



NATIONAL EQUITY
LANDSCAPE OF

STATE EXCLUSIONARY DISCIPLINE POLICIES

ACROSS PRE-K–12 CONTEXTS

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NATIONAL EQUITY LANDSCAPE OF STATE EXCLUSIONARY DISCIPLINE POLICIES

ACROSS PRE-K–12 CONTEXTS

There is no evidence that exclusionary discipline — removing children from learning settings as a form of discipline — is associated with beneficial short or long-term outcomes. Yet, exclusionary discipline is still widespread and starts early in children’s lives, negatively impacting students’ educational experiences and trajectories.¹ Exclusion is disproportionately and unfairly applied to Black children and other children of color (Indigenous, Multiracial, and in some cases Latine[o/a]), children with disabilities, and boys. Children who hold multiple of these intersecting identities face the highest rates of disparity.² Students who are excluded from school (suspended or expelled) are more likely to experience school disengagement, be excluded in the future, get behind academically and have lower academic achievement, and are more likely to drop out of school.³ Research indicates a range of factors influence exclusionary discipline, including individual and systemic biases, poor policies, lack of educator support, and a lack of resources in schools that result in little to no mental health support for staff or students.⁴ There is a range of exclusionary discipline categories that are more subject to implicit and explicit bias, the most notable of which are “defiant” and “disruptive” behavior.⁵

Disciplinary policy in education has changed over time and zero-tolerance policies dominated the 1990s and early 2000s. Black children’s suspension rates in the K–12 system more than doubled between 1973 and 2006, remained largely consistent for five years, and began to fall slowly in 2011–12 school year; although disparities with white children remain consistent and stark.⁶ In 2014, national recognition of these practices in preschool came to light, as well as their disproportionate impact on Black children, with the first publishing of the Civil Rights Data Collection (CRDC) of this age group. Most recently, disciplinary actions declined by 2% overall between 2015–16 and 2017–18, the most recent waves of Civil Rights Data Collection data. The most considerable reductions occurred in expulsions

without educational services (-18%) and those implemented through mandated zero-tolerance policies (-13%). However, exclusions with educational services increased during the 2015–16 and 2017–18 school years.⁷ Although rates in some domains of harsh discipline have decreased, the racial disparities have remained stark and consistent, and Black children continue to be suspended at higher rates than all other children.⁸

The most recent national data from the Civil Rights Data Collection (CRDC) in 2017–18 shows Black, Multiracial, and Indigenous children are overrepresented in public preschool suspensions, and Black children are overrepresented in preschool expulsions. In kindergarten through 12th grade settings (K–12), Black and Indigenous children are also overrepresented in suspensions and expulsions. Disability and gender disparities also exist in the application of harsh discipline. Specifically, students with disabilities and boys are overrepresented in expulsions across the pre-K–12 continuum. Further disparities emerge when intersections between race/ethnicity and gender are examined. Public preschool Latine(o/a) children are not overrepresented in suspension or expulsion, but when broken down by gender, Latine(o) boys are overrepresented in expulsions. In K–12 settings, when broken down by gender, Black, Latine(o/a), Indigenous, and Multiracial boys are overrepresented in suspensions. Black girls are the only group of girls overrepresented in preschool suspensions.⁹

When considering harsh and exclusionary discipline, it is critical to understand that Black children do not engage in more severe or frequent misbehavior but are often perceived as more aggressive or troublesome by educators.¹⁰ Researchers have found that adults are more likely to perceive Black children as older, more guilty, criminal, and hypersexualized, and these views are rampant in America’s schools. Several systemic issues contribute to these disparities,

including school climate and resources, racist and biased policies, lack of teacher training and support, and individual biases at the teacher and administrator levels.¹¹ Research on implicit bias shows that white individuals are more likely to view other white individuals as “happy” and non-threatening and see Black individuals (including children) as “angry” or “threatening” in the same context.¹² Studies have also examined this phenomenon with teachers. Researchers presented them with two nearly identical behavior records with two different names: one had the most commonly given name to white babies in the state that year, the other the most commonly given name of Black children in the state.¹³ Teachers were more likely to suggest exclusionary discipline after the second behavior incident for the child perceived to be Black, despite similar behavior incidents. These biases can also manifest in differential perceptions of the same behavior. Importantly, most disciplinary policies and actions occur in subjective categories where children are labeled “defiant” or “disruptive.” These categories are notoriously rife with implicit and explicit bias and are contributors to racial/ethnic disparities in disciplinary outcomes for Black and Brown children.¹⁴ The context of these exclusionary discipline disparities highlights the importance of understanding the quality of state discipline policies.

These exclusions negatively impact students’ educational experiences and are tied to adverse outcomes, including achievement, behavior, and school dropout.¹⁵ Additionally, children with adverse childhood experiences, including racism, are more likely to experience exclusion and harsh discipline.¹⁶ Exclusionary discipline removes children from learning settings and is associated with negative long-term outcomes, including increased grade retention and decreased high school graduation rates.¹⁷ Advocates have pointed to exclusionary discipline as a leading contributor to the school-to-prison pipeline, unfairly and disparately impacting Black children the most.¹⁸

The Policy Context

Over the last seven to 10 years, there has been a wave of policy action on exclusionary discipline at all levels of government. At the federal level, this included efforts to address expulsion in child care law through the reauthorization of the Child Care and Development Block Grant in 2014 and regulation in 2016 and Head Start regulation through the updated Head Start Program Performance Standards in 2016. The Departments of Education and Justice (for K–12) and Education and Health and Human Services (HHS) for early childhood provided guidance to states and districts on discipline. This federal

Key Findings

- ✔ More states allowed students to be excluded for defiant or disruptive behavior (38 states in 2018 and 40 states in 2023).
- ✔ The majority of states have some kind of exclusion limit. However, there was a rise in exceptions to limits on exclusion between 2018 and 2023.
- ✔ Four states allowed for, and 18 states and Washington, D.C. banned student exclusion for absenteeism/truancy.
- ✔ States do not tend to address limits for less severe forms of exclusion, such as in-school suspension.
- ✔ Between 2018 and 2023, 26 additional states adopted alternatives to discipline policies.
- ✔ PBIS, counseling, and restorative justice emerged as the most common approaches mentioned in state policies on alternatives to discipline.

action changed the landscape of exclusionary discipline policies and prompted even more state and local action. Between 2019–2022, 151 bills related to discipline were enacted across 41 states.¹⁹

It is important to note that exclusionary discipline policies are sometimes adapted or even overturned with changes in political leadership. For example, the Trump administration revoked the Obama-era Department of Justice and Education discipline guidance for K–12 systems, yet state and local efforts continued in some states and localities. The Biden Administration has since published guidance and recommendations regarding exclusionary discipline, but limitations or prohibitions of harsh discipline are not codified in law or regulation. There are exceptions, such as children with disabilities served under the Individuals with Disabilities Education Act (IDEA), who cannot be suspended for more than ten days, and young learners in Head Start programs who cannot be expelled. This federal context leaves states, districts, and even schools with a substantial role in setting discipline policies and establishing accountability structures.

