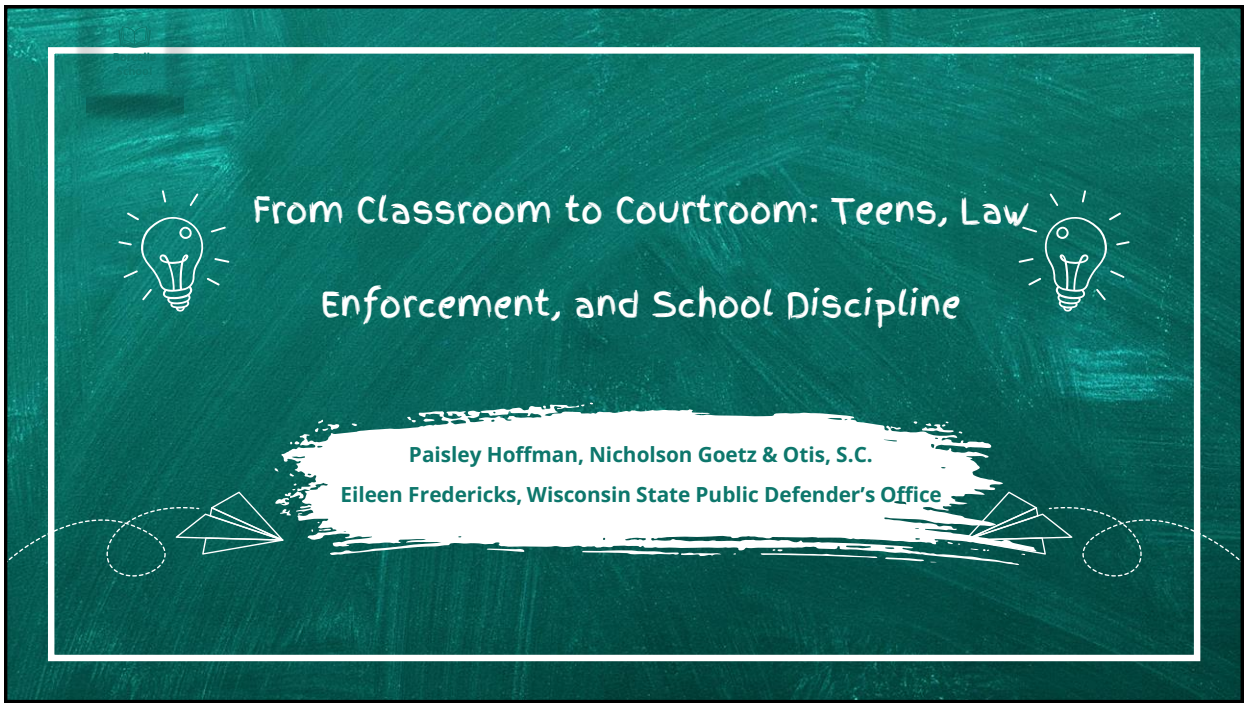


Continuing Education

Judicial Officers - .5 credits

- CCIP will send attendance list to Office of Judicial Education
- Must attend entire webinar for credit
- If watch webinar recording, email ccip@wicourts.gov for COA

Attorneys - 1.5 credits

- Applied for CLE credits, including GAL-Minor
- Search under "Live Webcast" for location

Social Workers - 1.5 hours

- Attendee must enter the webinar as an external training in PDS Online to earn Continuing Education Hours



Roadmap

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

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

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



Roadmap

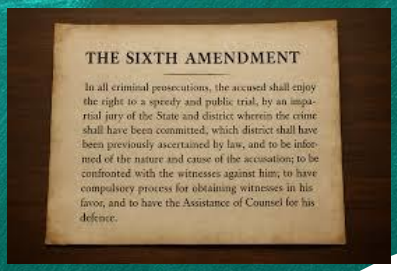
01 Criminal and Juvenile Law in the School Setting. The Legal Rights of Students.

