



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF INSPECTOR GENERAL

THE INSPECTOR GENERAL

AUG 21 2000

MEMORANDUM

**TO:** Michael Cohen  
Assistant Secretary  
Office of Elementary & Secondary Education

**FROM:** Lorraine Lewis *Lorraine Lewis*

**SUBJECT:** FINAL AUDIT REPORT  
*Wisconsin State and Local Education Agencies' Compliance with  
the Gun-Free Schools Act of 1994*  
Control No. ED-OIG/A05-A0011

Attached is our subject report presenting our findings and recommendations resulting from our audit of the Wisconsin State Department of Education and local education agencies.

In accordance with the Department's Audit Resolution Directive, you have been designated as the action official responsible for the resolution of the findings and recommendations in this report.

If you have any questions, please contact Kenneth Luhring, Acting Regional Inspector General for Audit, at (507) 243-4351.

Please refer to the above control number in all correspondence relating to this report.

Attachment

cc: William Modzeleski, Director, Safe and Drug Free Schools Program, OESE  
Deborah Rudy, Group Leader, Safe and Drug Free Schools Program, OESE

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**AUG 2 2000**

ED-OIG/A05-A0011

Mr. John T. Benson  
State Superintendent  
Wisconsin Department of Public Instruction  
125 South Webster Street  
P.O. Box 7841  
Madison, WI 53707-7841

Dear Mr. Benson:

This **Final Audit Report** (Control Number ED-OIG/A05-A0011) presents the results of our audit of the Wisconsin State and Local Education Agencies' compliance with the Gun-Free Schools Act of 1994 (the Act). The objective of our audit was to determine if the Wisconsin Department of Public Instruction (WDPI) and local education agencies (LEAs) were in compliance with the Act during the 1997-1998 school year.

**AUDIT RESULTS**

We concluded that the WDPI and the 6 LEAs that were included in the audit were generally in compliance with the Act. However, the WDPI (1) could improve data integrity and eliminate reporting errors and (2) needs to obtain from each LEA an assurance of a referral policy each time the LEA applies for Elementary and Secondary Education funding. During the field work at the WDPI and 6 LEAs, we tested 21 of the WDPI's 66 reported firearm expulsions for the 1997-1998 school year. Of these 21 reported expulsions, the WDPI should have reported 8. Based on our field work, we concluded that the adjusted count for the WDPI should have been 53 firearm expulsions, 12 modified expulsions, and 4 modified expulsions for non-disabled students. In addition, had the WDPI collected the data it could have reported at least 4 expulsions referred to an alternative program. We believe that additional adjustments may have been needed had we tested the remaining 45 reported expulsions.

We provided the WDPI a draft of this report. The WDPI concurred with our findings and recommendations noting it is implementing corrective actions to address the issues raised in the audit. A copy of the WDPI's responses to the findings are included as Attachments to this letter. Our findings are described below.

**Finding No. 1 – WDPI could improve data integrity and eliminate reporting errors.**

The Act requires each state to collect information from the LEAs concerning expulsions under the State law, and report such data to the U.S. Department of Education (ED) on an

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annual basis. In a March 29, 1999, letter to the WDPI verifying the State's 1997-1998 data, ED noted its commitment to collecting and reporting the most accurate data under the Act. We found that the WDPI did not have adequate procedures in place to ensure data integrity and the accuracy of the numbers reported to it by the LEAs. Our field work at the WDPI and six LEAs disclosed the following:

We found errors in the firearm expulsion data reported by the WDPI and 4 LEAs:

<b>Reported Firearm Expulsions 1997-1998</b> (The Act Data Collection Instrument question 1)	66
Milwaukee Public Schools reported 16 firearm expulsions	
• Included expulsion of student for possession of a BB gun/pellet gun, reported as a handgun expulsion.	-10
West Allis School District reported 1 firearm expulsion	
• Included expulsion of student for possession of a BB gun, reported as a handgun expulsion.	-1
Manitowoc School District reported 2 firearm expulsions	
• Included expulsion of student for possession of a BB gun, reported as a handgun expulsion.	-1
Verona School District reported 1 firearm expulsion	
• Included expulsion of student for possession of a BB gun, reported as a handgun expulsion.	-1
Firearm expulsions based upon ED-OIG audit	53
Difference between The Act Data Collection Instrument and ED-OIG audit results	13