The release of this report is timely, given the substantial number of resources recently appropriated at the federal level to promote positive school environments and to address mental health in schools. In 2022, Congress passed the Bipartisan Safer Communities Act, which changes federal firearm laws while providing funding through existing programs. This legislation expands mental health services in schools and invests in whole-school strategies that improve learning conditions. This includes \$1 billion funded through the Department of Education for competitive grants for districts to support more school-based mental health services, alongside funding to create partnerships between districts and institutions of higher education to build a pipeline of mental health professionals to work in high-need schools. Additionally, the Department of Education will release \$1 billion through Title IV of the Elementary and Secondary Education Act of 1965 to support evidence-based practices that improve school climate. This funding will be released via formula to the states, providing funding directly to school districts.

State and district leaders often wish to change their school discipline policies but need more resources to support alternatives to exclusionary school discipline practices — such as through tiered support systems, integrated services for students and families, or hiring more school counselors. This funding provides those leaders the resources they need to shift away from exclusionary school discipline. States can make policy changes to reduce disparities and promote more compassionate, preventative, and solutions-oriented discipline systems. States can also guide and govern decisions made to tailor these policies to the needs of local communities.

This Report

The policy context, national CRDC data, and research highlight the need for national attention to equity in disciplinary decisions. State and local discipline policies drive many decisions about exclusionary discipline in schools. These policies have the potential to exacerbate inequities or promote equity in discipline. Many state and local policies have been created addressing harsh discipline in the last ten years. Despite the large *quantity* of state discipline policies, little is known about the *quality* of these policies across the nation and the impact of these policies on child outcomes and related disparities. This brief takes an initial step in undergoing this analysis by examining the content in state exclusionary discipline policies in pre-kindergarten through 12th grade (pre-K–12) to date. We conduct a descriptive analysis of specific dimensions of policies beyond identifying if state policies exist. This enables us to understand the quality of policies. In this report, we examine the major dimensions of state exclusionary discipline policy, specifically by:

1. behavior incidents,
2. limitations on exclusion by grade,
3. limitations on exclusion by duration, and
4. access to alternatives to harsh discipline.

Future work will examine the extent to which these dimensions of policies, independently and together, impact racial disparities and rates in exclusionary discipline.



APPROACH

Policy Data

To address the aims of this report, we analyzed two aggregations of state discipline policies: The Education Commission of the States' aggregation of policies in 2018 and 2021 and the U.S. Department of Education Compendium of School Discipline Laws and Regulations aggregated by Child Trends in 2021 and 2022. These aggregations of state discipline policies examined legislation, state government websites, and Department of Education reviews by state agencies. They specifically covered state *laws and regulations* but did not cover rules or guidance. For our analysis, the Education Commission of the States 50-state comparison of state discipline laws and regulations was used as the foundation, and was supplemented by the U.S. Department of Education Compendium. Additionally, we included discipline policies passed in 2022 using the Education Commission for the States policy tracker and Legiscan policy search tools.

Definitions

Exclusions refer to any disciplinary action that removes a student from the learning environment, including in-school and out-of-school suspension and expulsion. We group suspension and expulsion because both remove students from the learning environment and are closely tied, and suspensions often lead to school expulsion.

Suspensions are the most common disciplinary consequence to lead to school expulsion.²⁰

In-school suspension refers to removing students from the general classroom and placement elsewhere in the school building to complete work.²¹

Alternatives to harsh discipline refers to a positive or non-punitive approach to address student behaviors that may be challenging to adults — some focus on prevention, and others on reaction to a specific event.

Typically, **out-of-school suspension** is defined as the denial of school attendance for ten or fewer days, and **expulsion** is the more permanent denial of school attendance.²²

REVIEW OF POLICIES

In this report, we review state policies in four areas 1) related to specific student behavior incidents, 2) grade limits on exclusion, 3) limits on the length of exclusion, and 4) alternatives to harsh discipline. First, states have multiple types of policies surrounding **specific behavior incidents**, including zero-tolerance policies, specific behaviors students are allowed to be excluded for, and limits on exclusion as a punishment for certain student behaviors. Next, states also placed limits on when students may be excluded from school based on their **grade** and the **length** of exclusion. These limits may play an important role in reducing exclusionary discipline. Finally, states also have implemented **alternatives to harsh discipline**. These policies aim to replace or prevent exclusionary discipline.

1. State Policies for Student Behavior Incidents

Researchers have found that exclusion is an ineffective consequence for perceived misbehavior and can even result in increased student behavioral incidences.²³ State policies on exclusion for specific student behavior addressed a wide range of behavior incidents ranging from disobedience and defiance, assault and physical harm, bullying, vandalism, and absenteeism (see Table 1). We divided state policies into three categories: zero tolerance, allowable exclusion, and limits on exclusion for specific behavior incidents. Some policies require exclusion as a consequence for specific behaviors (zero-tolerance),²⁴ others *allow* for exclusion but also provide room for discretion, and some states explicitly prevent students from being excluded for certain behaviors by limiting exclusion as a consequence. For example, if a 5th grade student is chronically absent in Arizona, they would be *allowed* to be excluded, but in Arkansas, the state *limits* exclusion for absenteeism.

ZERO-TOLERANCE & ALLOWABLE EXCLUSION

The most common behavior incidents addressed by zero-tolerance and allowable exclusion policies were:

- Possession of a weapon (49 states and D.C., except Massachusetts);
- Assault or physical harm (34 states and D.C.);
- Drug use or possession (25 states and D.C.); and
- Destruction of property (17 states and D.C.).

Beyond these serious behavioral incidents, there were many other exclusion requirements for discipline that may not be proportionate to the severity of the behavior. For example, in seven states and D.C., a student imitating a firearm or possessing an imitation firearm (e.g., a toy gun) would be required to be excluded from school; the same punishment applied to a student bringing a real firearm or weapon to school.