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

Common Offenses in Schools

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

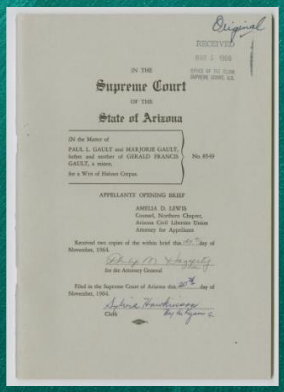
Interrogation in Schools







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



Original

RECEIVED

IN THE

Supreme Court

OF THE

State of Arizona

In the Matter of
PAUL L. GAULT and MARJORIE GAULT, father and mother of GERALD FRANCIS GAULT, a minor,
for a Writ of Habeas Corpus.

No. 8549

APPELLANTS' OPENING BRIEF

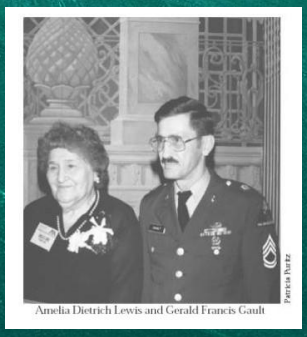
AMELIA D. LEWIS
Counsel, Northern Chapter,
Arizona Civil Liberties Union
Attorney for Appellants

Received two copies of the within brief this ___ day of November, 1964.

for the Attorney General

Filed in the Supreme Court of Arizona this ___ day of November, 1964.

Clerk



Amelia Dietrich Lewis and Gerald Francis Gault

Patricia Puritz

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





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



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

State v. K.R.C., 2026 WI 10, ¶22

The 4th Amendment in Schools

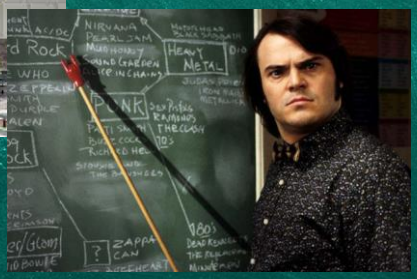
The 4th Amendment

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



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





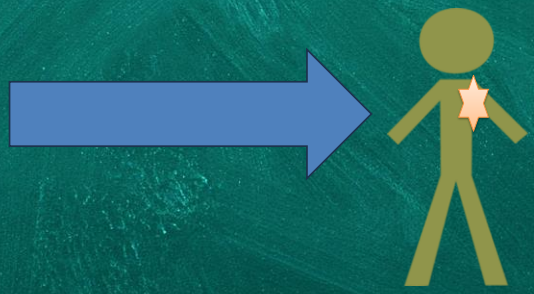
In the Interest of Isiah B., 176 Wis. 2d 639(1993)





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





State v. Schloegel, 2009 WI App 85





How the Cases Fit Together

Case	Actor Conducting Search	Target of Search	Required Legal Standard
In re Isiah B. (1993)	School officials / security	School-owned locker (with policy)	None (No expectation of privacy)
New Jersey v. T.L.O. (1985)	School administrators	Student's personal belongings	Reasonable Suspicion
In re Angelia D.B. (1997)	SRO / Police liaison (with school officials)	Student's person / belongings	Reasonable Suspicion
Standard Fourth Amendment	Outside police (independent investigation)	Student's person / belongings	Probable Cause + Warrant (unless exception applies)



