metric for student success (or in this case, lack of success), is dropout rate. In Tennessee, during the 2020-2021 school year (the only year dropout data is published on the TDOE website), 6.1% of students without disabilities dropped out of the school system. Students with “emotional disturbance”, during the same school year, dropped out at a rate exactly double that of their peers without disabilities, at 12.2% (Tennessee Department of Education 2021). Wagner et al (2006), in an examination of the National Longitudinal Transition Study, noted that the top two reasons students receiving special education services dropped out of school were their “dislike of school experience” and “poor relationships with teachers and other students”. These factors are both functions of multiple root causes cited above.

 As previously noted, quality praxis is difficult to accurately or empirically measure. Thus, the following are anecdotes from real parents of kids with disabilities that manifest in behavior needs. These vignettes characterize and reflect their lived experiences with Tennessee schools, and accurately depict a snapshot of the everyday instances of poor praxis that exist in Tennessee schools.

*Parent #1:*

*A key issue in my daughter’s behavior issues at school has been a tendency for the teachers and paraprofessionals (special education aides) who are working with her to “micromanage” every moment of her day. My daughter repeatedly demonstrated a resistance to feeling scrutinized and pressured or controlled. Her teachers and paraprofessionals really struggled to know how to support her with enough flexibility to allow her a sense of agency in the school environment. She has had a formal behavior plan in place, with support from a district behavior consultant, since kindergarten. The entire school team was trying hard, but we continued to see behavior that communicated all was not well. It had escalated to increasing issues with my daughter running out of the school building. Besides the obvious safety issues, we were deeply concerned that school felt to her like a place she needed to escape.*

*It wasn’t until 4th grade that a new behavior consultant was able to immediately identify that my daughter was reacting to feeling pressured and scrutinized. The new consultant was able to show the teachers and aides ways to support with more autonomy and flexibility. As the new strategies were implemented, the behavior issues immediately tapered off. It took an expert who truly understood what my daughter was trying to communicate AND how to train her team in more flexible strategies for things to turn around. Teachers get little formal training in behavior support strategies, and teacher’s aides/paraprofessionals often have no training at all. In my experience, it often takes someone with expertise in mental and behavioral health for students with disabilities to help the education team get to the root causes and develop strategies that work for that individual student.*

*Parent #2:*

*My youngest son has a medical diagnosis of Autism Spectrum Disorder without intellectual or language impairment (level 2 support needs), ADHD-Combined Presentation, Generalized Anxiety Disorder, and Generalized Mood Disorder. Those are his disabilities. They are what we refer to as invisible disabilities. Visible or not, just like any other disability, he requires support and accommodations to allow him to access things that most take for granted, specifically in regulating his nervous system which is linked to his overall behavior. He is incredibly bright, witty, kind, a proud young Tennessean and American, and determined to do his absolute best at every given opportunity.*

*Unfortunately, we had to remove our son from the public school system in TN because he was unable to access a safe and effective Free and Appropriate Public Education. Not only was he falling desperately behind in his academics, school became dangerous to his mental and physical health as well as the overall health of our family. From 1st grade through 5th grade he experienced isolation and exclusion at the highest degree, punishment for disability specific incidences, he had been shut in a padded room and placed in painful holds on multiple occasions. We had been called up to the school to pick him up and take him home so many times it ended in a homebound placement for months. Every attempt to get him back into the classroom ended with the same offer of accommodations that had failed him time and time again. At one point the school did offer a 30 minute cognitive behavioral session per week which is not a recommended therapy for his age or diagnosis.*

*Every time we requested they try something new we were met with predetermination responses: “Our district policy is…” “We don’t do that in our district” “That goes against district policy even if your child may show progress...”“That may work but we don’t offer that at our school...” The list goes on and on and the crazy thing is that they just kept wanting to stick with all the things that had proven to not work time and time again. It was maddening.*

*Throughout almost five long years in the Tennessee special education setting our child's mental health had declined so badly that we were on suicide watch multiple times. I’ll never forget my 7 year old coming home from school telling me that he just wanted to die because everyone hates him and his teacher doesn’t like him. After years of failures in the public school system we feared for our son and we were exhausted with the hopelessness of him ever getting the chance to receive accommodations that would allow him to access his education and the inclusiveness that comes with being a child in school.*