Additionally, in four states, students may be excluded for truancy/absenteeism. Excluding students for missing school exacerbates the tendency to miss school. Further, research suggests that many drivers of chronic absenteeism are outside of the child's control.²⁵

In 11 states, students can be excluded for "violating school rules." This broad overarching policy allows students to be excluded for incidents such as dress code violations or minor rule violations. Considering that exclusions are disproportionately applied to Black children, and in some cases, other children of color, and that exclusion itself is associated with a host of adverse short and long-term outcomes, minimizing exclusions for these types of minor offenses could play a key role in advancing equity in school discipline.²⁶

Though many of these behavior incidents are widely agreed upon observable behaviors (e.g., assault), there were also many cases of ambiguous or gray areas explicitly mentioned in state policy as potentially warranting exclusion. One key equity issue was exclusion policies for "**defiant or disruptive behavior.**" Maine is the only state with a *zero-tolerance policy* that mandates exclusion for defiant or disruptive behavior; however, 40 states *allow* for exclusion given such behaviors. Research has shown that the category of defiance and disruptive behavior is prone to implicit bias and is a driver of racial disparities in exclusionary discipline.²⁷ For example,

Skiba and colleagues found that teachers' office referrals for subjective behaviors were the primary driver of discipline disparities for African American students.²⁸ In addition to defiance and disruptive behavior, other subjective categories, including "gross disobedience" (Illinois) and "behavior detrimental to morals" (Hawaii), were mentioned by states. In Illinois, students must be excluded for "gross disobedience or misconduct on a school bus" and "if the student's presence poses a threat to school safety or a disruption to other student's learning opportunities."

BEHAVIOR INCIDENT LIMITS

Efforts to limit exclusion based on specific behavioral incidents may provide an avenue to prevent exclusion in areas where this consequence exacerbates student behavior or in areas subject to implicit bias²⁹ — for example, limiting exclusion for absenteeism or disruption. We found that 24 states placed limits on exclusion associated with specific behavior incidents. The most common limit was for absenteeism. Eighteen states had limits on exclusion for absenteeism/truancy, and Washington, D.C. limited exclusion as a consequence for tardiness. This is an important limit because exclusion exacerbates absenteeism rather than addressing and preventing the issue. It can further push students out of schooling altogether. Other limits on exclusion for specific behaviors include Washington, D.C. and North Carolina for dress code violations, willful defiance, or behavior off school grounds. Massachusetts and Michigan limited exclusion for pregnancy, Hawaii for minor offenses, Florida for sorority or fraternity membership, and Delaware for failure to disclose account passwords. In 2022, Virginia and Georgia passed laws prohibiting exclusionary discipline for students who choose not to wear a facemask. Efforts by Washington, D.C., North Carolina, and California to ban exclusion for willful defiance are important to highlight, as willful defiance is another gray area in which implicit bias may play a role.³⁰ Washington, D.C. also specified that students in 9th–12th grade cannot be excluded for dress code, defiance, or leaving school without permission. Other notable policies included Colorado's exclusion limits for students with disabilities and California, New Mexico, and Texas's policies limiting the exclusion of students experiencing homelessness.

Table 1: State Policies on Exclusion for Behavior Incidents

	Zero Tolerance		Allowable Exclusion		Limits On Exclusion	
STATE	# BEHAVIORS	DESCRIPTION	# BEHAVIORS	DESCRIPTION	# BEHAVIORS	DESCRIPTION
Alabama	2	Physical harm or threat of physical harm; drug use/possession	2	Defiant or disruptive behavior; electronic communications policy violation (inappropriate use of technology)		
Alaska			6	Felony conviction; physical harm or threat of physical harm; bullying/cyberbullying; defiant or disruptive behavior; harassment, intimidation		
Arizona	2	Threat to an educational institution; hazing	3	Defiant or disruptive behavior; truancy/absenteeism; vandalism	1	Absenteeism/truancy (until over compulsory school age; e.g., for preschool and child care)
Arkansas			6	Assault; destruction of property; drug use/possession; harassment; membership in a fraternity, sorority, or secret organization; vandalism	1	Absenteeism/truancy
California	5	Assault; physical harm or threat of physical harm; sexual assault; drug use/possession; theft/robbery	16	Hate-violence; physical harm or threat of physical harm; sexual assault; bullying/cyberbullying; defiant or disruptive behavior; drug use/possession; firearm/weapon possession (imitation); harassment; hazing; profanity/vulgarity; sexual harassment; theft/robbery; threat to an educational institution; terroristic threats; intimidation; vandalism	2	Absenteeism/truancy (non-punitive approach required); willful defiance (under 5th grade and trial of ban for 6th–8th)
Colorado	6	Assault, drug use/possession; theft/robbery; destruction of property; making a threat or false report; criminal behavior	9	Assault; physical harm or threat of physical harm; defiant or disruptive behavior; destruction of property; drug use/possession; endangerment; firearm/weapon possession (imitation); making a threat or false report; theft/robbery		
Connecticut	1	Drug sale/possession	3	Defiant or disruptive behavior; drug use/possession; endangerment		
Delaware			15	Assault; physical harm or threat of physical harm; sexual assault; arson; bullying/cyberbullying; criminal behavior; defiant or disruptive behavior; destruction of property; drug use/possession; electronic communications policy violation (inappropriate use of technology); gambling; pornography; theft/robbery; terroristic threats; unauthorized occupancy in a school building	1	Failure to disclose account passwords
Florida	2	Making a threat or false report; threat to an educational institution	8	Physical harm or threat of physical harm; defiant or disruptive behavior; dress code violation; drug use/possession; electronic communications policy violation (inappropriate use of technology); firearm/weapon possession (imitation); sexual harassment; violation of transportation policy	3	Absenteeism/truancy; tardiness; sorority/fraternity membership
Georgia	2	Assault; physical harm	1	Assault	1	Not wearing a face mask
Hawaii			2	Drug use/possession; behavior detrimental to morals	2	Absenteeism/truancy; minor offenses

	Zero Tolerance		Allowable Exclusion		Limits On Exclusion	
STATE	# BEHAVIORS	DESCRIPTION	# BEHAVIORS	DESCRIPTION	# BEHAVIORS	DESCRIPTION
Idaho			6	Bullying/cyberbullying; defiant or disruptive behavior; harassment; intimidation; truancy/absenteeism; threat to health	1	Absenteeism/truancy (with exceptions)
Illinois	4	Firearm/weapon possession (imitation); membership in a fraternity, sorority, or secret organization; gross disobedience or misconduct on a school bus; if the student's presence poses a threat to school safety or a disruption to other student's learning opportunities	2	Endangerment; threat to an educational institution		
Indiana			3	Criminal behavior; defiant or disruptive behavior; endangerment		
Iowa	1	Assault	2	Drug use/possession; violating school rules/code of conduct		
Kansas			4	Criminal behavior; defiant or disruptive behavior; endangerment; violating school rules/code of conduct		
Kentucky	2	Assault; drug use/possession	8	Assault; physical harm or threat of physical harm; defiant or disruptive behavior; destruction of property; drug use/possession; profanity/vulgarity; theft/robbery; vandalism		
Louisiana	3	Assault; failure to participate in assigned detention; committing an offense for a fourth time	12	Felony conviction; fighting; physical harm or threat of physical harm; bullying/cyberbullying; defiant or disruptive behavior; drug use/possession; leaving school without permission; profanity/vulgarity; truancy/absenteeism; violating school rules/code of conduct; violating traffic/safety regulations; vandalism		
Maine	4	Physical harm or threat of physical harm; drug use/possession; drug sale/possession; defiant or disruptive behavior	4	Bullying/cyberbullying; making a threat or false report; membership in a fraternity, sorority, or secret organization; violating school rules/code of conduct		
Maryland					1	Absenteeism/truancy
Massachusetts			4	Assault; felony conviction; drug use/possession; drug sale/possession	1	Pregnancy or marriage
Michigan	4	Assault;* sexual assault; arson	3	Sexual assault; criminal behavior; defiant or disruptive behavior	1	Pregnancy
Minnesota			4	Physical harm; defiant or disruptive behavior; endangerment; membership in a fraternity, sorority, or secret organization		
Mississippi	2	Drug use/possession; membership in a fraternity, sorority, or secret organization	2	Defiant or disruptive behavior; destruction of property		
Missouri			4	Felony conviction; physical harm or threat of physical harm; defiant or disruptive behavior; membership in a fraternity, sorority, or secret organization	1	Prior disciplinary action