We reviewed 21 firearm expulsions reported by the 6 LEAs (Milwaukee – 16, Madison – 1, West Allis – 1, Manitowoc – 2, Verona – 1, and Cameron – 0) and found that the LEAs should have reported 8. Therefore, the WDPI should have reported 53 firearm expulsions for 1997-1998. We believe that additional adjustments may have been needed had we tested the remaining 45 reported firearm expulsions.

We found errors in the number of modified expulsions reported by the WDPI and two LEAs as follows:

<b>Reported Modified Expulsions 1997-1998</b> (The Act Data Collection Instrument question 2)	10
Milwaukee Public Schools reported N/A modified expulsions	+3
Manitowoc School District reported 2 modified expulsions	-1
Modified firearm expulsions based upon ED-OIG audit	12
Difference between The Act Data Collection Instrument and ED-OIG audit results	2

The Milwaukee Public Schools reported N/A for the number of firearm expulsions that it modified from the mandatory one-year period. However, we found that of the six actual

firearm expulsions reported, it could have reported three modified expulsions. The Manitowoc School District reported two firearm expulsions that it modified from the mandatory one-year period, one of which was due to a student with exceptional educational needs. However, we found that the modified expulsion for the student with exceptional educational needs involved a BB gun and not a firearm, so Manitowoc should not have reported the modified expulsion.

We found an error in the number of modified expulsions for non-disabled students reported by the WDPI and one LEA as follows:

<b>Reported Modified Expulsions for Non-disabled Students 1997-1998</b> (The Act Data Collection Instrument question 3)	3
Madison School District reported 0 modified expulsions for non-disabled students	+1
Modified firearm expulsions for non-disabled students based upon ED-OIG audit	4
Difference between The Act Data Collection Instrument and ED-OIG audit results	1

The Madison School District reported a modified expulsion for a student which it incorrectly reported as having exceptional educational needs. Because Madison reported a modified exceptional educational need expulsion, the WDPI understated the reported number of shortened expulsions for non-disabled students.

Had the WDPI collected data on expulsions referred to an alternative program, it could have reported at least the following:

<b>Reported Number of Expulsions Referred to an Alternative Program 1997-1998</b> (The Act Data Collection Instrument question 4)	Missing Data (0)
Milwaukee Public Schools reported 0; data not collected	+3
Manitowoc School District reported 0; data not collected	+1
Expulsions referred to an alternative program based upon ED-OIG audit	4
Difference between The Act Data Collection Instrument and ED-OIG audit results	4

The Act report completed by the WDPI and submitted to ED shows “MD” as the number of expulsions referred to an alternative program. In its memo to ED, the WDPI indicated that it inadvertently deleted the question when combining the Act report form with another mandatory reporting form. The WDPI indicated that it would re-add the question to subsequent year’s data collection instruments. From our site visits to the 6 LEAs we found that of the 8 firearm expulsions (Milwaukee – 6, Madison – 1, and Manitowoc – 1), 4 were for students that were referred to an alternative program.

Other Incidents Found During our Field Work

- We identified seven incidents involving students with exceptional educational needs who brought a firearm to school and Milwaukee Public Schools did not expel them. A Milwaukee Public Schools official informed us that the school district did not report the incidents involving students with exceptional educational needs because, during the 1997-1998 school year, these students were not considered for expulsion due to a conflict with State law. The official indicated that during the 1997-1998 school year Milwaukee Public Schools only had the authority to remove a student with exceptional educational needs for 10 days, after which the student had to be returned to the original class setting. Milwaukee Public Schools did not make manifestation determinations for any of these students and none were expelled; instead they were either given alternative services or reassigned to another school. A manifestation determination is a decision as to whether the student's disability caused the action of bringing a firearm to school. The official informed us that the State law was subsequently changed for the 1998-1999 school year, and Milwaukee Public Schools now holds manifestation hearings and expels students when manifestation was not a cause for the incident.
- The Manitowoc School District and Cameron School District used "school" year instead of "calendar" year in their definition of a one-year expulsion. In addition, the expulsion policy of Manitowoc School District did not comply with State law. It used an outdated State law, which indicated that a student "may" be expelled, rather than the current law that states "the school board shall commence proceedings under subd. 3. and expel a student." Manitowoc School District officials agreed to make the needed changes to their policies and we found no indication the use of the outdated State law affected compliance with the Act. The Cameron School District Administrator agreed to clarify the one-year expulsion requirement to reflect calendar year. Because the Cameron School District did not have any firearm incidents, its use of "school" year did not affect its compliance with the Act.