*Tennessee schools, even in the wealthiest counties, seem understaffed and undereducated in supporting children with similar needs to my son, as well as many other disabilities. Based on my subjective observation, many educators are downright exhausted and don’t seem to understand the laws that protect children with disabilities. In many cases our educators feel helpless and unsupported by their administrators, with so many spinning plates to attend to. This directly led to the types of missteps, shortcuts and downright harmful actions taken by the school in working with my son.*

While anecdotal, these vignettes the aptly represent the experiences of many families of students with disabilities struggling against the systemic issues inhibiting the education of their child. Both experiences very much highlight the lack of resources, both human and capital, available to schools to meet these children’s needs. From shortage of qualified and skilled specialists, to district policies that lock up valuable, evidence-based tools and interventions behind closed doors, these experiences very much embody the state of special education for students with behavior needs in Tennessee. Likewise, we see evidence that perceptions of and attitudes toward these two children negatively impacted the lengths their schools were willing to go to support them and their families. Finally, these schools give the impression that that they are underprepared to work with students with behavior needs – their policies encourage shortcuts and rights-violating behaviors not founded in evidence, their special education teams struggle to match services with need appropriately and teachers are unable to implement routine and systemic interventions at the classroom level. While these decision-makers may be lacking in the tools they require to meet these needs, their violations of IDEA, their use of isolation and restraint and their unwillingness to collaboratively problem-solve ultimately betray poor praxis at the school and classroom levels.

Part 3: Policy Options:

The following policy options represent potential policy solutions to begin to address the root causes and manifestations of the poor educational experiences and outcomes facing students with behavior needs. They following is not intended to be entirely comprehensive, and is not intended to address other societal and environmental factors that contribute to the student manifestations of behavior need. These policy options are categorized by the problem statement they are intended to address.

*Problem Statements:*

The following problem statements attempt to synthesize the preceding root causes and practical manifestations leading to the documented failings of our state’s public schools to comprehensively meet the needs of Tennessee students with behavior needs:

* Problem #1: General Education and Special Education teachers, support staff and administration are inadequately prepared to work with students with behavior needs, leading to the use of ineffective, dangerous, counter-productive and rights-violating behavior practices
* Problem #2: schools lack the capital and human resources necessary to implement evidence-based and best-practice behavior strategies, which leads to lack of behavioral progress in IEP’s, exclusionary discipline practices and missed instruction and socialization
* Problem #3: classroom-, school- and state-level data practices obscure both root causes and symptoms of poor special education behavior practices, which limits the ability of schools, teachers and the DOE to implement fixes for chronic issues

Policies:

* Problem #1: General Education and Special Education teachers, support staff and administration are inadequately prepared to work with students with behavior needs, leading to the use of ineffective, dangerous, counter-productive and rights-violating behavior practices

*Policy Option #1: develop and institute an academic and behavioral specialist license (ABS) for Special Education teachers who intend to work primarily with students with behavior-manifesting disabilities*

In 2012, the Minnesota Board of Teaching approved a new licensure category, called Academic-Behavioral Specialist (ABS), that was intended to license teachers who worked with students with behavior needs, regardless of their disability diagnosis or IEP categorization. Teachers holding an ABS are permitted to teach students with mild-to-moderate disabilities (settings I and II), in the general and special education setting, and across the disability spectrum. ABS license-holders could also teach students with “severe” disabilities (setting III) with a state-issued exemption, usually applied for by school or district administrators.

Teacher candidates enrolled in ABS licensure programs take specialized coursework that prepares them to effectively collect academic and behavior data and design data-informed classroom systems and individual interventions to address students’ needs. For example, ABS students at the University of Minnesota take such courses as: “Classroom Management and Behavior Analytical Problem Solving”, “Academic and Social Interventions”, “Interventions for Behavior Problems in School Settings” and “Assessment and Due Process in Special Education” (University of Minnesota n.d.) ABS licensure candidates are often currently working in schools as special education assistants and aids, and classes often convene in the evening and on weekends.

Tennessee could consider the development and adoption of an ABS-style licensure category to begin to build a cohort of specialized educators to work with the state’s students with behavior needs. Like the example in Minnesota, Tennessee currently has an “Office of Educator Licensure and Preparation”, which would likely design such a program and work with Teacher Preparation Programs (TPP’s) to implement them. The State Board of Education (SBOE) would likely need to promulgate rules around the specific permissions of an ABS-licensed teacher in Tennessee as well. The General Assembly could propose and pass such legislation directing these entities to collaborate in the development and implementation of a Tennessee ABS licensure.