	Zero Tolerance		Allowable Exclusion		Limits On Exclusion	
STATE	# BEHAVIORS	DESCRIPTION	# BEHAVIORS	DESCRIPTION	# BEHAVIORS	DESCRIPTION
Montana			4	Physical harm or threat of physical harm; defiant or disruptive behavior; destruction of property; violating school rules/code of conduct		
Nebraska			12	Physical harm or threat of physical harm; sexual assault; bullying/cyberbullying; criminal behavior; defiant or disruptive behavior; destruction of property; intimidation; membership in a fraternity, sorority, or secret organization; public indecency; theft/robbery; violating school rules/code of conduct; threat to health	1	Absenteeism/truancy
Nevada			5	Assault; criminal behavior; defiant or disruptive behavior; drug use/possession; gang activity	1	Absenteeism/truancy
New Hampshire			6	Physical harm or threat of physical harm; sexual assault; bullying/cyberbullying; defiant or disruptive behavior; destruction of property; theft/robbery		
New Jersey	1	Assault	14	Assault; physical harm or threat of physical harm; behavior detrimental to morals or welfare of others; bullying/cyberbullying; continued and willful disobedience; defiant or disruptive behavior; destruction of property; drug use/possession; harassment; intimidation; profanity/vulgarity; theft/robbery; truancy/absenteeism; unauthorized occupancy in a school building		
New Mexico			5	Sexual assault; criminal behavior; defiant or disruptive behavior; gang activity; refusal to identify self	1	Absenteeism/truancy
New York			3	Physical harm or threat of physical harm; behavior detrimental to morals or welfare of others; defiant or disruptive behavior	1	Absenteeism/truancy
North Carolina			2	Physical harm or threat of physical harm; violating school rules/code of conduct	3	Absenteeism/truancy; minor offenses (violating dress code rules, willful defiance, or behavior off school grounds)
North Dakota			2	Defiant or disruptive behavior; habitual disciplinary problems (indolence)		
Ohio			6	Bomb threat; physical harm or threat of physical harm; criminal behavior; defiant or disruptive behavior; destruction of property; endangerment	1	Absenteeism/truancy
Oklahoma	2	Assault, physical harm, or threat of physical harm	4	Bullying/cyberbullying; drug use/possession; theft/robbery; violating school rules/code of conduct		
Oregon			6	Physical harm or threat of physical harm; defiant or disruptive behavior; destruction of property; drug use/possession; profanity/vulgarity; theft/robbery		

	Zero Tolerance		Allowable Exclusion		Limits on Exclusion	
STATE	# BEHAVIORS	DESCRIPTION	# BEHAVIORS	DESCRIPTION	# BEHAVIORS	DESCRIPTION
Pennsylvania	1	Sexual assault	1	Defiant or disruptive behavior		
Rhode Island	2	Assault; firearm/weapon possession (imitation)	3	Bullying/cyberbullying; defiant or disruptive behavior; threatening behavior	1	Absenteeism/truancy
South Carolina			11	Physical harm or threat of physical harm; behavior detrimental to morals or welfare of others; criminal behavior; defiant or disruptive behavior; drug use/possession; electronic communications policy violation (inappropriate use of technology); theft/robbery; threatening behavior; trespassing or unlawful assembly; violating school rules/code of conduct; vandalism		
South Dakota			4	Defiant or disruptive behavior; destruction of property; drug use/possession; violating school rules/code of conduct		
Tennessee	2	Assault; drug use/possession	10	Physical harm or threat of physical harm; behavior detrimental to morals or welfare of others; criminal behavior; defiant or disruptive behavior; destruction of property; drug use/possession; profanity/vulgarity; threat to an educational institution; violating school rules/code of conduct; vandalism		
Texas	8	Assault; sexual assault; murder; kidnapping; manslaughter; drug use/possession; theft/robbery; arson	10	Assault; bullying/cyberbullying; criminal behavior; defiant or disruptive behavior; drug use/possession; electronic communications policy violation (inappropriate use of technology); harassment; public indecency; theft/robbery; threatening behavior		
Utah	3	Drug use/possession; firearm/weapon possession (imitation); controlled substance possession/use (imitation)	6	Behavior detrimental to morals or welfare of others; defiant or disruptive behavior; destruction of property; drug use/possession; profanity/vulgarity; pornography	1	Absenteeism/truancy
Vermont			5	Bullying/cyberbullying; defiant or disruptive behavior; harassment; hazing; threatening behavior		
Virginia	2	Drug use/possession; controlled substance possession/use (imitation)	2	Criminal behavior; delinquency	2	Absenteeism/truancy; not wearing a face mask
Washington			8	Kidnapping; physical harm or threat of physical harm; arson; defiant or disruptive behavior; destruction of property; endangerment, gang activity; harassment		

STATE	Zero Tolerance		Allowable Exclusion		Limits on Exclusion	
	# BEHAVIORS	DESCRIPTION	# BEHAVIORS	DESCRIPTION	# BEHAVIORS	DESCRIPTION
Washington, D.C.	12	Fighting; firearm/weapon possession (imitation); theft/robbery; destruction of property; sexual harassment; tampering with an official document; vandalism; harassment; activating false alarm; contaminating food; inciting violence; interfering with school authorities	21	Fighting; physical harm or threat of physical harm; academic dishonesty; bullying/cyberbullying; defiant or disruptive behavior; drug use/possession; electronic communications policy violation (inappropriate use of technology); endangerment; extortion; forgery; gambling; gang activity; hazing; leaving school without permission; lying to school staff; profanity/vulgarity; pornography; sexual acts; threatening behavior; unauthorized occupancy in a school building; sale or distribution of any item without authorization	4	Tardiness; violating dress code rules; willful defiance; behavior off school grounds
West Virginia	3	Assault; drug use/possession; drug sale/possession	5	Physical harm or threat of physical harm; defiant or disruptive behavior;* destruction of property; drug use/possession; profanity/vulgarity	1	Absenteeism/truancy
Wisconsin			3	Bomb threat; defiant or disruptive behavior; endangerment,	1	Absenteeism/truancy
Wyoming			5	Physical harm or threat of physical harm; behavior detrimental to morals or welfare of others; defiant or disruptive behavior; destruction of property; profanity/vulgarity		

Note. Every state except Massachusetts (which allows for exclusion) requires exclusion for possessing a firearm/weapon and is not included in the table for readability.

