



# POLICY ANALYSIS



## The Status of School Discipline in State Policy

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Exclusionary discipline — suspensions or expulsions that remove students from the learning environment — can have long-lasting, negative impacts on a student's trajectory. Research suggests that students who are suspended or expelled suffer academically and are more likely to drop out and be involved in the criminal justice system later in life.<sup>1</sup> Yet in 2015-16, about 2.7 million students in K-12 received one or more out-of-school suspensions, and over 120,000 students were expelled with or without educational services.<sup>2</sup> These data — coupled with research showing significant disparities in the application of suspension and expulsion based on race, gender and disability status — have prompted many state education leaders to re-examine their school discipline practices.<sup>3</sup>

Some are addressing these issues through legislation aimed at striking an appropriate balance between promoting safe and productive schools while reducing the adverse effects of exclusionary discipline. Education Commission of the States [tracks legislation](#) related to school discipline and recently published a 50-State Comparison [of statutes and regulations](#) in all 50 states and the District of Columbia, in an effort to provide policy context for further research and state action. Building on these resources, this brief presents a summary of the research on school discipline, an outline of legislative trends, a synthesis of key findings from legislative and statutory research, and points for consideration as policymakers continue to address this issue.

In the past five years, lawmakers have largely enacted bills that either restrict the use of suspension/expulsion or encourage alternative school discipline strategies, demonstrating a shift away from zero tolerance policies.

In the last two legislative sessions, states enacted at least 29 bills related to suspensions, expulsions or alternative school discipline strategies.

Currently, 16 states and the District of Columbia have laws limiting the use of exclusionary discipline by grade level, usually in the early grades.

## What Does the Research Say?

### Wide-Ranging, Long-Term Negative Impacts

Research suggests that students who experience exclusionary discipline — such as suspension or expulsion — are more likely to experience a variety of negative outcomes, including decreased academic performance, increased rates of grade retention and drop out, increased likelihood of future involvement with the criminal justice system and decreased likelihood of economic success as adults.<sup>4</sup>

While exclusionary discipline has a direct, negative impact on the student, effects are felt beyond the individual and community levels. Research suggests that high suspension and expulsion rates also have significant long-term impacts on state economies.<sup>5</sup> State-specific studies document net economic losses because of delayed workforce entry caused in part by school suspensions and expulsions.<sup>6</sup>

### Disparities in Suspension and Expulsion

Research indicates that the negative effects of exclusionary discipline are more pronounced for males, students of color and students with disabilities — groups that have historically experienced higher rates of suspension and expulsion. For example, national data from the 2013-14 school year show that black students in K-12 schools were 3.8 times as likely to be suspended, and twice as likely to be expelled, as white students.<sup>7</sup> Similarly, students with disabilities were more than twice as likely to receive out-of-school suspensions as students without disabilities.<sup>8</sup> These disparities persisted regardless of type of disciplinary action, level of school poverty or type of public school attended, according to a [2018 report](#) from the Government Accountability Office.<sup>9</sup>

Experts suggest that a child's early educational experiences greatly influence their development and outcomes later in life, yet preschool students generally are expelled at three times the rate of children in K-12 — signaling a trend of removing young learners from the classroom.<sup>10</sup> In addition, disparities by gender and race are evident: Black preschoolers are 3.6 times as likely to receive an out-of-school suspension as their white classmates, and boys are almost four times as likely as girls to be suspended in preschool.<sup>11</sup>

Suspensions and expulsions are considered a key touchpoint along the **school-to-prison pipeline** because students who experience exclusionary discipline are far more likely to have continued contact with the criminal justice system later in life. Data on the prevalence and disparate application of school-related arrests provide further insight: Black students are about two times as likely as white students to receive a referral to law enforcement or be subject to a school-related arrest.<sup>12</sup>

The **school-to-prison pipeline** refers to the process by which students are funneled out of the school system and into the juvenile and criminal justice systems. Contributing factors to this phenomenon may include: exclusionary discipline policies (including suspension, expulsion and school-related arrests); disparate application of those policies; increased rates of disengagement and drop-out; and increased police presence in schools.<sup>13</sup>

## Alternatives to Exclusionary Discipline

Alternative school discipline strategies aim to address the root causes of misbehavior by building strong and healthy relationships with students and improving their engagement with the learning environment. Strategies that are currently popular in states include schoolwide positive behavioral interventions and supports (SW-PBIS), restorative practices and trauma-informed practices.

