



Behavior



**Section 504 &
The Americans with Disabilities Act**

Agenda

- *Overview of Federal Laws*
- *Section 504 Evaluations*
- *Behavior Accommodations*
- *Behavior Plans*
- *Multi-tiered Systems of Supports*
- *Manifestation Determination Review*
- *Alcohol and Drugs*
- *Restraint and Seclusion*
- *Resources*

Federal Laws



Section 504 1973: Civil Rights Law: Entities receiving federal funds may not discriminate based on disability

Americans with Disabilities Act 1990 & Amendments: Civil Rights Laws: Expand protection against discrimination to all entities regardless of federal funding

IDEA 2004: Funding Statute: Allocates financial assistance to the states to help them provide special education and related services.



Children receiving special education services through IDEA are dually protected under Section 504/ADA



Students eligible under Section 504 may not be eligible under IDEA

National Statistics: Students with Disabilities

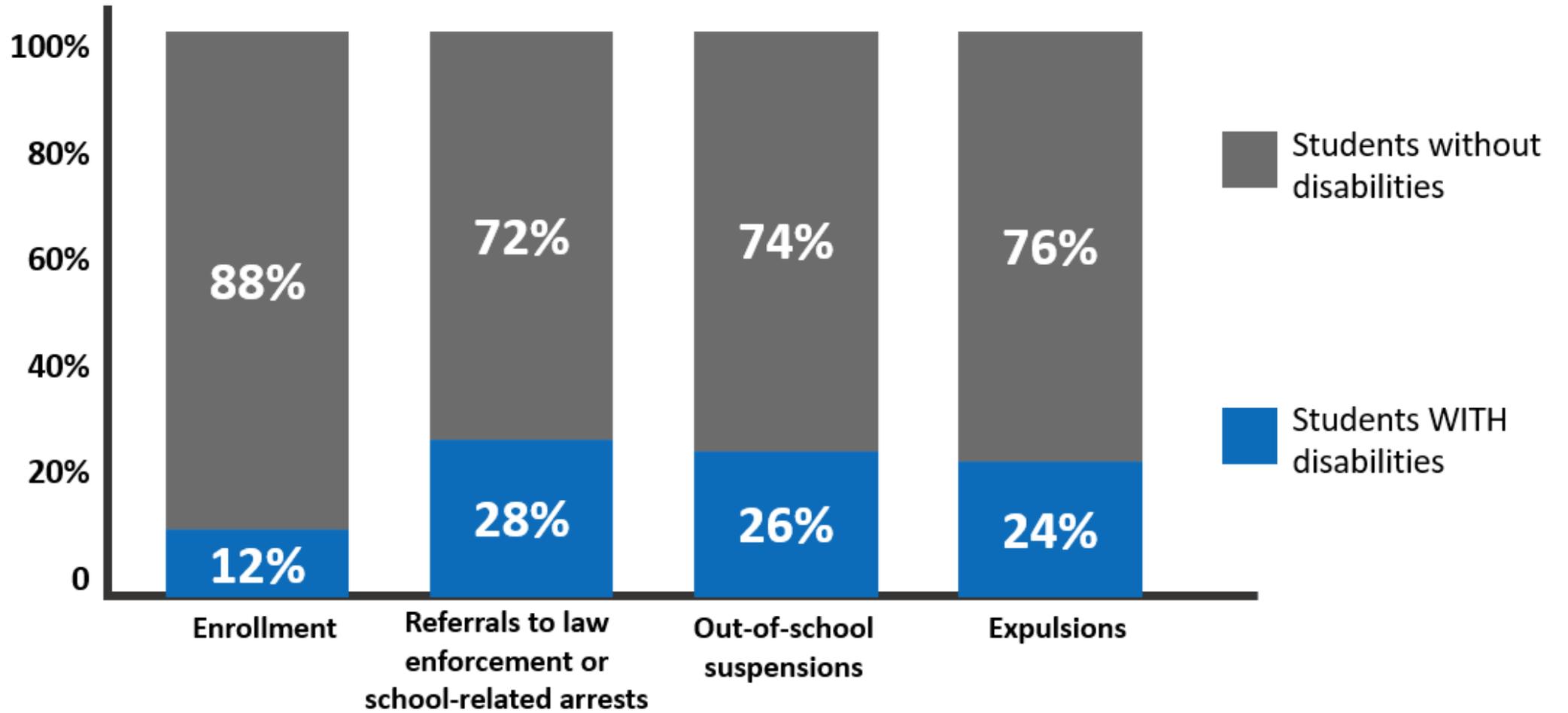
Boys = 51%
Girls = 49%

**English Learners =
10%**

**Student with
Disabilities = 14%**

- IDEA = 12%
- Section 504 = 2%

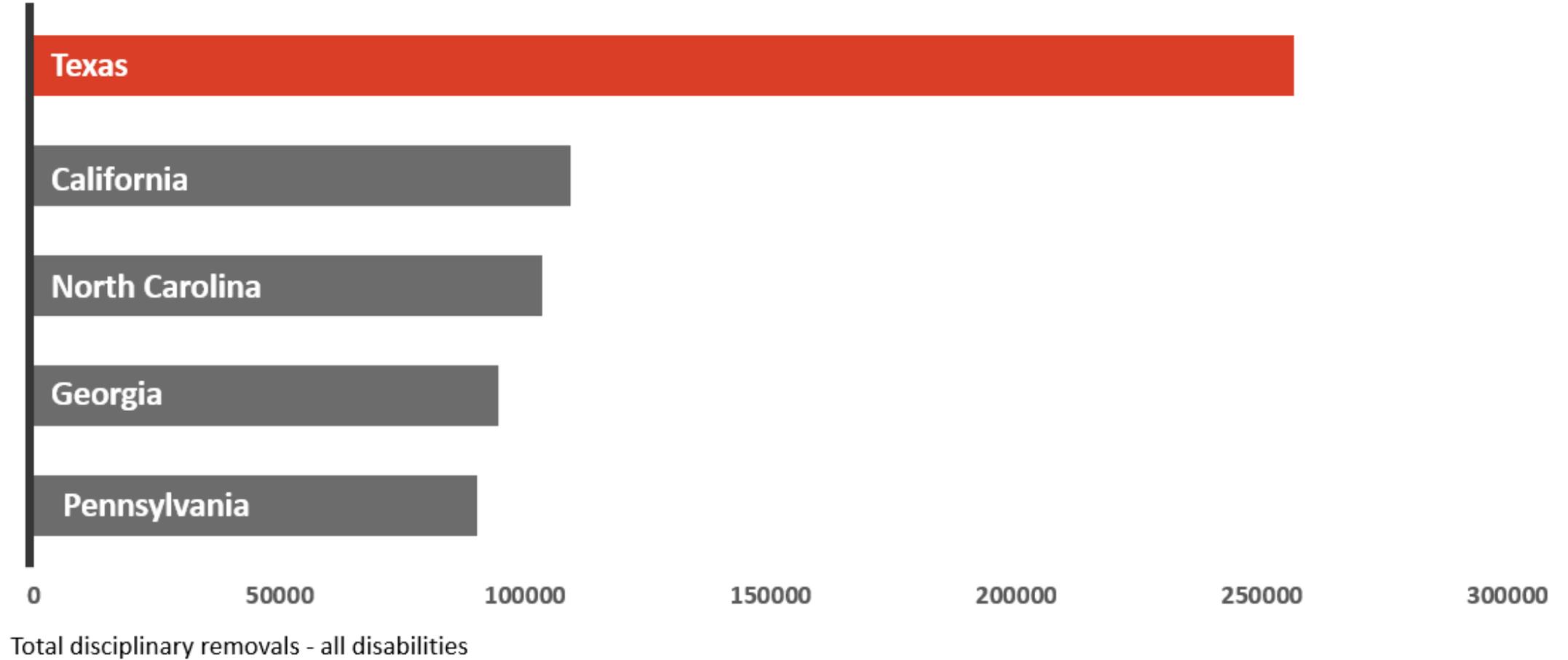
Severe Disciplinary Consequences



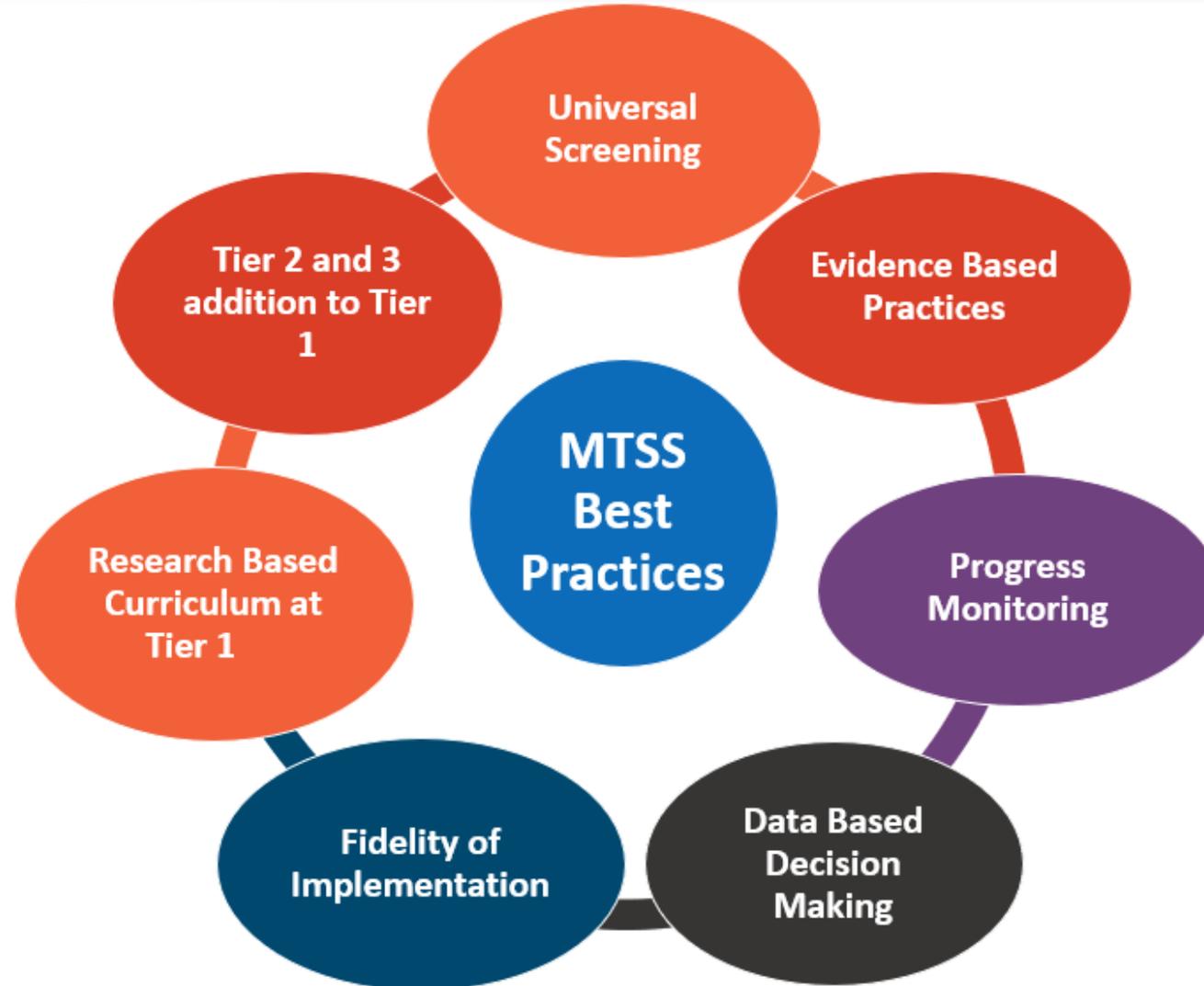


Multi-Tiered Systems of Supports

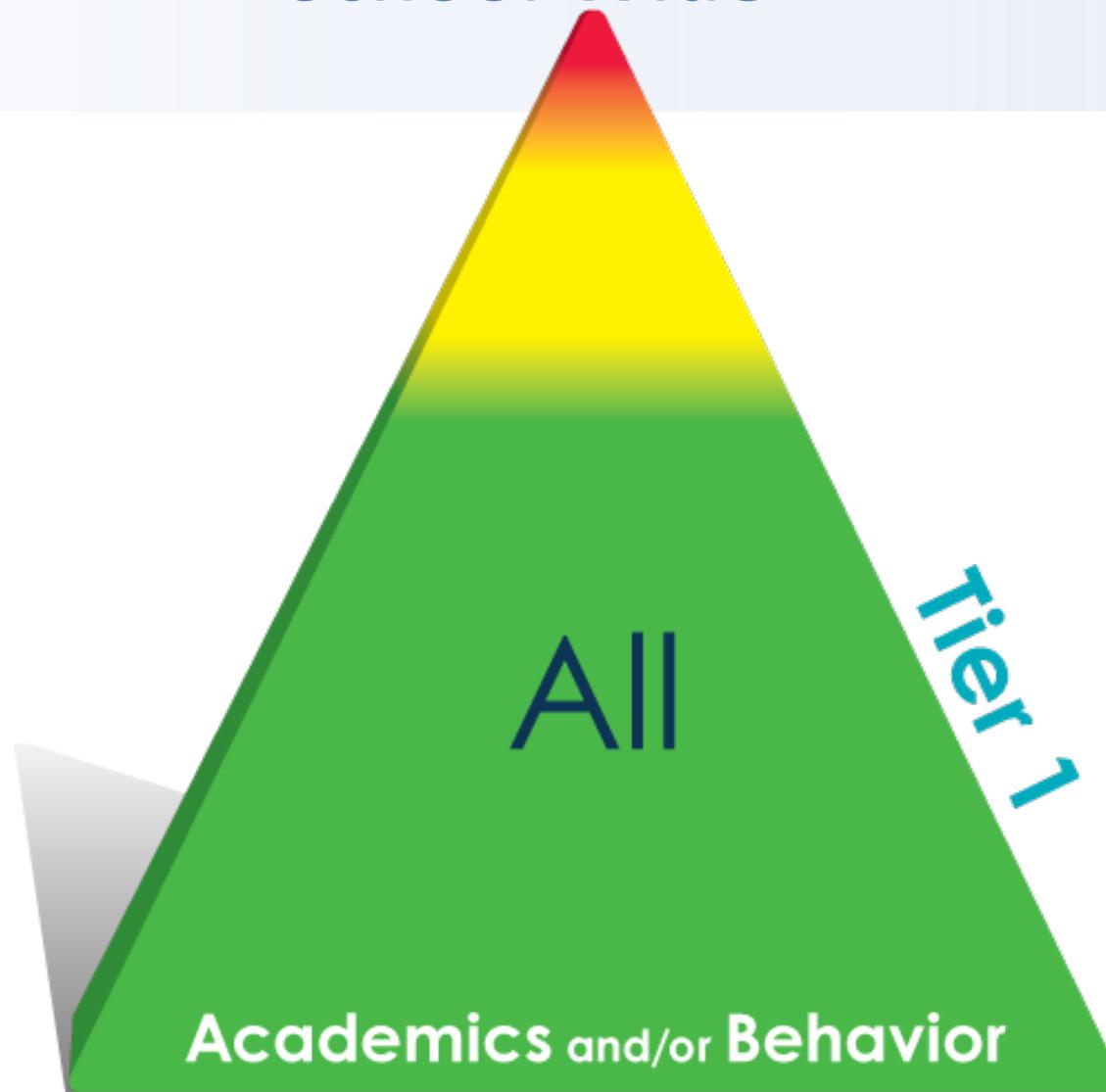
Disciplinary Removals = Missed Instruction



Multi-Tiered Systems of Supports



School Wide



Positive Behavior Interventions and Supports (PBIS)

- **Research Validated Practices**
- **IDEA 2004**
 - (5) Almost 30 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by—
(F) providing incentives for **whole-school approaches**, scientifically based early reading programs, **positive behavioral interventions and supports**, and early intervening services to reduce the need to label children as disabled in order to address the learning and behavioral needs of such children.

Tier 1 Strategies



**Whole school positive
behavior support practices**



**School wide reinforcement
systems**

Praise is Powerful!



Simple
Punch Cards
for Positive
Behavior
Support

Behavior that is reinforced continues!



Basic Components of a PBIS Classroom

Establish procedures and expectations: TEACH THEM then REINFORCE THEM

Model what you want from your students

Organize the environment to increase predictability and structure

Keep at least a 4:1 ratio of positive to corrective

Use a reinforcement system and spend more energy on what is right and good than you do on problems

Section 504 and MTSS

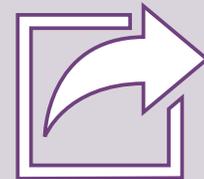
Section 504 protects the right of students with disabilities to have the opportunity to participate or benefit from the aid, benefit, or services afforded to their peers without disabilities.