*Policy Option #2: require Teacher Preparation Programs to offer or require a course on behavior data collection practices and evidence-based interventions to all aspiring teachers*

 As noted previously, many TPP’s in Tennessee offer few courses designed to prepare future teachers to work with students with behavior needs, and fewer require such a course for graduation. This can contribute to skill deficits and mismatches in teaching this population for both General Education and Special Education teachers. While the state mostly defers to TPP’s to establish their course schedules, the state could urge or even require TPP’s to offer and/or require courses specific to working with students with behavior needs. As the previous research showed, teachers who took even a single course related to behavior data collection and intervention were more comfortable teaching students with behavior needs and were more likely to implement and persist in classroom interventions. This policy option creates schools and cultures that are more prepared and knowledgeable about working with students with behavior needs, leading to greater collaboration, understanding and efficacy.

*Policy Option #3: Create and require professional development for implementing school- and classroom-wide evidence-based intervention and acute behavior de-escalation*

 The state offers broad discretion to local districts to create and offer professional development training to their teachers and staff. The Tennessee Department of Education also develops trainings and offers them to districts, and works with districts to build trainings that address the specific needs of their local schools. However, professional development trainings are often offered by districts as a suite of options in which teachers choose a training to attend. This can lead to lost opportunities for teachers to improve instruction for students with behavior needs.

While the research on the effectiveness of teacher professional development training in improvement specific skills is mixed, the state could develop several engaging and practical seminars that supports teachers in learning evidence-based approaches, strategies and interventions that they can use in their classroom. Furthermore, the state could choose to require such a course in a given school, particularly if that school struggles to meet the behavioral needs of its student body.

*Policy Option #4: Provide capacity for schools to train support staff to collect behavior data and support behavioral interventions, including implementation of Individualized Education Plans and Behavior Interventions Plans*

 One of the most common responses to the state’s annual teacher survey amongst special education teachers was the lack of time to properly provide individualized instruction. Given that the primary role of an educator is to provide instruction, it is likely that the lack of time for the other tasks associated with being a special education teacher – developing IEP’s, writing BIP’s, parental communication, supporting general education teachers and, importantly, collecting adequately extensive and actionable data – is also insufficient. Collecting good data is vital to developing appropriate IEP’s, FBA’s/BIP’s, interventions and individualized instruction, which are necessary for academic, social-emotional and behavioral progress.

 Fortunately, self-contained classrooms and inclusion classrooms usually include the work of support staff, such as paraprofessionals and special education assistants. These vital cogs often support instruction and behavioral remediation, and provide one-to-one and small group support in the classroom environment. While special education teachers are trained in data collection and interpretation, classroom support staff very often are not. By providing training in order to develop this skillset in support staff, special education teachers will likely have more time to provide individualized instruction and implement behavior interventions, and both of these strategies will be more efficacious because the classroom has richer, more impactful data. Further, it better informs the other work of special education support staff and helps to grow and improve their practice.

 The state could direct the Department of Education to develop such a training (if it does not already exist), and direct the SBOE to promulgate rules around the training of support staff. However, the training itself and its mandatory or voluntary offering is only possible if there are enough human resources available to permit time for such a training. The state could increase the capacity of schools to hire additional educational assistants who could rotate or temporarily replace special education assistants during training. The state could also choose to develop a special education assistant training series that is implemented during the summer or evenings by earmarking money to pay support staff to attend during out-of-school time.

* Problem #2: schools lack the capital and human resources necessary to implement evidence-based and best-practice behavior strategies, which leads to lack of behavioral progress in IEP’s, exclusionary discipline practices and missed instruction and socialization

*Policy Option #1: enhance the ability for schools to hire additional behavioral support staff and licensed specialist practitioners (OT/PT, SLP, therapists, school psychologists, etc.)*

 The state could pursue a number of options for training, recruiting and retaining more behavior support staff and licensed specialist practitioners. One commonsense option could be raising pay for these important school personnel, including raises or bonuses to encourage retention. The state could choose to achieve this goal by setting aside funds obligated for this purpose, such as in a special trust or as a direct subsidy to the existing TISA formula. The state could also choose to include maximum caseloads for specialist practitioners that require schools to use TISA funds to meet such a requirement.