### KEY TERMS



**Schoolwide Positive Behavioral Interventions and Supports:** SW-PBIS is a framework for the selection and use of evidence-based practices to support students in their academic, social, emotional and behavioral competencies. This system of support aims to improve student behavior and school climate and includes proactive strategies for defining, teaching and supporting appropriate student behaviors at the school, classroom and individual levels.



**Restorative Practices:** Borrowed from the criminal justice concept of restorative justice, restorative practices aim to institutionalize peaceful and nonpunitive approaches to addressing the root causes of student misbehavior. Restorative approaches shift the emphasis from managing behavior to focusing on building, nurturing and repairing relationships. In practice, this could include mediated dialogue, conferencing between groups of students, and forming positive and responsive circles.



**Trauma-Informed Practices:** Research indicates that childhood trauma can make it challenging for students to learn and focus in school.<sup>14</sup> Trauma-informed practices create school environments that understand and consider adverse childhood experiences when making decisions about school discipline.

While research on the use of alternative strategies is still relatively new, some studies suggest that certain, well-implemented programs have the potential to achieve multiple, positive outcomes for students. For instance, specific research on SW-PBIS provides evidence that these programs may increase academic engagement, improve overall student behavior and decrease the number of students excluded from the learning environment for disciplinary reasons.<sup>15</sup> Early research findings indicate that effective alternative programs have some common elements, including adequate funding, ample implementation timelines, fidelity to the chosen model, dedicated staff members, and support and training for all engaged staff.<sup>16</sup>