*Only for 6–12th grade students



2. Grade Limits on Exclusion

Many state efforts to limit exclusion based on age/grade resulted from findings of stark rates and disparities of exclusion in early childhood contexts.³¹ Researchers found that earlier exclusion from school was among the greatest risk factors for later exclusion.³² As such, limiting exclusion for young children may help prevent future exclusion. Additionally, children experience rapid and essential developmental growth during these early years.³³ Exposure to the educational context is crucial for young children, and exclusion from school can have long-term negative consequences.³⁴ Policies limiting exclusion for young children are critical in early childhood contexts where children are more likely to be excluded than their K–12 counterparts, and racial disparities remain stark.³⁵

We found that 24 states placed some limit on exclusion based on a child’s age/grade (see Table 2). These limits took various forms, with ten states limiting all exclusions for specific grade ranges, 14 states allowing for limits with exceptions, and four states limiting exclusions for grades based on the length or behavior incident. The limits included some combination of pre-kindergarten (pre-K) or elementary school grades (e.g., K–5, pre-K–5, K–3, pre-K–3, etc.). California, Michigan, and Nevada also included 6th grade in the limits of exclusion, and Washington, D.C. limited exclusions for the pre-K–8th grade. Washington, D.C. also specified that students in 9th–12th grade cannot be excluded for dress code, defiance, or leaving school. Additionally, of the 14 states that included exceptions for grade limits on exclusion, incidents like safety concerns, weapons, and physical harm were listed as the exception.

Table 2: Grade Limits on Exclusion by State

STATE	PRE-K	K	1	2	3	4	5	6	7	8	9	10	11	12	EXCEPTIONS ON LIMITS
Alabama															
Alaska															
Arizona		x*	x*	x*	x*										Weapon or drug possession; prevents other students from learning; behavior is persistent despite other supports
Arkansas		x*	x*	x*	x*	x*	x*								Poses a physical risk to themselves or others; causes a serious disruption that cannot be addressed through other means
California	x	x	x	x	x	x	x	x*	x*	x*					Ban on exclusion for willful defiance in a trial period for 6th–8th grade
Colorado	x	x	x	x											
Connecticut	x*	x*	x*	x*											Out of school
Delaware															
Florida															
Georgia	x	x*	x*	x*	x*										No more than five days unless previous intervention for pre-K–3rd
Hawaii	x														
Idaho															
Illinois	x														
Indiana															
Iowa															
Kansas															
Kentucky		x*	x*	x*	x*										
Louisiana	x*	x*	x*	x*	x*	x*									Safety exceptions
Maine	x	x	x	x	x	x	x								Safety exceptions
Maryland	x	x	x	x											
Massachusetts	x*	x*	x*	x*	x*										Weapons. A principal must justify to the superintendent out-of-school suspension for preschool–3rd w/ firearm exception

STATE	PRE-K	K	1	2	3	4	5	6	7	8	9	10	11	12	EXCEPTIONS ON LIMITS
Michigan															
Minnesota	x*														Other resources exhausted or safety threat
Mississippi															
Missouri															
Montana															
Nebraska															
Nevada		x*	x*	x*	x*	x*	x*	x*							Must be reviewed; cannot be permanently expelled if 11 or under
New Hampshire															
New Jersey	x	x	x	x											
New Mexico															
New York															
North Carolina	x*	x*	x*	x*	x*	x*	x*	x*	x*	x*					Must be over 14 years old or 13 years old with exceptions
North Dakota															
Ohio	x	x*	x*	x*	x*										Exceptions for serious offenses or to protect the health and safety of others
Oklahoma															
Oregon	x*	x*	x*	x*	x*	x*	x*								Safety, harm, law
Pennsylvania															
Rhode Island															
South Carolina															
South Dakota															
Tennessee															
Texas		x	x	x	x										
Utah															
Vermont															
Virginia	x*	x*	x*	x*	x*										No more than three days for pre-K–3rd
Washington		x*	x*	x*	x*	x*	x*								K–4 no more than 10 days in a semester; 5th no more than 15 days
Washington, D.C.	x*	x*	x*	x*	x*	x*	x*	x*	x*	x*	x*	x*	x*	x*	K–8 (physical harm); 9–12 (not for dress code, defiance, leaving school)
West Virginia															
Wisconsin															
Wyoming															

*Indicates exceptions apply to the indicated group

3. Limits on Length of Expulsion

States also placed limits based on the length of exclusion, helping to provide centralized guidance and keep students from being excluded for extended periods, substantially interrupting their education.³⁶ According to the most recent CRDC data in 2017–2018, approximately 11 million school days were missed due to suspension, and Black students missed twice as many days as white students nationwide.³⁷ Limits on the length of exclusions are essential policies for

equity in exclusionary discipline. Exclusionary discipline fundamentally shapes children’s access to school. Not surprisingly, the length of missed school days negatively impacts children’s academic achievement, disproportionately impacting Black children.³⁸ A statewide study in Arkansas found that Black students tended to receive longer exclusions than their white counterparts for similar behavior. These disproportionalities were primarily between rather than within schools.³⁹

Our review found that 30 states limited the time students could be excluded from schools (see Table 3). These limits applied to different exclusion types, including out-of-school suspension (OSS), expulsion, detention, and in-school suspension (ISS). Seventeen states included limits on OSS, mentioning a range of limits and lengths of exclusion. An additional 25 states included a “limit” on OSS of 10 days. However, this 10-day specification is the generally agreed-upon distinction between suspension and expulsion; therefore, we considered it a definition rather than a limit.⁴⁰ Of the states that placed additional limits on OSS, six referenced a less than the five-day limit, and eight referenced limits greater than the less than ten-day definition of OSS (ranging from 20 days — less than one year). However, policies did not mention limits on the number of times a child may be suspended.