Section 504 committees can convene to consider data if a student has been referred for, or is receiving, tiered interventions and the 504 coordinator can monitor progress.



If at any time, there is a suspicion that the student may have a disability that requires special education, a referral for an evaluation should be requested.



Texas Education Code: Notice to Parents



Each school year, school districts must notify the parent of each child who receives assistance from the school district for learning difficulties, including intervention strategies that the school district provides to the child.

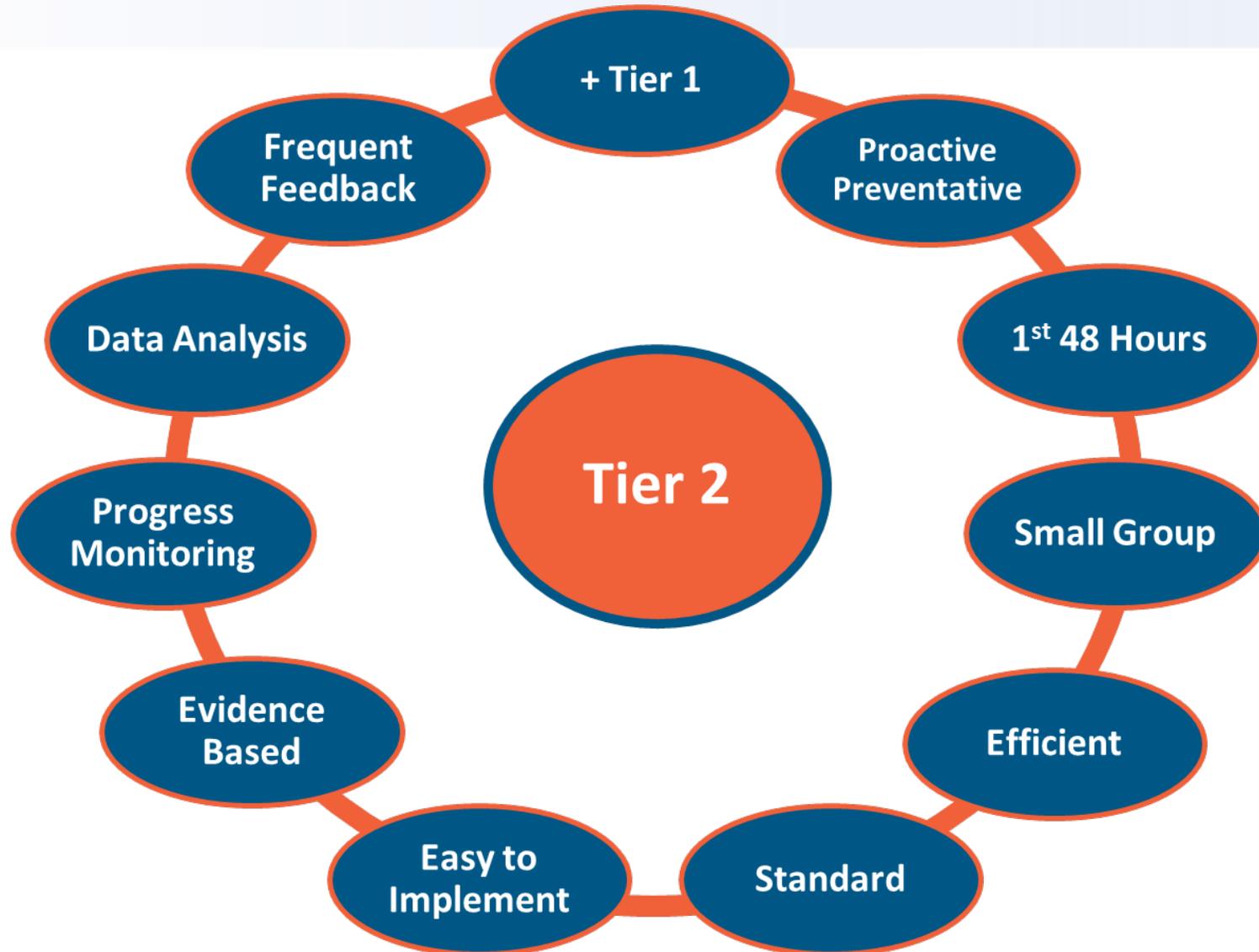
When to refer for Special Education Eligibility?



The use of MTSS should never delay a referral for special education assessment. If a parent or staff member suspects that a student has a disability and the need for special education and related services a referral should be initiated.

MTSS can and should continue through the evaluation process.