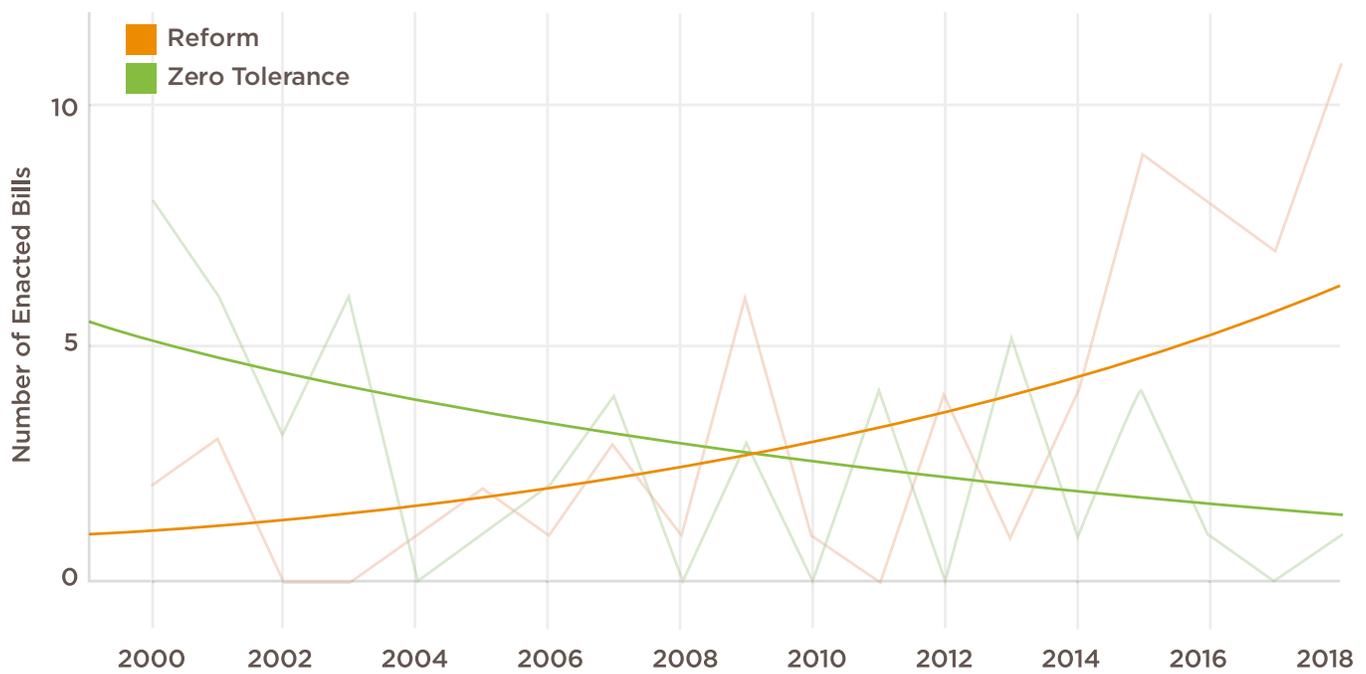
### CASE STUDY ON RESTORATIVE PRACTICES

**Denver Public Schools**, Colorado's largest school district, has implemented and evaluated restorative practices at several school sites since 2003. One longitudinal study of the impact of restorative practices in DPS found that over the period of implementation, suspension rates decreased, racial disparities were reduced, and test scores were improved for all student groups in nearly every subject, every year.<sup>17</sup>

## Past State Policy Trends

In the late 1990s and early 2000s, there was a wave of school discipline legislation — commonly referred to as zero-tolerance policies — aimed at expanding the list of violations for which suspension and expulsion could be used and requiring harsh consequences for certain violations (often those including drugs or weapons). Studies showed that these policies increased suspension and expulsion rates across the country, especially among students of color and students with disabilities — thereby disproportionately removing these students from the learning environment.<sup>18</sup>

### Zero Tolerance and Reform Bills Enacted in 2000-18



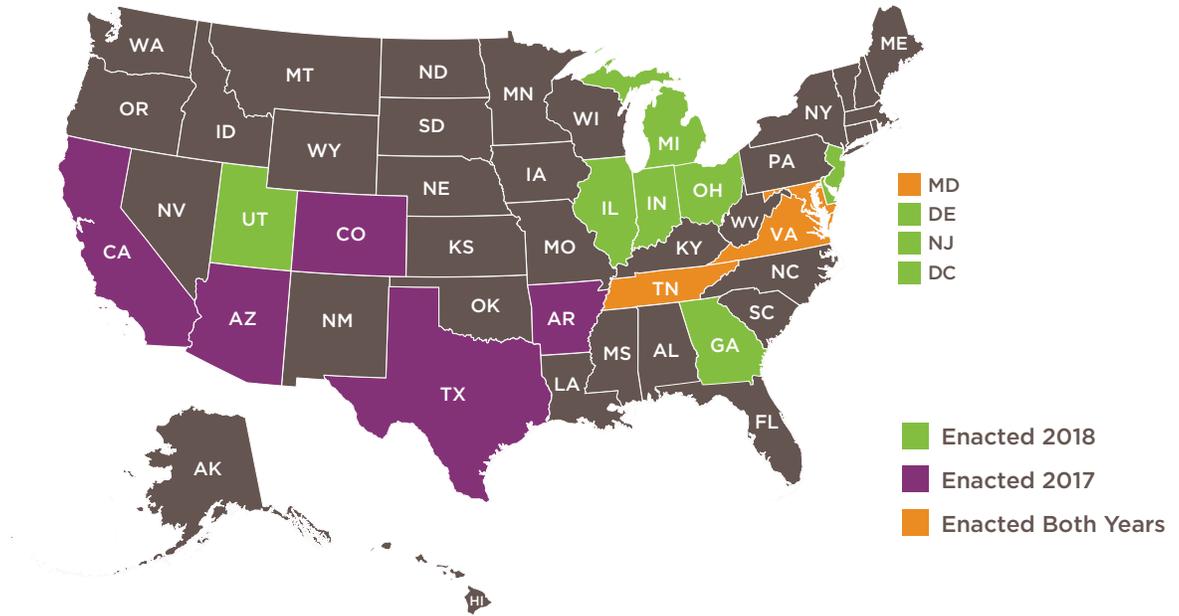
This graph depicts trend lines (foreground) as well as raw data (background) on the number of bills passed in both the zero tolerance and reform categories.