Roadmap

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

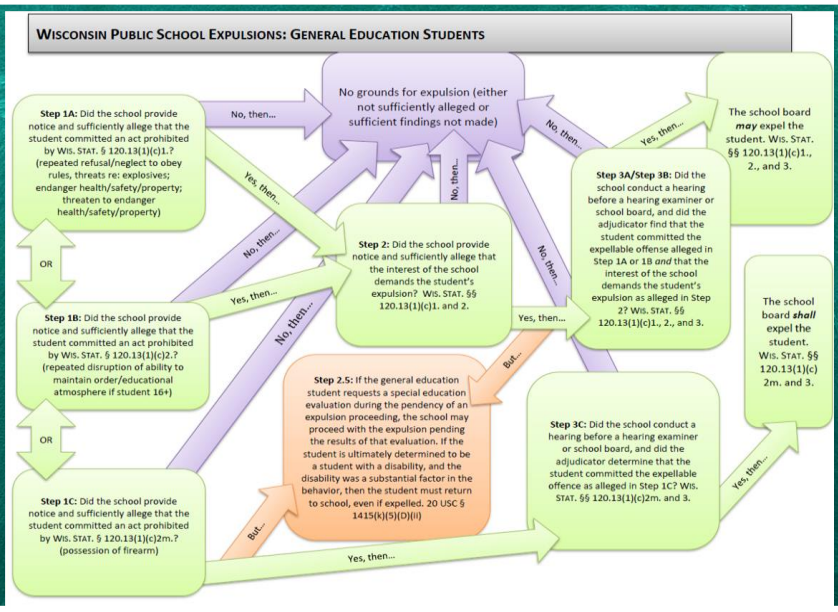
What are a student's Rights in Student Discipline?

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

Goss v. Lopez, 419 U.S. 565 (1975)



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

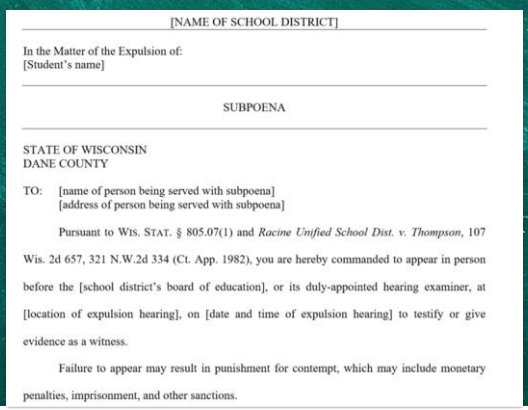


Discovery:

FERPA (Family Educational Rights and Privacy Act) Release

Public Records request

Subpoenas



[NAME OF SCHOOL DISTRICT]

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

SUBPOENA

STATE OF WISCONSIN
DANE COUNTY

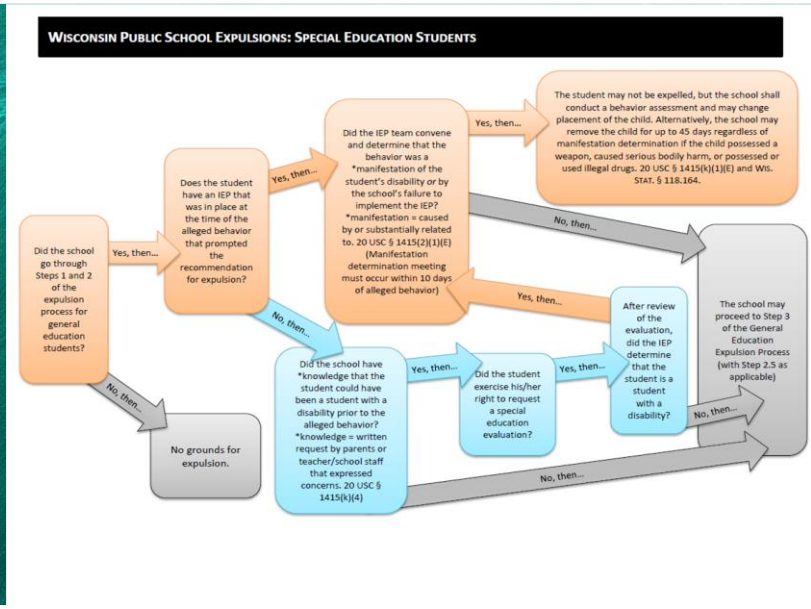
TO: [name of person being served with subpoena]
[address of person being served with subpoena]