Fundamentals of Tier 2



Examples of Evidence Based Interventions

Check in/Check out

**Non-Contingent
Reinforcement
(attention seeking)**

**Antecedent
Modification (escape)**

**Instructional Match
(Prerequisite or
skill/ability)**



Section 504 Evaluations

Evaluation

**Should
the Section 504 Committee require
formal evaluation,**

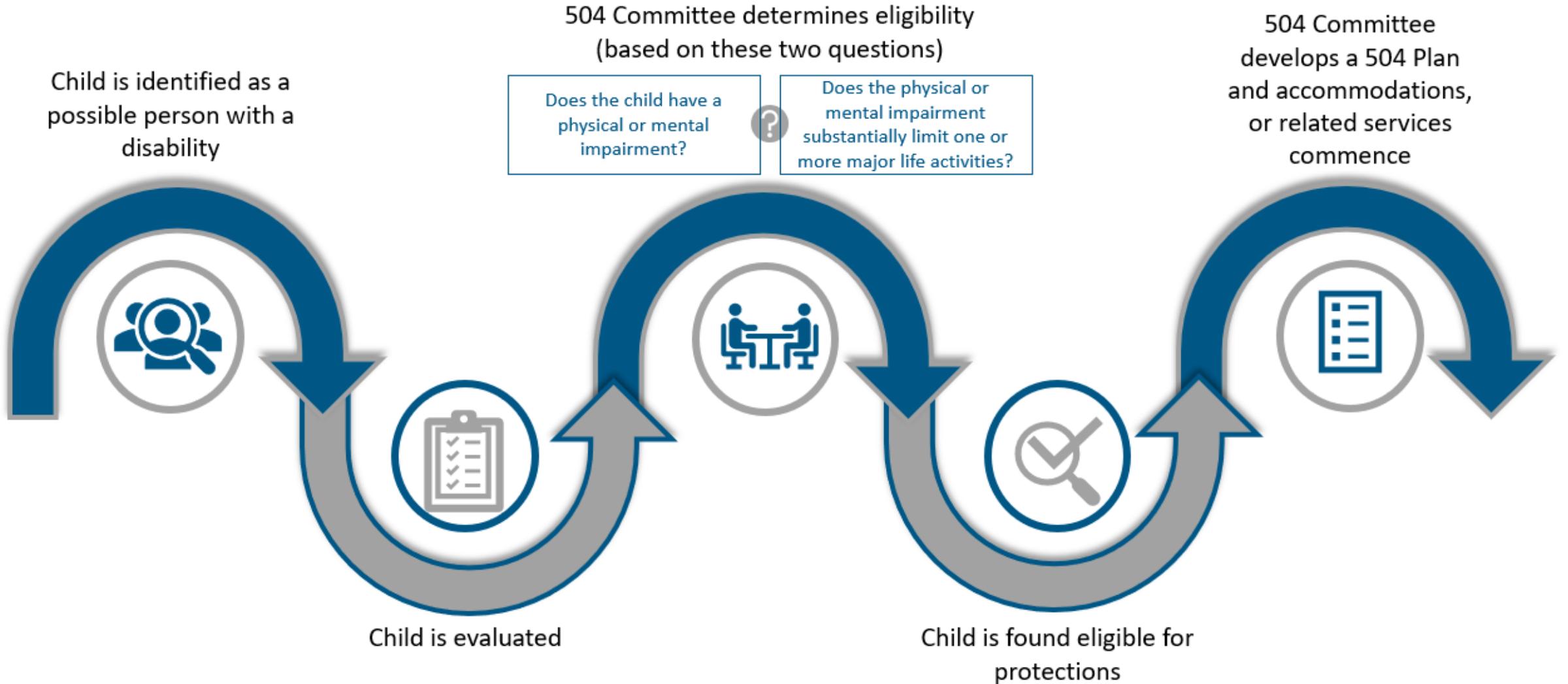
**evaluation materials should be used
for their validated purpose and
accurately reflect the student's skills.**

Behavior & Evaluations

A school district must evaluate a student *if it believes the student has a disability* even if the student only exhibits behavioral challenges.

Students who have a high number of discipline referrals, as compared to their peers, could be students with a disability in need of services.

Identification and Eligibility for Section 504





Section 504 Behavior Accommodations

Behavior Accommodations

Behavior - Cue Student to Stay On-Task

Exemplar:

During independent work time, monitor and provide frequent verbal or nonverbal reminders to return to task (student will put his head down or take out his phone when off task) - All Classes

Non-Example:

Cue student to return to task.



Section 504 Behavior Support Plans

Functional Behavior Assessment – 504?



**The building block for
behavior intervention
plans**



**Defines the function of
the behavior**



**Provides the data required
to identify target and
replacement behaviors**



Behavior Support Plans

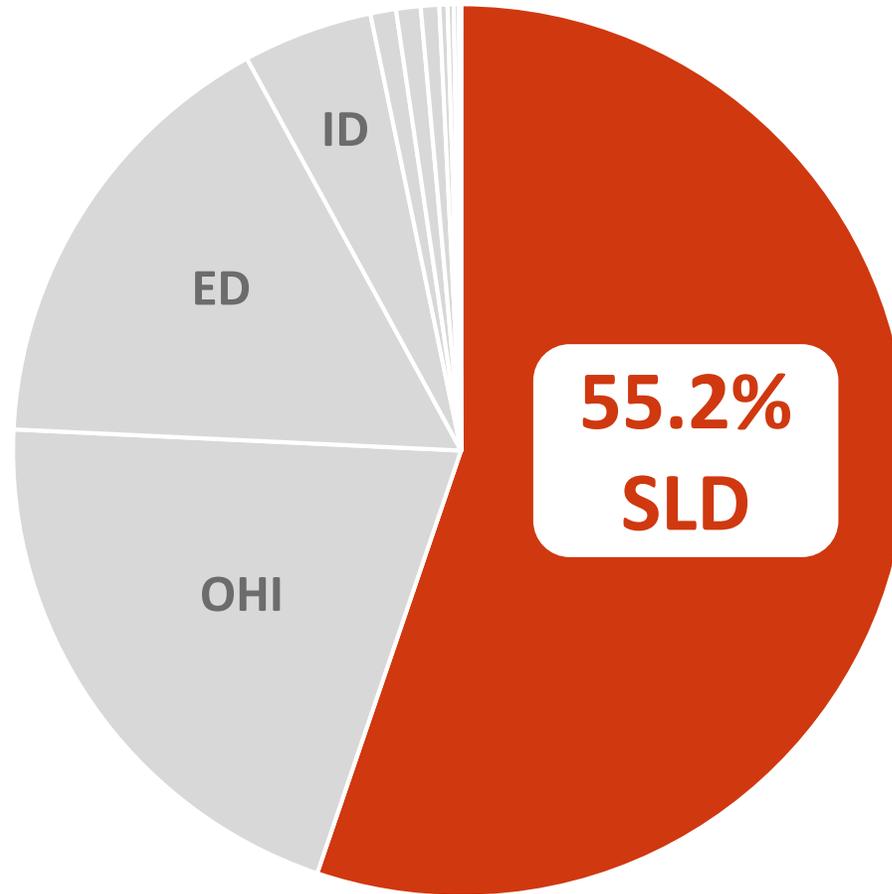
Behavior support plans should provide campus staff with:

- **Target Behavior – identify and define the target behaviors: duration, frequency**
- **Provide prevention strategies (antecedent)**
- **Replacement behaviors – with strategies for teaching**
- **Reinforcement systems – how to maintain the replacement behavior**
- **Consequence Strategies**
- **Progress Monitor**

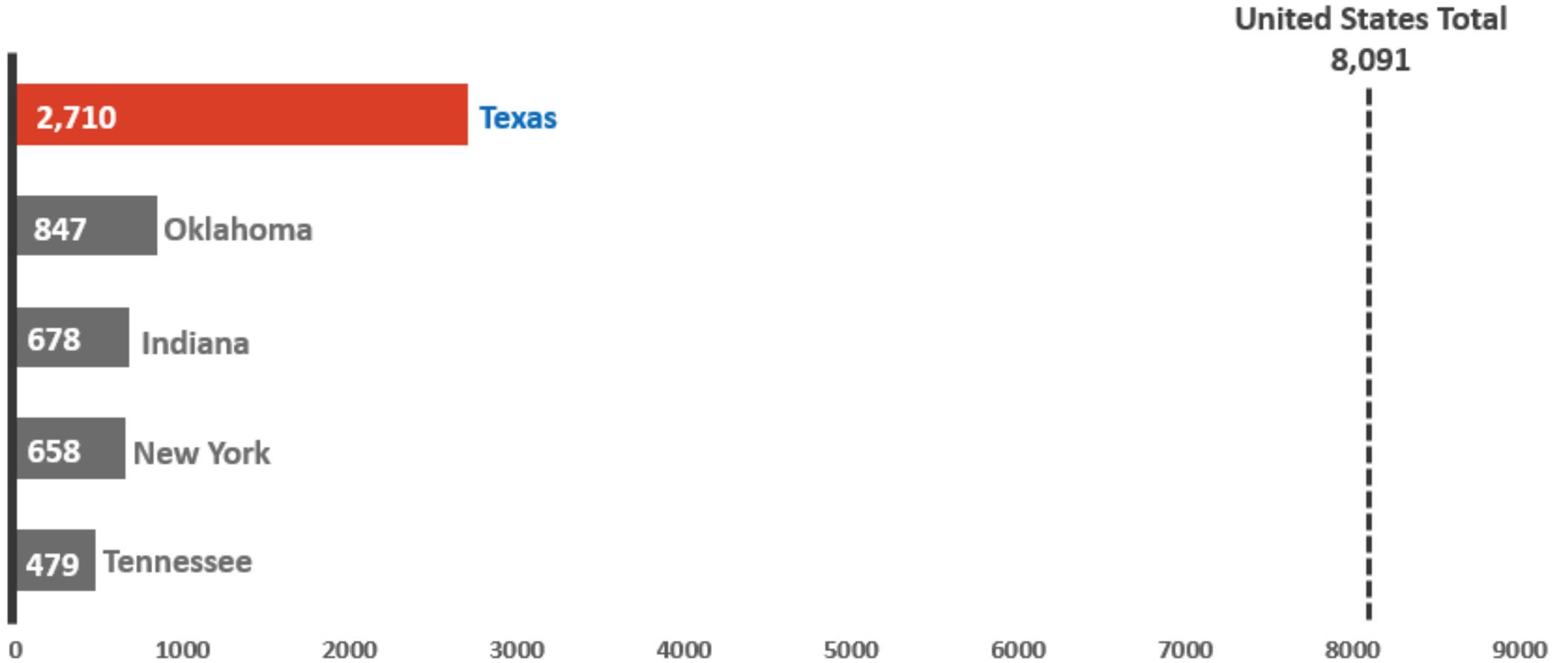


Manifestation Determinations

Disciplinary Alternative Educational Placements



DAEP Placements of Students with Disabilities



Source: U.S. Department of Education, Office of Civil Rights, Civil Rights Data Collection, 2016-17 (Top 5 states)

Disciplinary removals > ten days = long term removals and change in placement.



Reevaluation prior to change in placement



Must determine if the behavior is a manifestation of the student's disability



Section 504 committee must consist of: persons knowledgeable about the child, the meaning of evaluation data and placement options.

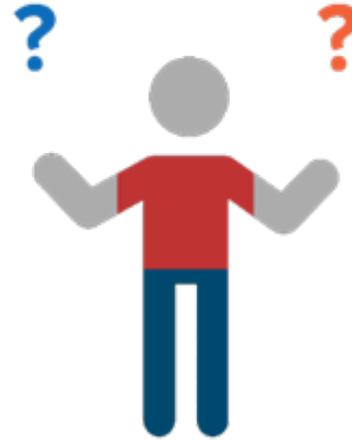


Documentation should be recent and comprehensive including parent information and behavioral data.

Manifestation?

Utilizing all available information the Section 504 team must answer the following questions:

Was the behavior caused by or directly related to the disability?



Was the behavior due to the school's failure to implement the 504 plan?

Behavior **is** a manifestation

A student whose behavior inhibits their ability to learn, or that of others, may require an evaluation for special education and/or related services.

Committees should consider requesting additional evaluations, including a referral for special education along with additional interventions and supports such as data-based individualization, behavior intervention plans and related services.

Parents must be provided with procedural safeguards which stipulate parents have the right to challenge the decision.

Behavior is **not** a manifestation

The student may be disciplined according to the student code of conduct in the same manner as their peers without disabilities.