In recent years, zero-tolerance legislation has stalled: About seven bills expanding suspension or expulsion have been enacted in state legislatures in the last five years.<sup>19</sup> In that same time frame, state legislatures have enacted at least 36 bills restricting the use of suspension or expulsion or encouraging the use of alternative school discipline strategies — demonstrating a movement away from zero tolerance and toward less-punitive strategies.<sup>20</sup> Generally, these bills place limitations on the length of suspension or expulsion, disallow the use of suspension or expulsion in the early grades, require consideration of student circumstances and context and/or encourage the use of alternative strategies.<sup>21</sup>

Legislation in 2017 and 2018 has generally followed the trends of the last five years: placing limitations on punitive discipline, encouraging the use of alternative strategies and implementing planning and reporting requirements. In the 2017 legislative session, lawmakers proposed at least 35 bills related to [suspension and expulsion](#) and 26 bills related to [alternative school discipline strategies](#). Of those, 14 were enacted. In 2018, at least 11 states and the District of Columbia enacted 15 bills broadly related to suspension, expulsion or alternatives to discipline.



## Enacted Legislation: Suspension, Expulsion or Alternatives to Discipline



### EXAMPLES OF ENACTED STATE LEGISLATION IN 2018



**Delaware:** [S.B. 85-1](#) requires the state department of education to compile and release an annual school discipline report that includes statewide and individual school totals for out-of-school suspensions, expulsions, alternative school assignments and in-school suspensions — all disaggregated by race, ethnicity, gender, disability status, grade level, limited English proficiency, incident type and discipline duration. Schools meeting certain thresholds of suspension or expulsion for three consecutive years must review their discipline policies, assure proper implementation of restorative justice practices and submit a corrective plan to the state department of education.



**Georgia:** [H.B. 740](#) requires local school systems to implement certain, multi-tiered systems of supports and reviews prior to expelling or suspending a student in pre-kindergarten through third grade for five or more days during the school year. This bill outlines exceptions for weapon possession, drug offenses or endangering others.



**Indiana:** [H.B. 1421](#) requires the state department of education to conduct a survey of school discipline policies to determine the extent to which positive discipline and restorative justice practices are currently used. Additionally, this bill requires the state’s model plan for improving student behavior and discipline must reduce out-of-school suspensions and disproportionality in all discipline and exclusion, limit referrals to law enforcement or school-related arrests and include policies that address bullying on school property. The state department of education must provide information and assistance to districts regarding the implementation of this plan, ensuring that teachers and administrators receive appropriate support and professional development.



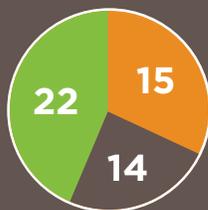
**Michigan:** [H.B. 5531](#) is an exception to the trend of states limiting suspension or expulsion. This bill expands the list of violations for which students must be expelled to include criminal sexual conduct against another pupil enrolled in the same school district.

## Current State Policies

In 2018, Education Commission of the States examined current statutes in all 50 states and the District of Columbia to create a [50-State Comparison](#) of current school discipline laws. This provided in-depth information for each state on the types of violations for which students may be suspended or expelled, the limitations on and reporting requirements for those suspensions and expulsions and any alternative school discipline strategies cited in statute.

- **Violation Types.** State statutes vary widely on the types of violations for which they require or allow students to be suspended or expelled.
  - ➔ All 50 states and the District of Columbia require students to be expelled for **possession of a firearm on campus**, in compliance with the federal [Gun Free Schools Act](#).
  - ➔ At least 40 states allow students to be suspended for **defiant or disruptive behavior**.
  - ➔ At least 36 states and the District of Columbia either require or allow students to be suspended for **assault or physical harm**.
  - ➔ At least 26 states and the District of Columbia either require or allow students to be suspended or expelled as a punishment for **drug use or possession**.
  - ➔ At least 12 states and the District of Columbia provide suspension or expulsion as an option in incidents of **bullying**.