 The state could also work to encourage the development and recruitment of new practitioners. This could include policies such as student loan forgiveness, state-issued scholarships, career and technical education (CTE) programming and grow-your-own occupational pipelines. The latter could be an important and innovative means to build out experienced and well-trained school personnel. Indiana conducted a study that identified the demographics of direct support professionals (DSPs) who chose to advance their careers by becoming CNA’s, and then recruited and supported them in this pursuit. The state could pursue a similar grow-your-own program, in which the state identifies noncredentialled existing school employees and created a pathway for them to grow into school psychologist, assistant behavior analysts and/or social workers. By reshaping schools as a reliable mechanism of upward career mobility for noncredentialled personnel, they may become destinations for employment and improve retention of existing staff.

*Policy Option #2: Incentive retention of Special Education teachers and related service personnel through bonus payments, salary-increases, student-loan forgiveness, continuing education scholarships, career ladder development, etc.*

 The retention of quality special education teachers and related service personnel has tangible benefits for students with behavior needs. First, teachers and staff with greater service time, particularly in the same school setting, are better equipped to work with kids with more complex needs. They have better relationships with their peers and work more effectively and efficiently in a given school environment and culture. Second, they are more effective teachers, period. The longer an educator teaches, the larger reserve of effective strategies they have developed and the more experienced they are with student behavior scenarios.

 The state could choose to engage numerous tools to keep teachers and specialists in their current position. A study of a teacher-bonus pilot study conducted in Tennessee found that a $5,000 bonus earned through retention in the state’s “priority schools” demonstrated a small but causal link between the bonus and teacher retention. The state could expand such a program to target special education and adjacent positions in hard to staff regions, grades and schools (Springer, Rodriguez and Swain 2014). Gamwhari and Abu-Tineh (2023) found that a large contributing factor to teachers leaving the profession is the nature of the role – in this case described as a “flat profession”. That phrase refers to the lack of career ladder or opportunities for multi-directional career path. Developing and establishing creative opportunities for teachers to grow in the profession could keep teachers in their positions, and build better support systems that reduce the strain on their capacity.

*Policy Option #3: Dedicate Special Education weights derived from TISA for Special Education delivery; change weighting formula from setting-based to IEP-based and re-examine Special Education benchmarks in bonus incentive funding*

In 2022, the General Assembly reformed how Tennessee public schools are funded, moving away from the attendance-based funding model in the Basic Education Plan (BEP) to a student- and need-based funding mechanism. TISA applies “weights” or “multipliers” to the base funding for students who have educational needs or circumstances that are associated with higher costs, including students with disabilities. To design these weights, the state Department of Education adopted the BEP’s classification of special education need, which associates weights with the amount of time a student receives special education services and in what setting.

This replication of the BEP has the potential to incentivize over-placement of students into more restrictive settings, but also fails to assure that weights gleaned from the degree of student special education need are designated for that purpose. For example, a student may receive 20 hours of special education services a week, which equates to a “Unique Learning Need” (ULN) designation of 7, which sets aside 180% of the base-level funding to account for that degree of need. TISA does not require, nor necessarily associate, the designation of those funds to be used for special education services.

However, other states that use a “weighted funding formula” such as TISA have more effectively ensured that funds designated for special education services are used as such. Florida in particular has developed a model that ensures necessary funds for special education-related services, while helping to direct those funds for that purpose. Florida uses a “matrix of services”, which is essentially a list of supports and services that are found in a student’s IEP. The matrix of service is completed during an IEP meeting, in collaboration between parents, teachers, specialists and administrators, in which the team identifies necessary services to generate a “score”, which establishes the “weight” or “multiplier” for that student. This directly connects specific dollar amounts to specific services, and helps to provide accountability that services found in a student’s IEP are paid for and delivered to that student. Tennessee could choose to redesign TISA’s “unique learning needs” in the model that has been used for decades in Florida, to great success, and help ensure that resources are efficiently and effectively directed to student need.