Parents must be provided with procedural safeguards and informed of their rights to challenge the decision.

The Section 504 plan should be reviewed and updated by the Section 504 committee to prevent future challenges.

Students with disabilities may **not** be disciplined more harshly than peers without disabilities.



Alcohol & Drugs

Unilateral Removals of Students with Disabilities in Texas

Drugs = 2,829



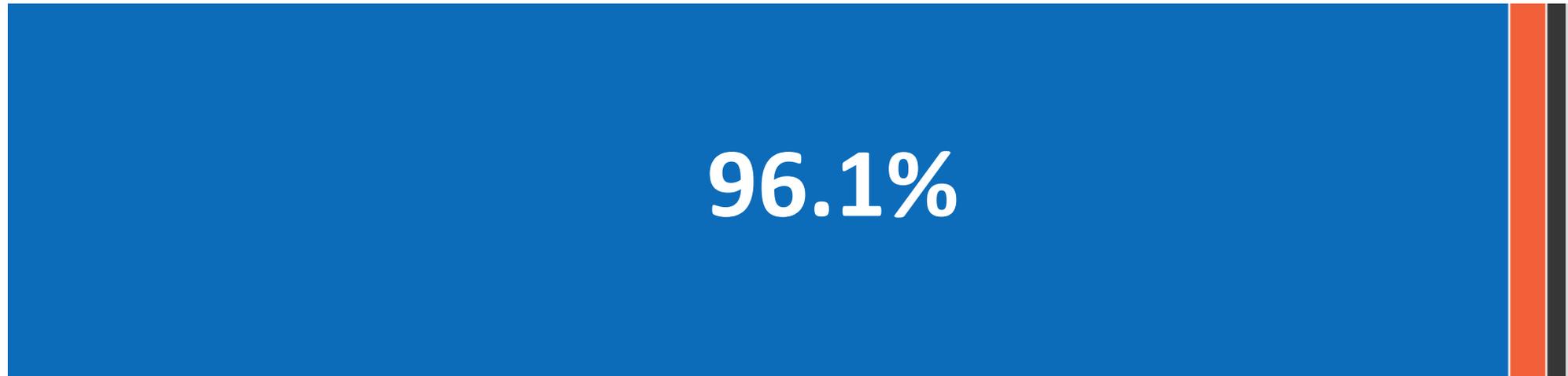
Weapons = 70



Serious Bodily
Injury = 41



Hearing Officer
Injury = 1

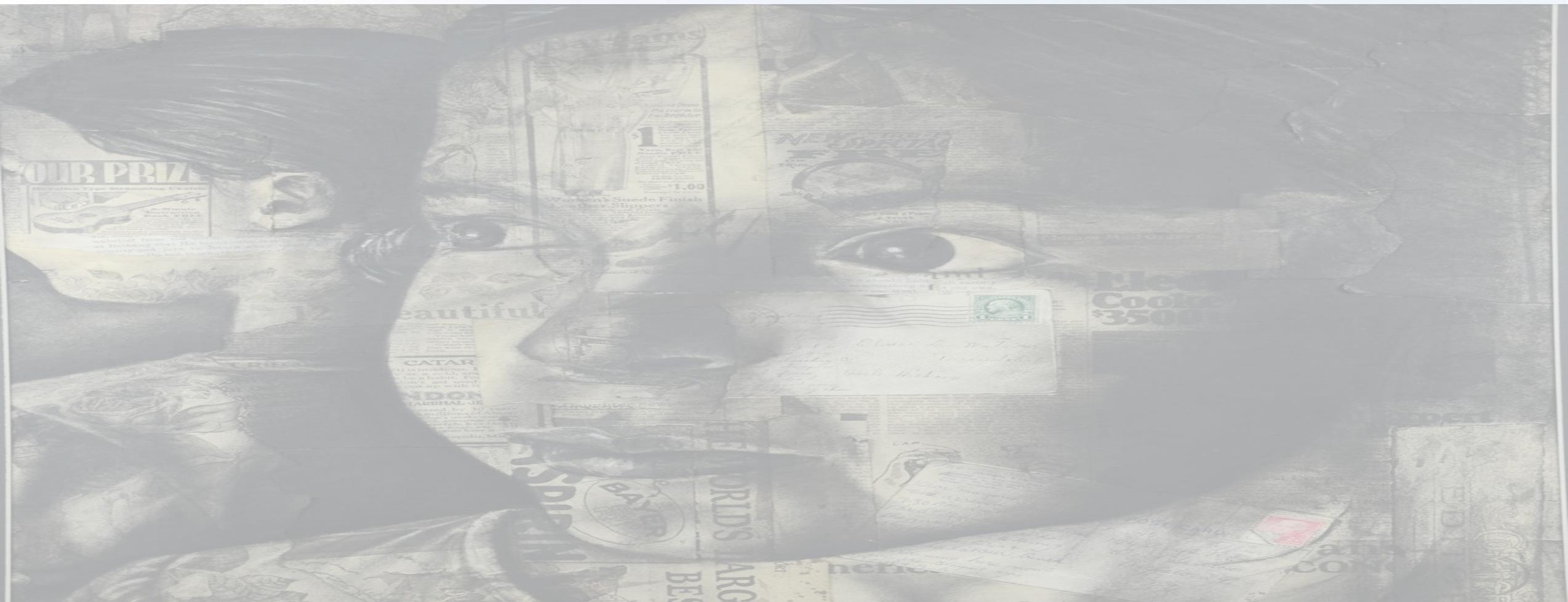


15. Are current illegal users of drugs excluded from protection under Section 504?

- Generally, yes. Section 504 excludes from the definition of a student with a disability, and from Section 504 protection, any student who is **currently engaging** in the illegal use of drugs when a covered entity acts **based on such use**. (There are exceptions for persons in rehabilitation programs who are no longer engaging in the illegal use of drugs).