We believe that inaccurate data can result in a misunderstanding of the nature and extent of the problem of students bringing firearms to school on a local, state, and national level. In addition, inaccurate data can result in state education agency (SEA) and LEA officials being unable to properly determine whether the Act's provisions are being enforced consistently in their jurisdictions. Without accurate data, ED and the WDPI will not be able to determine the actual success or failure of the Act.

The main cause of over reporting of firearm expulsions cited by the LEAs related to their definition of a weapon. Some of the definitions of a weapon include all types of guns (BB gun/pellet gun) in addition to firearms. The document used by the LEAs to report the required data provides a definition for firearms that is essentially the same as that under Title 18 United States Code (USC), Section 921. However, the definition does not provide examples of what weapons are not firearms under Title 18 USC, Section 921 (i.e., BB guns, pellet guns, toy guns).

While the LEAs using the outdated State law or “school” year instead of “calendar” year as the definition for one-year expulsion did not provide a reason, we believe it is related to lack of adequate guidance from the WDPI. The WDPI is in general agreement with our finding and has agreed to take action by distributing guidance and conducting spot checks of data submitted by the LEAs.

**Recommendations:**

We recommend that the Assistant Secretary for Elementary and Secondary Education require the WDPI to:

- 1.1. Issue guidance to the LEAs noting that BB guns, pellet guns, and toy guns are not considered a firearm under Title 18 USC, Section 921, and therefore expulsions for such weapons should not be included in annual firearm incident reports.
- 1.2. Issue guidance to the LEAs regarding the (a) State law on expulsions for students who bring a firearm to school noting that the school board “shall” commence proceedings and expel a pupil, and (b) State definition for one-year expulsion as it reflects “calendar” year and not “school” year.
- 1.3. Follow-up to ensure the LEAs have taken corrective action.

**Finding No. 2 - WDPI needs to obtain an assurance of a referral policy from all LEAs each time the LEAs apply for Elementary and Secondary Education funding.**

The WDPI does not obtain from each LEA an assurance of a referral policy each time the LEA applies for funding. The LEAs must provide an assurance that they have a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm to school. However, during our site visits to the six LEAs we found that all had a referral policy in place.

The WDPI officials informed us that the referral policy assurance was obtained from the LEAs in March 1995, prior to the passage of the State law, and has not been requested since. The March 1995 notice had a certification form attached to it that included a statement that the LEA was to certify that it has a referral policy for any student who brings a weapon to school. The WDPI officials thought that WDPI only needed to obtain the assurance once and did not need to get an assurance each time the LEAs applied for funding.

The Act, Section 14602, Policy Regarding Criminal Justice System Referral, states that no funds shall be made available to any LEA unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to school served by such agency. For the WDPI to ensure that the LEAs have and continue to have a referral policy, it must obtain an assurance each time the LEA applies for funding. If the WDPI does not obtain a referral policy assurance each time the LEA applies for Elementary and Secondary Education funding, it cannot be

sure it is in compliance with the Act. The WDPI agreed with the finding and will include an assurance that the LEA has a referral policy.

**Recommendation:**

We recommend that the Assistant Secretary for Elementary and Secondary Education require the WDPI to:

- 2.1. Establish a system to ensure that a criminal justice or juvenile delinquency system referral policy of any student who brings a firearm or weapon to school is in place at the LEA level. One way to monitor LEA compliance would be to update the assurance form attached to the funding applications submitted by the LEAs to include an assurance that the LEAs have a referral policy in place.