Next, 17 states included limits on expulsion. Although it may appear positive that states are including limits on expulsion, these policies indicated that the length of expulsion could be extremely long. For example, the limits put in place by nine states specified that students might be expelled for less than one year, and Illinois indicated that expulsion should be less than two years. The remaining seven states placed limits on the length of expulsion ranging from ten or more days to 186 days. These limits capture the potential for students to be expelled for multiple years if not for these limits, and with the limits in place, students could still be excluded for up to one year in many cases (and two years in the case of Illinois). These long periods of exclusion may result in irreparable harm to the educational futures of children, particularly Black children. When students are excluded for these prolonged periods, they may be placed in alternative schools, and upon return, many schools may refuse to enroll expelled students.⁴¹ Finally, very few states limited the less severe forms of exclusion, such as in-school suspension and detention. Only California and Minnesota explicitly included limits on the duration of detention, and Colorado explicitly placed limits on ISS.

IDEA Discipline Policies

The Individuals with Disabilities Education Act (IDEA) requires that individuals with disabilities have access to free and appropriate public education (FAPE) in the least restrictive environment. Part B covers children ages three through 21 years old. According to the IDEA, a child with identified disabilities served by an IEP may be excluded from school for a code of conduct violation for up to 10 consecutive days in a given school year. This exclusion must not result in a change in placement due to a child’s disability. If a change in placement is to be made, it must be agreed upon by the parent, local education agency, and IEP team.⁴²

Children with disabilities are often disproportionately excluded from school, and these inequities are exacerbated for children of color with disabilities.⁴³ This issue occurs in preschool and extends throughout K–12. Dear Colleague letters in 2016 and 2022 by the Office of Special Education programs addressed this issue. They highlighted the need to reduce discipline disparities for children with disabilities and to provide equitable access to proactive and positive behavioral supports.⁴⁴

3. Length of Limits on Exclusion by State

STATE	Out of School Suspension		Expulsion		Detention		In School Suspension	
	LIMIT	DESCRIPTION	LIMIT	DESCRIPTION	LIMIT	DESCRIPTION	LIMIT	DESCRIPTION
Alabama								
Alaska								
Arizona								
Arkansas								
California	x	<20 cumulative days, with exceptions			x	<1 hour; students may not be kept from lunch or recess		
Colorado	x	<25, <10, <5 days depending on circumstances; <3 days for pre-K						

STATE	Out of School Suspension		Expulsion		Detention		In School Suspension	
	LIMIT	DESCRIPTION	LIMIT	DESCRIPTION	LIMIT	DESCRIPTION	LIMIT	DESCRIPTION
Connecticut			x	<1 year			x	<10 consecutive days, <50 total days, <15 times
Delaware			x	<1 year				
Florida								
Georgia								
Hawaii								
Idaho	x	<5 days						
Illinois			x	<2 years				
Indiana			x	<1 year				
Iowa								
Kansas	x	<90 days	x	<186 days				
Kentucky								
Louisiana			x					
Maine			x	<1 year				
Maryland								
Massachusetts	x	<90 days						
Michigan								
Minnesota					x	<5 periods		
Mississippi								
Missouri	x	<180 days by superintendent						
Montana			x	20 days or more without services				
Nebraska	x	<5 days	x	<1 year				
Nevada	x	3+ days						
New Hampshire								
New Jersey								
New Mexico								
New York	x	<5 days						
North Carolina	x	<1 school year						
North Dakota	x	<20 days for alternative education						
Ohio	x	<10 days for pre-K–3 only	x	<80 days				
Oklahoma								
Oregon			x	<1 year				
Pennsylvania								
Rhode Island								
South Carolina	x	<30 days in a school year; cannot be suspended for the last 10 days of the year if that will render the student ineligible to receive credit for the school year						

STATE	Out of School Suspension		Expulsion		Detention		In School Suspension	
	LIMIT	DESCRIPTION	LIMIT	DESCRIPTION	LIMIT	DESCRIPTION	LIMIT	DESCRIPTION
South Dakota			x	<90 days for alcohol possession				
Tennessee								
Texas	x	<3 days for code of conduct only						
Utah								
Vermont			x	<90 days				
Virginia	x	<45 days						
Washington			x	<1 year				
Washington, D.C.	x	<5 days pre-K–5, <10 days for 6–12						
West Virginia			x	<1 year				
Wisconsin	x	<5 days						
Wyoming			x	<1 year				

Note. 26 states included limits on exclusion of 10 days or less, which often distinguishes between suspension and expulsion, and therefore not included as a limit on exclusion.

4. Alternatives to Harsh Discipline

Alternatives to harsh discipline, particularly in social and emotional learning policies, have taken off over the last 10–15 years.⁴⁵ They typically include efforts to prevent the need for disciplinary action through the positive development of students’ social and emotional skills and reduced behaviors noted as challenging.⁴⁶ Other approaches focus on school climate, increasing access to social workers and counselors, and increasing access to specialists who can support teachers in classroom management and social and emotional development. These efforts provide important opportunities to support students more broadly and view behavior incidents and discipline in context. Additionally, alternatives to discipline that include an equity focus may reduce discipline disparities. A randomized control trial of an equity-focused Positive Behavioral Interventions and Supports (PBIS) intervention found the intervention reduced disparities in discipline for Black students, whereas disparities remained in the treatment group.⁴⁷ However, little is known about children’s access to harsh discipline alternatives, particularly those who are most likely to have these types of options. A study in Arizona found that Black, Latine(o/a), and Native American children were less likely to attend schools with alternatives to harsh discipline.⁴⁸

Most states (39) attempted to address the negative implications of disciplinary policy by using programs that provide alternatives to harsh discipline. There are notably fewer state alternatives to harsh discipline policies focused on

addressing bias in the perceptions of behaviors and decision-making. Additionally, though alternatives have the potential to center equity and social justice in discipline policy, they do not do so inherently. They may avoid discussions of race altogether, unintentionally perpetuating disparities. These alternatives can be helpful for teachers and administrators when a child presents a behavior that is challenging to adults. However, alternatives to discipline do not explicitly or effectively address biases in adult perception and disparities in decision-making about children’s behavior that differs based on race.