16. Are current users of alcohol excluded from protection under Section 504?

- No. Section 504's definition of a student with a disability does not exclude users of alcohol. However, Section 504 allows schools to take disciplinary action against students with disabilities using drugs or alcohol to the same extent as students without disabilities.

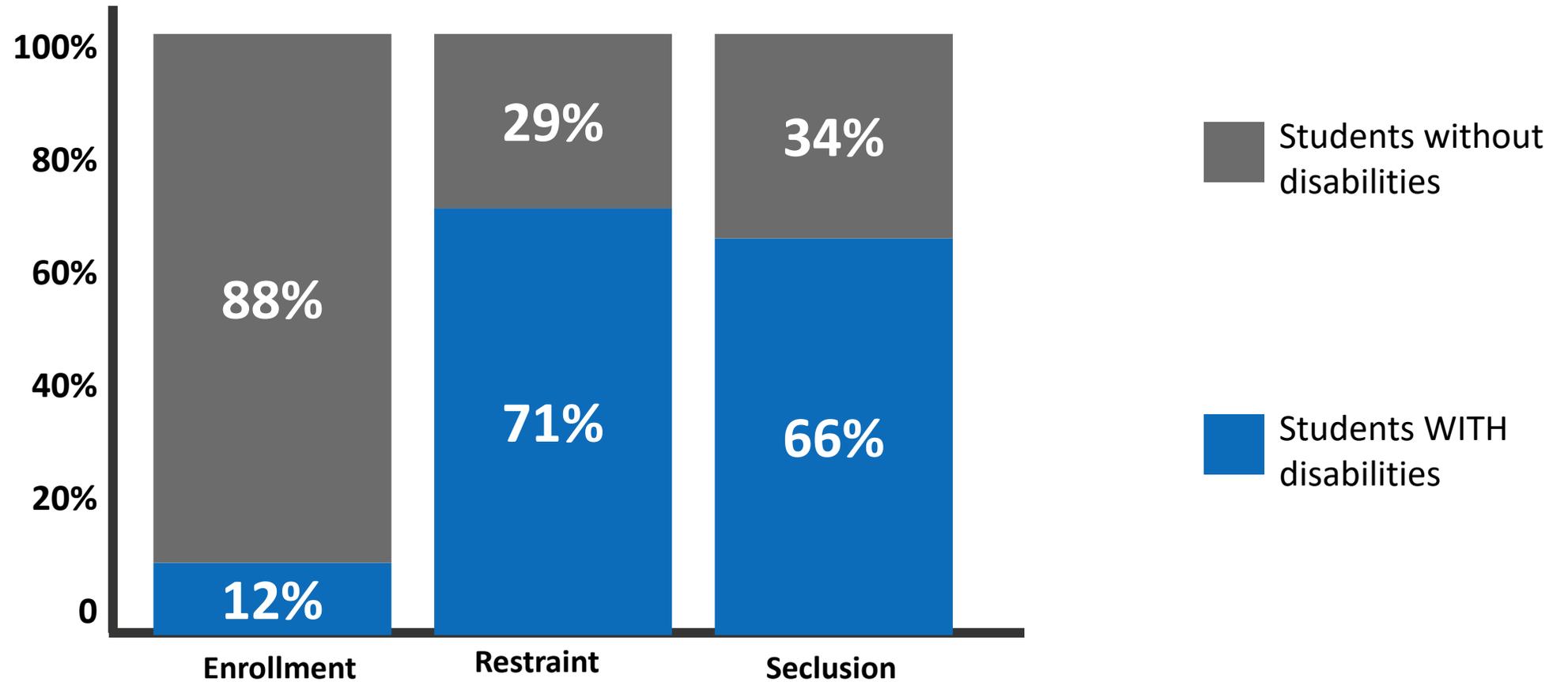


Restraint & Seclusion

“During the 2015–16 school year, 124,500 students (approximately 0.2 percent of all students enrolled) across the nation were physically restrained, mechanically restrained, or secluded. Nearly 87,000 of those students were subjected to physical or mechanical restraint, and over 37,500 were subjected to seclusion.”

<https://www2.ed.gov/about/offices/list/ocr/docs/school-climate-and-safety.pdf>

Students with Disabilities Restrained or Secluded



Mechanical Restraint

Physical Restraint



**When does restraint
or seclusion
discriminate against
students with
disabilities?**

Denial of FAPE



Traumatic impact on the student that results in new academic or behavioral difficulties



Lack of access to educational instruction and services due to seclusion

Section 504 Reevaluation

Instances of restraint may trigger the obligation of the Section 504 team to conduct a reevaluation that:

Determines if additional or different interventions or supports are required

Ensures that any needed changes are made promptly

Remedies any negative effects that resulted from the school's prior use of restraint or seclusion

Consider Referral for Special Education Evaluation



Following a situation in which a student is restrained



Resources

[PBIS.ORG](#)

[Substance Abuse and Mental Health Services Administration](#)

[The National Child Traumatic Stress Network](#)

[Evidence Based Classroom Strategies](#)

[National Center on Intensive Intervention Behavior Support Strategies](#)

[National Center on Intensive Intervention Behavioral Intervention Tools Chart](#)

[Accommodations Central](#)

[Texas Education Agency Discipline Guidance](#)

[United States Department of Education Office for Civil Rights](#)

[Iris Peabody Center, Vanderbilt University](#)

[Perry Zirkel](#)

[United States Department of Education School Climate and Discipline Guidance](#)

[Michigan Integrated Behavior and Learning Support Initiative](#)

[Florida Problem Solving/Response to Intervention Project](#)

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