**BACKGROUND**

The Act (Title 20 USC Sections 8921, 8922, and 8923) requires states to have in effect a law requiring LEAs to expel from school for a period of not less than one year a student who is determined to have brought a firearm to school, except that such state law shall allow the LEA's chief administering officer to modify such expulsion requirement on a case-by-case basis. The Act also requires SEAs to report annually to ED information on firearm expulsions under the state law. The Act does not require LEAs to expel students for the possession of weapons that are not firearms, such as pellet guns and BB guns. However, an SEA may choose to take such disciplinary actions against students found in possession of these weapons; but the expulsions would not be reported to ED under the Act.

The Act requires LEAs to comply with the state law, provide an assurance of compliance with the state law to the SEA, report annually to the SEA information on expulsions under the state law, and implement a policy requiring referral to a criminal justice or juvenile delinquency system of any student who brings a weapon to school.

**AUDIT OBJECTIVE, SCOPE, AND METHODOLOGY**

The objective of our audit was to determine if the WDPI and selected LEAs were in compliance with the Act.

Our audit covered the 1997-1998 school year. Our work in Wisconsin was part of a multi-state audit of SEA and LEA compliance with the Act. We selected seven states as auditees; six of the states, including Wisconsin, were randomly selected. Within the State of Wisconsin, we judgmentally selected six LEAs for inclusion in the audit. Based on student population, the LEAs within the State were categorized as large, medium, or small. We judgmentally selected Milwaukee Public Schools because it is the largest school district in Wisconsin. We judgmentally selected the remaining five LEAs based on whether or not they reported any firearm expulsions during the 1997-1998 school year. The six LEAs selected, from large to small, were Milwaukee Public Schools,

Madison School District, West Allis School District, Manitowoc School District, Verona School District, and Cameron School District. We then selected one to five schools within each of the LEAs.

To accomplish our objective, we reviewed applicable Wisconsin State law and LEA policies, the methodology used by the WDPI and LEAs to collect and report expulsion data, and selected student disciplinary files. We interviewed WDPI officials, LEA officials, school administrators, teachers, counselors, parent organization representatives, school security, and law enforcement officials.

Summary of LEA and School Officials Interviewed			
LEA Administrators	13	Parent Representatives	16
School Administrators	48	School Security Staff	19
Teachers	48	Law Enforcement Officials	25
Guidance Counselors	33	<b>Total</b>	202

We performed field work at the WDPI and the six selected LEAs between February and April, 2000. Our audit was performed in accordance with government auditing standards appropriate to the scope of the review described above.

#### STATEMENT ON MANAGEMENT CONTROLS

As part of our review we assessed the system of management controls, policies, procedures, and practices applicable to the WDPI's and the selected LEAs' compliance with the Act. We performed the assessment to determine the level of control risk for determining the nature, extent, and timing of our substantive tests to accomplish the audit objective.

To make our assessment, we classified the significant controls into the following categories:

- Compliance with the State law expulsion requirement and referral policy, and
- Data collection and reporting.

Because of inherent limitations, a study and evaluation made for the limited purpose described above would not necessarily disclose all material weaknesses in the management controls. However, our assessment disclosed management control weaknesses that adversely affected the WDPI's and the selected LEAs' ability to comply with the Act. These weaknesses included inadequate procedures to ensure data integrity and the accuracy of the numbers reported by the LEAs, and failure to obtain from each LEA an assurance of a referral policy each time it applies for funding. These weaknesses and their effects are discussed in the Audit Results section of this report.



Mr. John T. Benson - Page 8 of 8


If you have any additional comments or information that you believe may have a bearing on the resolution of this audit, you should send them directly to the following ED official, who will consider them before taking final action on the audit:

Michael Cohen  
Assistant Secretary for Elementary  
and Secondary Education  
400 Maryland Avenue  
Room 3W315  
Washington, DC 20202

Office of Management and Budget Circular A-50 directs Federal agencies to expedite the resolution of audits by initiating timely action on the findings and recommendations contained therein. Therefore, receipt of your comments within 30 days would be greatly appreciated.