### HOW MANY STATES ADDRESS THESE VIOLATIONS IN STATUTE?



Physical Harm/Assault



Defiant or Disruptive Behavior



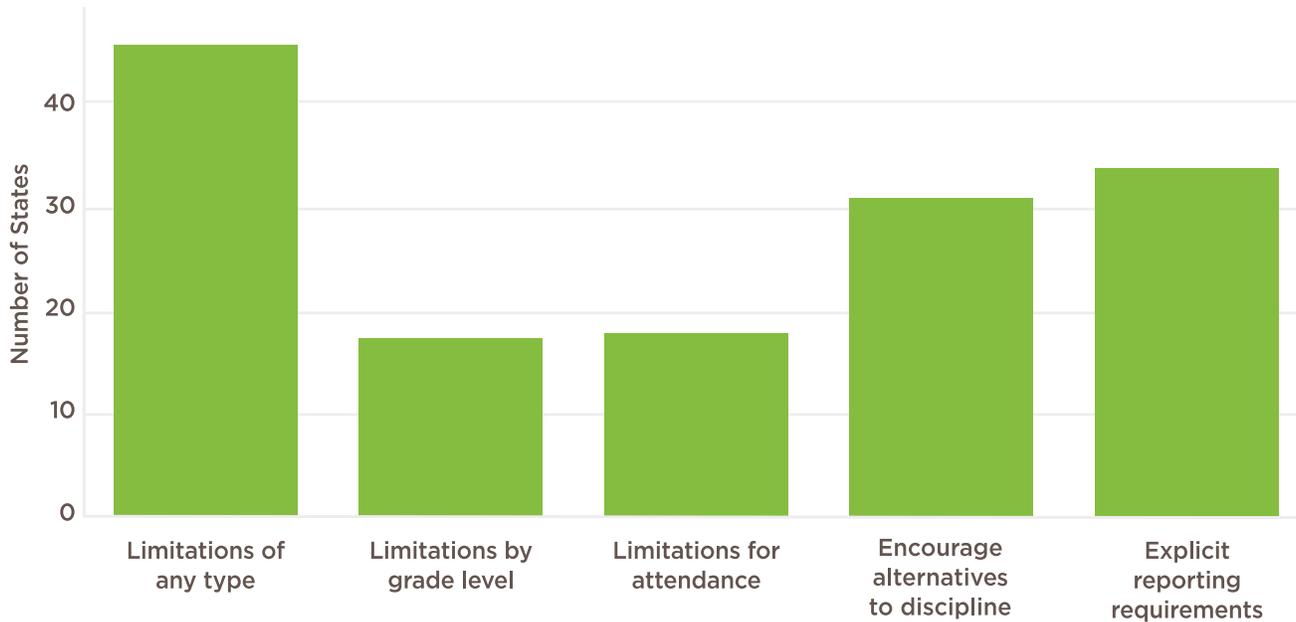
Drug Use/Possession



\*Note: Overall state counts include the District of Columbia.

- **Limitations on Suspension and Expulsion.** The 50-State Comparison shows that most states place some limitation on the use of suspension or expulsion in statute.
  - ➔ At least 16 states and the District of Columbia limit use by grade level, usually in the early grades.
  - ➔ Several states also limit the use of exclusionary discipline for certain violations. At least 17 states and the District of Columbia prohibit suspension or expulsion solely for a student's attendance or truancy issues.
- **Reporting Requirements.** At least 33 states and the District of Columbia require some level of reporting on school discipline; about 11 states and the District of Columbia explicitly require suspension and expulsion data to be disaggregated by demographic categories, such as race, gender and disability status.
- **Alternative School Discipline Strategies.** At least 30 states and the District of Columbia encourage districts and schools to use alternative school discipline strategies; 22 of those states mention specific interventions.