The state could also choose to redesign its “outcomes funding” for schools. TISA establishes this type of funding to incentivize schools to focus on generating specific beneficial school outcomes for students. There is a specific outcomes funding for students with disabilities, where should a student reach 2 out of 3 designated benchmarks, the school can earn approximately an additional $700. However, the way that the outcomes bonus for students with disabilities is designed makes it extremely difficult for any student/school to achieve, and is far more narrow in scope than any other outcomes bonus.

To earn the bonus, schools must support a student with a disability in graduating with a general education diploma, demonstrating proficiency in the state alternate assessment and/or enrolling in a higher education or occupational training program. However, it is unlikely that a student who takes the alternate assessment would be on track to graduate with a general education diploma, or that a student with a general education diploma would be enrolling in vocational rehabilitation for employment. Further, only a high school senior could earn such a bonus, which is far more restrictive than other demographic-specific outcomes bonuses.

Tennessee could choose to redesign the outcomes bonus to be more achievable for students and schools, and broaden the scope of students who could possibly earn a bonus. The state could choose to simply associate bonuses with IEP goal achievement. This would incentivize schools, from K-12, to construct better, more individualized IEP’s, and encourage instruction and intervention that are more directed toward achieving those goals. Given that IDEA and special education is foundationally individualized, most other options for outcomes bonuses are too generic, and encourage schools to make their instruction and intervention for students with disabilities more generic. Choosing IEP goal achievement is outcomes-based, achievable through the state’s IEP writing and monitoring platform, and individualized to student need.

*Policy Option #4: Invest in and increase utilization of existing statewide, school-, home- and community-based intervention programs (TNTAN, TN Start, mentorship, anti-poverty programs, etc.), and work to develop other targeted intervention programs to support teachers and staff in working with students with behavior needs*

Tennessee already funds and operates several capacity-building and -strengthening programs designed to help schools support students with behavior needs. These programs are evidence-based and operated by dedicated, specially-trained staff. By investing in and increasing utilization of these programs, the state can support teachers of students with behavior needs, and permit time, energy and resources to be directed more broadly within the school.

 TN-TAN is the state’s “technical assistance network”, and provides training, resources and on-the-ground support for schools to help them better serve their students with behavior needs. The network focuses on several important areas, including “intensive behavior” and Autism. They can help families get early intervention services for their children, and provide training to schools to facilitate increased family engagement in special education. Further, they help schools develop school-wide interventions, including tiered support systems. TN-TAN partners with TRIAD at Vanderbilt University to inform and implement evidence-based behavioral intervention for students with high levels of behavior needs (particularly students with Autism).

 TN START is a home- and community-based intervention program that supports families and schools in working with children with acute, crisis-level behavior needs. It is operated by the Department of Intellectual and Developmental Disabilities. The program functions across systems – between family and school – to build comprehensive support around a child with on ongoing complex behavioral or mental health need. Referrals can be made through the family, through schools, through service providers or health professionals. The program also operates a 24/7 crisis intervention program, where experts in intellectual disability work alongside crisis stabilization teams to support the child in crisis. START operates in 5 regions across the state, but lacks the capacity to meet the extensive demand for their services statewide.

 The state could also consider a wide variety of interventions targeting factors that contribute to the development of a behavior need. For example, childhood poverty is strongly associated with the behavioral and emotional issues. Similarly, certain parenting styles are likewise associated with higher and lower degrees of behavioral health. The state could make efforts, for example, to reduce early-childhood poverty or provide higher levels of support for new parents in order to stunt the development of a long-term behavior need.

 Ultimately, the state can choose to build upon existing, high-quality and evidence-based interventions to support families, teachers and schools more effectively work with students with behavior needs. In some cases, interventions can help diminish he acuity and prevalence of behavior needs. Investing in the capacity of these interventions and supporting their increased utilization can increase the respective capacities of families, teachers and schools while providing immense educational, emotional and behavioral benefits to Tennessee children.

* Problem #3: Classroom-, school- and state-level data practices obscure both root causes and symptoms of poor special education behavior practices, which limits the ability of schools, teachers and the Department of Education to implement fixes for chronic issues

*Policy Option #1: enforce reporting requirements for state laws (corporal punishment, isolation/restraint, teacher’s discipline act, attendance, etc.)*

 The state, through both rule and code, has existing and important reporting requirements that help to document behavioral intervention strategies and identify trends that permit informed policy interventions. However, those important requirements are often unenforced. This lack of enforcement, in both the policy and public spheres, helps to obscure salient issues with behavior practices, policies and supports and leads to misaligned efforts to resolve them. In other cases, reporting requirements serve as protections for students with disabilities, and the lack of accurate and timely data permits poor and sometimes illegal behavioral practices in Tennessee schools.