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

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

Standard of Proof

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



Special Education in Wisconsin



SUBCHAPTER V
CHILDREN WITH DISABILITIES

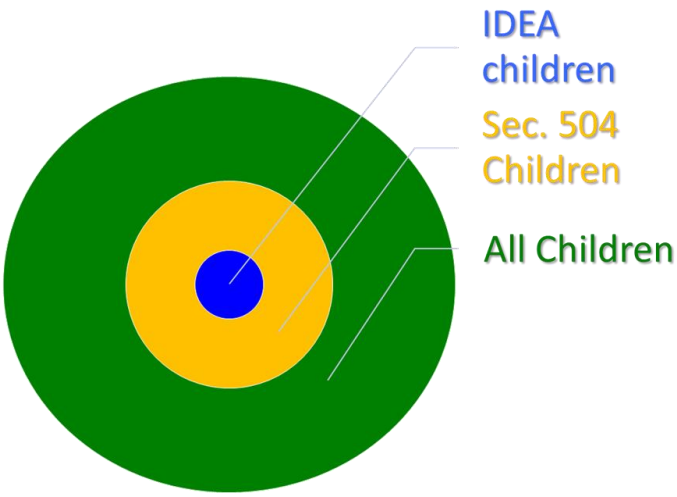
115.758 Construction.
115.76 Definitions.
115.762 Division for learning support.
115.77 Local educational agency duties.
115.775 Duties of operators of certain charter schools.
115.777 Special education referrals.
115.78 Individualized education program team; timeline.
115.782 Evaluations.
115.787 Individualized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

Basics

Federal laws governing special ed:

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

Children with a disability



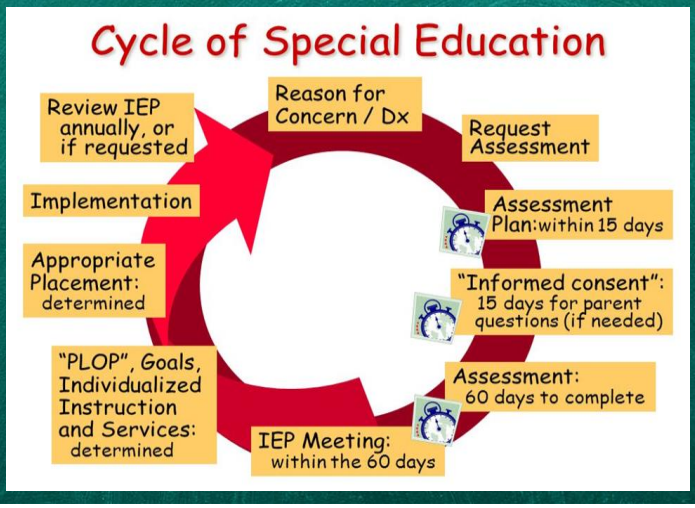
IEP	§504 Plan
Covers all school-aged children (3-21)	Covers lifespan of the person
Must meet specific, categorical criteria	Must meet definition of having physical or mental impairment
Requires that the disability adversely affects his/her/their educational performance	Requires that a child's impairment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

What is a disability?

Disability Category Criteria Worksheets and Guides

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

Process





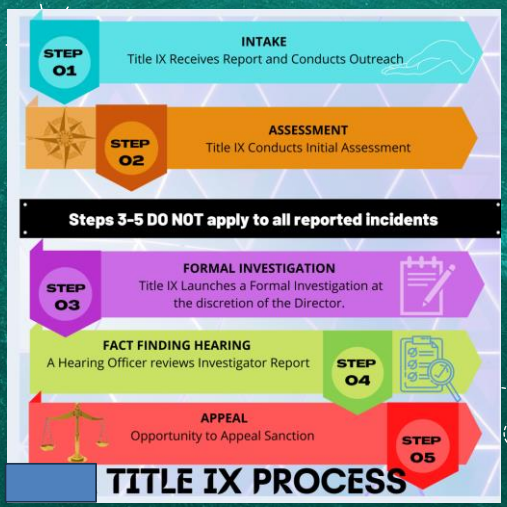
Roadmap

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

Title IX

WHAT IS TITLE IX?

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



Title IX

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

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

WIAA

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



WIAA

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

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



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