## Types of School Discipline Statutes



Additionally, multiple states are using opportunities provided under the Every Student Succeeds Act to incorporate school discipline data into their systems for accountability and school improvement. Those opportunities include:

- **Reporting Requirements.** ESSA requires all states to collect data on rates of in-school and out-of-school suspensions and include that information on state report cards.
- **School Quality and Student Success Indicator.** In addition to measures of academic achievement, graduation rates, and English language proficiency, statewide accountability systems must include at least one measure of SQSS. ESSA gives states some flexibility in choosing which measure to include, which leaves room to include school discipline data.
- **Informing School Improvement.** ESSA requires that states have a plan in place for intervening in schools identified through their accountability system as in need of improvement. Even if states choose not to use discipline data to identify schools for improvement, they still have the option to use discipline data to inform the improvement process for struggling schools.

Education Commission of the States' [recent 50-State Comparison](#) of state ESSA plans shows that multiple states are using these opportunities to incorporate school discipline data into their accountability systems. Three states — **California, Rhode Island** and **West Virginia** — are planning to use suspension rates directly within their SQSS measure:

- **California** plans to include the percentage of students suspended in K-12 (in-school and out-of-school suspensions) each year, as well as the annual change in suspension rates.
- **Rhode Island** plans to include the rate of out-of-school suspensions in pre-K through 12th grade, as well as measures of chronic absenteeism.
- **West Virginia** plans to include the percentage of students who received zero out-of-school suspensions during the school year in elementary and middle school, as well as overall school attendance rates.

An additional six states — **Alabama, Arizona, Arkansas, Kansas, Minnesota** and **Washington** — are opting to use discipline data to inform various aspects of the school improvement process:<sup>22</sup>

- **Planning and Needs Assessment:** **Washington** requires that district improvement plans include an analysis of suspension and expulsion rates to identify interventions and alternative discipline strategies. Similarly, **Arkansas** and **Minnesota** require schools in need of improvement to review and analyze disciplinary data as part of their needs assessment process.
- **Interventions:** **Arizona** plans to provide technical assistance on several topics — including alternatives to suspension, restorative justice and conscious discipline — to districts with a significant number of schools in need of improvement. **Alabama** also includes the assessment and refinement of disciplinary practices in a list of interventions targeted at schools in need of improvement.
- **Exiting Identification:** **Kansas** requires that schools in need of improvement decrease their suspension and expulsion rates in order to exit identification status.

## Policy Considerations

While this brief is focused primarily on state-level policy, it is important to note that in many states, the details of school discipline policies are created and applied at the district or school level. As a result, local implementation may vary based on individual contexts. State policy can, however, enable conditions for effective implementation by providing support and ensuring accountability. The following are examples of policy levers available to state leaders.

- **Technical Assistance.** State support for local implementation may include the development and distribution of model school discipline policies, professional development strategies and implementation manuals.
- **Data Collection and Reporting.** Collecting, using and reporting disaggregated discipline data allows educators and state leaders to assess whether interventions have been effective at the local and state levels. State leaders can use policy incentives and requirements to ensure data are collected and reported consistently, empowering educators to apply timely interventions with their discipline data.
- **Financial Support.** Policymakers can create funding initiatives to support local implementation of more supportive school discipline practices. This can be in the form of pilot programs, grants or statewide competitive funding initiatives, among other models; and may be targeted to support staff training, infrastructure, technology or other emergent needs.
- **Implementation Considerations.** State policymakers continue to encourage the use of alternative school discipline strategies. In doing so, they may consider outlining common elements of effective programs, including funding, fidelity to the model chosen, staff support and training and adequate implementation timelines. Additionally, leaders may assist schools and districts as they work to choose which strategies best apply to their contexts.
- **School Improvement Requirements.** ESSA provides flexibility to state leaders as they work with schools and districts to develop effective frameworks for school improvement. As policymakers develop models, incentives and accountability structures around school improvement, they have the opportunity to build in requirements for reporting on local policy and practice around school discipline.



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