Our review found that 39 states had alternatives to harsh discipline. States varied widely in their descriptions of alternatives to harsh discipline. Our results describe the use of the nine frequently mentioned alternatives. These included social and emotional learning and mental health supports such as counseling, Multi-Tiered Systems of Support (MTSS), PBIS, and trauma-informed approaches. The most common approaches were PBIS (16 states), restorative justice (15 states), and counseling (11 states; see Table 4). PBIS and counseling aim to support children’s social and emotional development through systems and counseling at the individual level. Restorative practices approach student behavior incidents with respect and emphasize the resolution of non-punitive harm that meets the needs of those involved.⁴⁹ Emerging evidence suggests that restorative justice approaches may help reduce discipline disparities and address equity issues in school discipline.⁵⁰ One study found that, when well implemented, teachers who used restorative justice practices reported more positive relationships with students of color and used fewer exclusionary discipline

referrals for Latine(o/a) and Black students. Additionally, students from all racial/ethnic backgrounds viewed their teachers as more respectful.⁵¹

Other approaches included community service (seven states), encouraging districts to avoid using zero-tolerance (Maine), encouraging districts to address fairness in disciplinary decisions (Rhode Island), MTSS (Georgia, Kentucky), and trauma-informed care (Texas, Maryland). Only Rhode Island’s alternative approach explicitly addressed equity to address fairness in alternatives to harsh discipline.

Though alternatives to harsh discipline are generally considered positive policies, there were some alternatives with potentially negative implications for equity. For example, requiring parent attendance (five states), though intended to encourage parental involvement in their children’s schooling, places an undue burden on parents. It would require a child’s parent to take off work to attend school. This would disproportionately impact working-class parents who may be unable to take time off work to attend school as an alternative to discipline for their child.

4. Alternatives to Harsh Discipline in Each State

STATE	# OF ALTERNATIVES	SPECIFIED DESCRIPTION OR EXAMPLES OF ALTERNATIVE
Alabama		
Alaska	1	Conflict resolution
Arizona	1	Community service
Arkansas	3	Prevention, intervention, and conflict resolution
California	7	Restorative practices/justice; counseling; PBIS; community service; SEL; anger management; prosocial behavior programs
Colorado	1	Parent attendance
Connecticut		
Delaware	5	Restorative practices/justice; counseling; PBIS; mediation; mentoring
Florida	4	Restorative practices/justice; civil citation; teen court; restitution
Georgia	2	MTSS; PBIS
Hawaii	3	Parent attendance; restitution; interim alternate education setting
Idaho	4	Restorative practices/justice; counseling; teen court; on-site suspension and expulsion
Illinois	1	Recommend alternatives
Indiana	6	Restorative practices/justice; PBIS; SEL; peer mediation; assigning additional coursework; rearranging class schedules
Iowa		
Kansas		
Kentucky	1	MTSS
Louisiana	5	Counseling; peer mediation; prevention, intervention, and conflict resolution; rearranging class schedules; stress management
Maine	2	Restorative practices/justice; avoiding zero-tolerance
Maryland	3	Restorative practices/justice; PBIS; community service; trauma-informed
Massachusetts	4	Restorative practices/justice; PBIS; conflict resolution; mediation; trauma-sensitive
Michigan	1	Restorative practices/justice
Minnesota	1	Parent attendance
Mississippi	2	PBIS; parent attendance
Missouri		
Montana		
Nebraska	5	Restorative practices/justice; counseling; PBIS; rearranging class schedules; parent conferences
Nevada	1	Restorative practices/justice
New Hampshire	4	Community service; anger management; conflict resolution; parent conferences
New Jersey	1	PBIS

STATE	# OF ALTERNATIVES	SPECIFIED DESCRIPTION OR EXAMPLES OF ALTERNATIVE
New Mexico		
New York		
North Carolina	5	Counseling; community service; peer mediation; anger management; conflict resolution
North Dakota		
Ohio	1	Community service
Oklahoma		
Oregon	1	Prosocial behavior programs
Pennsylvania	2	Restorative practices/justice; PBIS
Rhode Island	2	PBIS; addresses fairness
South Carolina	3	Restorative practices/justice; counseling; PBIS
South Dakota		
Tennessee	1	Evidence-based supports
Texas	4	Restorative practices/justice; PBIS; SEL; trauma-informed
Utah	2	PBIS; parent attendance
Vermont	3	Counseling; peer mediation; anger management
Virginia	4	Counseling; PBIS; community service; peer mediation
Washington	1	Counseling
Washington, D.C.	3	Restorative practices/justice; PBIS; prevention, intervention, and conflict resolution
West Virginia	2	Peer mediation; prevention, intervention, and conflict resolution
Wisconsin		
Wyoming		

Note. MTSS = Multi-Tiered Systems of Support; PBIS=Positive Behavioral Interventions and Supports. Connecticut: completion of an administration-specified program could result in waiving a suspension for students who are suspended for the first time. Missouri: Districts are encouraged to use in-school suspension systems and discipline alternatives prior to suspending students for more than 10 days.



POLICY TRENDS

State exclusionary discipline policies have continued to evolve over the last five years. In 2018, two states had **zero-tolerance policies** for defiant or disruptive behavior; in 2023, only Maine had this zero-tolerance policy. On the other hand, in 2018, 38 states **allowed for exclusion based on defiant or disruptive behavior**, which increased to 40 states in 2023. Between 2018 (17 states) and 2023 (23 states), five additional states placed **behavior limits** on exclusion based on incident type. Further, 14 additional states placed **age limits** on exclusion from 2018 (10 states) to 2023 (24 states). Two fewer states placed **duration limits** based on the length of exclusion in 2023 (30 states) relative to 2018 (32 states). Finally, 26 additional states adopted **alternatives to harsh discipline** policies between 2018 (13 states) and 2023 (39 states).

There were numerous changes in state policy regarding the limits states placed on exclusion in 2018 vs. 2023. There were also changes in the exceptions that states placed on these limits. Exceptions are noteworthy in this context because research shows racial discipline disparities in harsh and exclusionary discipline are often wider between schools

than within schools, suggesting that school context, including individual discretion, may play an important role in these disparities.⁵² For example, previous research has shown that teachers' discretion on subjective behavior contributes to disparities in exclusion for Black children.⁵³ State policies that specify exceptions for limits to exclusion may lean more heavily on the discretion of leadership to determine exclusionary outcomes. This additional discretion in the hands of principals and administrators may lead to more variability in outcomes. In a study of middle school principal disciplinary discretion in North Carolina, the average principal had an estimated 32% removal rate for a representative set of referrals. However, principals in the 90th percentile had an estimated 41% removal rate and oversaw schools with more juvenile justice system involvement, lower graduation rates, attendance, and test scores.⁵⁴ Though additional research is needed in this area, policies that allow for individual discretion through exceptions to limits on exclusion may lead to variability in outcomes.⁵⁵ Discretion may be positive or negative based on a principal or administrator's positionality, training, state policy context, and available support.