 For example, in 2021, 37 school districts simply failed to report their use of corporal punishment to the state, as required by law. The state’s own Department of Children’s Services Education Division failed to report its use of corporal punishment on students in state custody. The state recently published a spreadsheet with instances of corporal punishment data, noting that the data was gleaned from the state’s Education Information System. However, this spreadsheet is not a report similar to that of previous years, and its lack of clarity on policy and usage diminishes the impact of reporting. The Department of Education appears to have failed to publish any data or a report for the 2021-2022 school year.

 Similarly, the Teacher’s Discipline Act, passed in 2021, contains a requirement that school’s report their implementation of the law to their local boards of education yearly. From that information, the state’s Education Commissioner is to issue a report to the General Assembly in February. The state has yet to publish such a report. It is possible that this information is found in the Annual Report from the Office of Safe and Supportive Schools, but the link to the most recent report on the state’s website is broken.

 It is vital that the state be as transparent as possible about the use of policies and practices that have the potential to negatively impact students with disabilities. The reporting requirements in these rules and laws are included in the text with purpose, and it is intended that the practice therein be closely monitored for its effectiveness, as well as its potential for abuse. The state could choose to consolidate its required data reporting into a single, publicly accessible dashboard. Lawmakers could also present legislation more explicitly directing the Department of Education to consolidate this data and present it publicly to the General Assembly. Further, the state could impose penalties for districts that fail to comply with state law regarding data and reporting. x

*Policy Option #2: reconstitute state level Department of Education Special Education division to be responsible for collecting required data, reporting data and outcomes, implementing and enforcing laws and training/supporting school personnel*

 In 2021, the state Department of Education reorganized the special education division within the department, dispersing the personnel among the various academic divisions. The justification for the reorganization was that these employees with specialized knowledge about the needs of students with disabilities could now infuse this expertise in instructional strategy. However, one of the primary functions of the special education division was to oversee the implementation of special education services, and ensure compliance with special education law. They did so through trainings, investigations, mediation and application of IDEA’s due process protections.

 In the absence of this division, it is difficult to foresee meaningful change in the implementation of IDEA or continuous improvement in special education provision. While it is difficult to quantify the impact of the dispersion of special education expertise, we have seen a reduction in dispute resolution and mediation processes since the change. This could indicate that the state and LEA’s are more thoroughly implementing special education provisions with fidelity, or they are less able and/or willing to address shortcomings (outside of the paying compensatory education funds, to which data is not publicly released).

 In theory, however, focusing special education experts within the state toward implementation of IDEA, rather than embedding academics, would likely lead to greater implementation fidelity. Further, the state could also choose to distinguish between these tasks; focus some special education experts on IDEA implementation and some on embedding special education principles in academic instruction. Ultimately, re-composition of the special education division would demonstrate a focus on improving special education services in Tennessee, which would likely lead to an improved educational experience for students and their families.

*Policy Option #3: Commission the Office of Research and Educational Accountability (OREA) to conduct an independent investigation of the use of informal exclusionary discipline practices in the state of Tennessee.*

 Given the informal nature of the use of these exclusionary discipline practices, their existence and prevalence are impossible to establish without explicit examination. In order to begin to address these practices – through policy, rules and/or regulation – these practices must be identified and validated beyond anecdote. The state of Oregon, following years of litigation, conducted an independent study of the use of informal removal, conducted by a neutral 3rd party. Upon completion, the study was able to establish that this practice existed, its use was widespread and that it harmed the education of kids with disabilities.

 OREA is an independent research division within the Tennessee Comptroller of the Treasury’s office, who conducts research at the request of legislators. This office represents an independent and impartial mediator of the issue who can provide objective information and data about the use of informal exclusionary discipline practices in the state’s schools. By conducting such a study, legislators and advocates could begin to address these practices, find evidence-based replacements and reduce the unjust and often illegal exclusion of Tennessee students with disabilities.