In accordance with the Freedom of Information Act (5 U.S.C. §552), reports issued by the Office of Inspector General are available, if requested, to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act.

Sincerely,

  
Lorraine Lewis

Attachments

ED-OIG/A05-A0011



State of Wisconsin  
Department of Public Instruction

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John T. Benson  
State Superintendent

Steven B. Dold  
Deputy State Superintendent

June 14, 2000

Gerald E. Michalski  
Acting Regional Inspector General for Audit - Region V  
United States Department of Education  
Office of Inspector General  
Region V  
111 North Canal, Suite 940  
Chicago, IL 60606

Dear Mr. Michalski:

Thank you for your recent fax regarding the Wisconsin audit of compliance with the Gun Free Schools Act of 1994. The faxed letter dated May 18, 2000 has not been received by this office to date, but we do appreciate the opportunity to respond to two points made in the letter.

- I. *The Wisconsin Department of Public Instruction (WDPI) could improve the data integrity and eliminate reporting errors for the Gun Free Schools Act of 1994 (GFSA).*

The Wisconsin Department of Public Instruction is in general agreement with the specific findings and recommendations under this point. Specifically the findings indicated several schools reported mandatory expulsions for students bringing BB or pellet guns to schools which is not considered a firearm according to the audit report. The 1995 U.S. Department of Education guidance documents sent to all school districts by this agency did not make that delineation clear. The auditors also found minor reporting discrepancies regarding the interpretations of current state law. Based on the recommendations of the audit report we will take the following action.

- A. Distribute guidance information highlighting the definition of firearm possession requiring expulsion under GFSA, the state law on expulsions including the one year expulsion reflects a "calendar" year and not a school year.  
B. Conduct telephone "spot checks" of data submitted annually to the Department of Public Instruction.

- II. *The Wisconsin Department of Public Instruction (WDPI) needs to obtain a referral policy assurance from school districts each time the districts apply for Elementary and Secondary Education funding.*

The Wisconsin Department of Public Instruction is in agreement with the specific findings and recommendations under this point. WDPI has already implemented the corrective action and includes an assurance that the school district has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to school.

Thank you for the opportunity to respond. Overall we feel Wisconsin schools are doing an excellent job of complying with the Gun Free School Act and the resulting Wisconsin Law regarding mandatory expulsions. If you have additional questions please do not hesitate to contact me at 608-266-3584.

Sincerely,

Michael J. Thompson, Director  
Student Services, Prevention and Wellness

MJT/mjv



State of Wisconsin  
Department of Public Instruction

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John T. Benson  
State Superintendent

Steven B. Dold  
Deputy State Superintendent

August 3, 2000

Gerald E. Michalski  
Acting Regional Inspector General for Audit - Region V  
U.S. Department of Education  
Office of Inspector General  
111 North Canal Street, Suite 940  
Chicago, IL 60606-7204

Dear Mr. Michalski:

We have received the Draft Audit Report (Control Number ED-OIG/A05-A0011, dated July 11, 2000) on the results of the Wisconsin audit of compliance with the Gun-Free Schools Act of 1994. In order to respond within the 14-day comment period, I refer you to a June 14, 2000, letter to your office from Michael Thompson, Director, Student Services, Prevention and Wellness Team (copy enclosed).

The letter addresses the two findings included in the draft report and responds to a fax "point sheet" previewing your July 11 report. The proposed remedies that would provide full compliance with the act are being implemented. Due to the timing of the audit and our planned remedies for compliance, however, we have already collected data for the 1999-2000 school year using the procedures in place at the time of review. We will collect the requisite assurances, provide the necessary guidance on reporting, and conduct data integrity checks to ensure that our 2000-2001 school year report is as accurate as possible.

We look forward to receiving the final report and implementing the revised procedures. If you have further questions, please contact Michael Thompson at 608-266-3584.

Sincerely,

A handwritten signature in cursive script that reads "John T. Benson".

John T. Benson  
State Superintendent

JTB/mew

Enclosure

**REPORT DISTRIBUTION LIST**

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