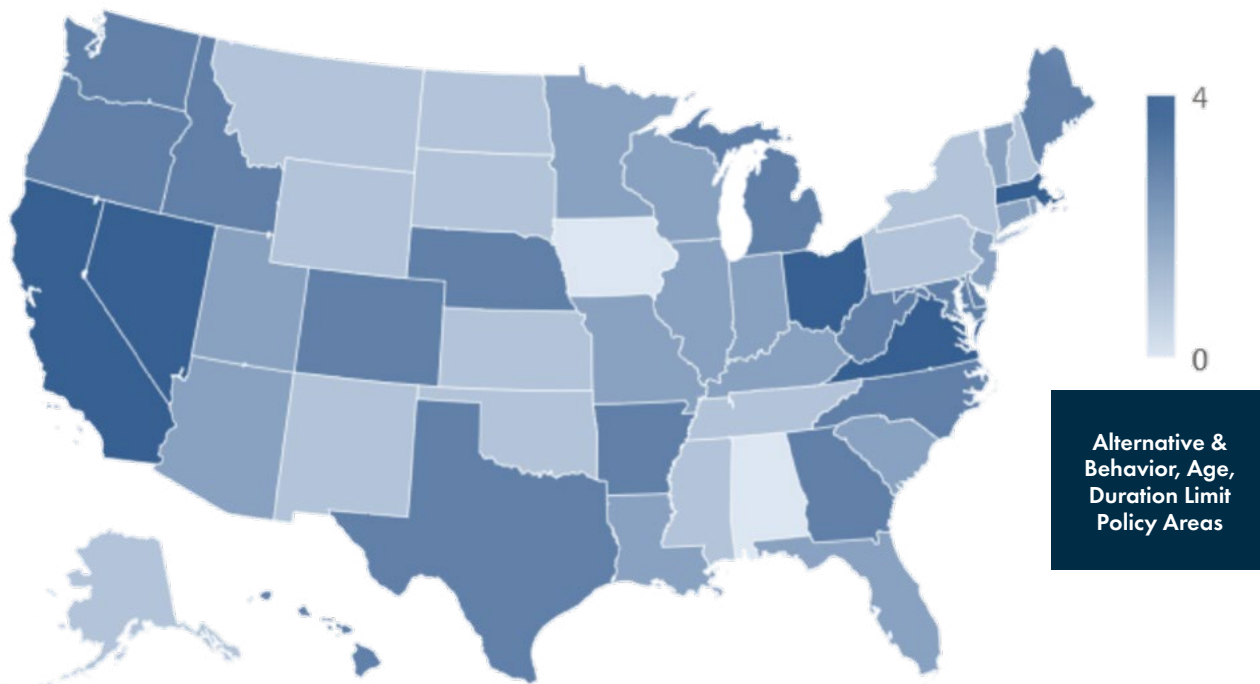


CONCLUSION AND RECOMMENDATIONS

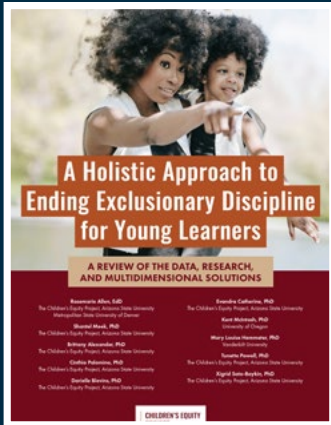
Exclusionary and disproportionate discipline remain a problem in pre-K–12 education, and state policies play a key role in shaping if, how, and when exclusionary discipline is used. A robust research base indicates that Black children, children with disabilities, boys, and in some cases, other children of color are disproportionately subject to these harsh tactics with severe short- and long-term negative outcomes.⁵⁶ States fail children, teachers, and families when their policies do not adequately address harsh discipline and its disproportionate impact. This report goes beyond examining whether or not states have a policy on exclusionary discipline and explores the types of state exclusionary discipline policies and changes in these policies over time. We found that many areas need to be improved to holistically address discipline disparities across behavior incident exclusion policies, age and length limits on exclusion, and alternatives to harsh discipline. Future research is needed to examine if and how the quality of these state discipline policies is related to rates of discipline, disparities, and child outcomes.

Preventing Exclusionary Discipline: How Many

Policy Areas Is Your State Addressing?

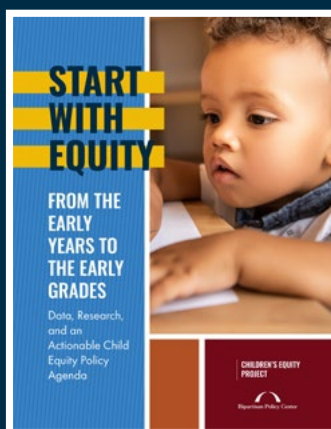


ADDITIONAL RESOURCES



A HOLISTIC APPROACH TO ENDING EXCLUSIONARY DISCIPLINE FOR YOUNG LEARNERS

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START WITH EQUITY: From the Early Years to the Early Grades

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Findings from this report across four key areas offer opportunities for states to improve their support of children and the implementation of discipline policies that are both equity- and solution-oriented.

Our review of behavior incident policies found that the majority of states allowed students to be excluded for defiant or disruptive behavior and this number increased over the last five years (38 states in 2018 and 40 states in 2023).

This troubling trend allows for the use of exclusionary discipline, with a host of serious and long-term negative consequences for children, to be used as a consequence for child behavior incidents defined by unclear and vague language that is often infiltrated by racial bias.⁵⁷ This vagueness likely impacts children who experience the greatest amount of behavioral bias, particularly Black children. States should prohibit the use of exclusionary discipline for defiant or disruptive behavior.

The majority of states have some kind of exclusion limit; however, there was a rise in exceptions to limits on exclusion between 2018 and 2023.

We found that *age limits on exclusion* have become more common over the last five years. This promising trend should continue to be built upon, and states should ban the use of exclusionary discipline for pre-K and elementary school children. Bans on the use of exclusionary discipline for special populations (e.g., students with disabilities, students experiencing homelessness, etc.) should also be considered and implemented where appropriate. Importantly, simple age-based limitations are unlikely to narrow or address racial disparities.

Our review found that limits on the length of exclusion were common.

In fact, 30 states had some kind of limit on the length of exclusion. However, rarely was the breadth of exclusion covered—detention and ISS were often missing from these policies. States could effectively limit the length of exclusion by requiring districts to request permissions for any exclusions longer than ten days and should include specific limits for detention and ISS.

Between 2018 and 2023, 26 additional states adopted alternatives to harsh discipline. PBIS, counseling, and restorative justice emerged as the most common approaches mentioned in state policies on alternatives to discipline.

States should require that alternatives to harsh discipline be implemented before a student is excluded. These alternatives should explicitly be informed by clearly documented research pointing to bias in the perceptions of behavior and differential scrutiny on Black children, in particular, and be developmentally appropriate. Additionally, alternatives should be implemented holistically — centering the school (e.g., PBIS), individual child (e.g., child psychologist), parents (e.g., meaningful family engagement), and teachers (e.g., mental health consultation, anti-bias reflection, and ongoing support).

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