*Policy Option #4: direct the Tennessee State Board of Education (TSBOE) to strengthen rules regarding Functional Behavior Assessment and Behavior Intervention Plan development and implementation to ensure that only qualified professionals develop them, and monitor for quality*

 Currently, TSBOE policy directs schools and special education teams under what circumstances an FBA and BIP must be conducted, and how those should be done. The language states that “To the extent possible, the FBA process shall be led by a school psychologist, Licensed Behavior Analyst, or other School Personnel trained to conduct FBAs.” Given the shortages of qualified professionals, including school psychologists and BCBA’s that exist in the state and is noted in this white paper, many FBA’s and BIP’s are conducted by ill-trained personnel, and their quality reflects that reality.

 Further, while the state samples and evaluates IEP’s for quality and compliance, they do not appear to do the same for FBA’s and BIP’s. Statewide anecdotal evidence demonstrates that BIP’s are often not informed by FBA’s, and are structured with boilerplate language and interventions, including crisis intervention plans. As noted previously, BIP’s are extremely valuable tools for both educators and students in addressing behavior needs, given they are informed by an FBA. Unless the state is actively committed to improving their construction and implementation, this will continue to be a diminished tool with diminished impact for students with disabilities.

 The state could choose to direct the TSBOE to propose rules that permit only qualified and/or trained professionals to conduct FBA’s and construct BIP’s. The state could also implement quality monitoring practices by sampling FBA’s and BIP’s, as they do IEP’s, in order to evaluate shortcomings. Those shortcomings could then be addressed through directed training, rules and regulation and/or legislation.

Limitations:

 This white paper does not purport to be a comprehensive evaluation of the state of education for students with behavior needs. It is intended to highlight several notable issues in the delivery of a quality education and actualization of IDEA for this student group. It is likely that there are other root causes and/or manifestations of the indisputable shortcomings facing the education of students with behavior needs, as well as other potential policy solutions that would benefit their education. This paper also suffers from a shortage of available data, including timely data, as well as data not collected by the state. Thus, some estimations are just that, and cannot be conclusively confirmed to be entirely accurate.

 Further, given the unique nature of disability at the individual level, the white paper cannot and does not account for all variations of disability or manifestation across the disability spectrum. Some populations with the subgroup “students with behavior needs” suffer the effects of these policies and practices more acutely than others. Likewise, some schools, administrators, teachers, related service professional and other special education personnel, may better meet the needs of students with behavior needs than others, which varies their outcome. Thus, the variables to be considered within this paper are many, and not fully accounted for here. This paper is merely attempting to begin a dialogue, based on the real experiences of students with behavior needs and their families, by representing a partial snapshot of the landscape informed by data and research.

 In addition, there are other issues not addressed in this white paper that impact a student’s disability, behavior manifestations and achievement in school. This paper does not discuss the impact of poverty and socio-economic status, regional differences in practice and policy, environmental impacts or the presence of trauma. This paper does not discuss the issues within and the impact of pre-kindergarten intervention and early childhood special education, the implementation of additional non-school-based supports, interventions or therapies, or a family’s ability to access those.

**Conclusion**:

Over four decades of the federal Individuals with Disabilities Education Act (IDEA) undeniably demonstrates that the system works, and not just for students with disabilities; the entire educational system benefits from its strong implementation. IDEA is not perfect, however, and its benefits do not extend equally to all students. Students with behavior needs continue to lag behind their peers in nearly all markers of student success, and most efforts to address their needs dramatically miss the mark.

In the way that IDEA aimed to drastically and comprehensively improve the education of kids with disabilities, we must aim equally high to drastically and comprehensively improve the education of students with behavior needs. However, all efforts intended to begin improving the education of students with behavior needs must be founded in improving the application of IDEA, not in sidestepping it. Further, it must be rooted in the core beliefs of IDEA: that academic, social and behavioral deficits are functions of a disability, and with full and efficacious implantation of IDEA, students with any disability CAN learn and succeed in our public schools.

Tennessee can and should lead the way for students with behavior needs. But first, we must chart a path forward, and that requires that we critically evaluate how our schools work with these students and humbly identify our shortcomings. It is the purpose of this white paper to begin to chart our course. This work must be extensive and comprehensive, and will require that we not only to change our policies and practices around these students’ needs, but also address pervasive beliefs about who these students are and they can achieve. IDEA changed education for kids with disabilities forever; we can do the same for students with behavior needs.

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