# School Discipline Reform (Note)

***By The CSG Justice Center***

Each year, millions of students are removed from their classrooms for disciplinary reasons, mostly for minor discretionary offenses.[1] Disciplinary removals may be appropriate in situations in which a student poses an immediate safety risk to himself/herself or others on a school campus. But when such removals are administered for minor misconduct, they are often detrimental to students' academic and behavioral progress. Research, including the groundbreaking *Breaking Schools' Rules* study conducted by The Council of State Governments' Justice Center,[2] demonstrates that exclusionary disciplinary actions increase a student's likelihood of falling behind academically, dropping out of school, and coming into contact with the juvenile justice system. A disproportionately large percentage of disciplined students are youth of color, students with disabilities, and youth who identify as lesbian, gay, bisexual, or transgender.[3]

In response, states across the country are passing legislation that limits the number of students who are removed from school for disciplinary reasons and provides more supportive responses to misbehavior. In 2014, the CSG Justice Center also released the *School Discipline Consensus Report*, which provides state and local government officials with a comprehensive roadmap for overhauling their approach to school discipline.

Arkansas passed Act 1329 in 2013, which requires the preparation of an annual report to evaluate the impact of school discipline on student achievement by July 1 of each year, beginning in 2014, to include:

- District enrollment, subgroup enrollment, disciplinary rates, achievement, and disciplinary disparity among subgroups.
- Possible disciplinary strategies and resources that Arkansas school districts can access.

California passed AB 420 in 2014, which:

- Eliminated the authority to suspend a student out of school or in-school in kindergarten through third grade for "disruption" and "willful defiance."
- Eliminated student expulsions for "disruption and "willful defiance."

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[1] See e.g., Losen, D. J., & Martinez, T. E. (2013). *Out of School & Off Track: The Overuse of Suspensions in American Middle and High Schools*. The Center for Civil Rights Remedies at The Civil Rights Project.

[2] Fabelo, T., Thompson, M. D., Plotkin, M., Carmichael, D., Marchbanks, M. P. III, and Booth E. A. (2011). *Breaking schools' rules: A statewide study of how school discipline relates to students' success and juvenile justice involvement.* Available at http://csgjusticecenter.org/youth/breaking-schools-rules-report/.

[3] Losen, D. and Martinez, T., *Out of School and Off Track: The Overuse of Suspensions in American Middle and High Schools* (Los Angeles: Civil Rights Project at UCLA, 2014); U.S. Department of Education Office for Civil Rights, *Civil Rights Data Collection Data Snapshot: School Discipline* (Washington, DC: U.S. Department of Education Office for Civil Rights, 2014); Himmelstein, K.E.W and Bruckner, H., "Criminal-Justice and School Sanctions Against Nonheterosexual Youth: A National Longitudinal Study," *Pediatrics* 127 no. 1 (2010).

Colorado enacted HB 12-1345 in 2012, which:

- Required School Codes of Conduct to include
    - Policies and procedures for removing disruptive students from class.
    - Proportionate disciplinary interventions (including in-school suspension) designed to reduce the number of school expulsions and referrals to law enforcement.
    - Plans for appropriate use of prevention, intervention, restorative justice, peer mediation, counseling, or other approaches to minimize student exposure to criminal justice system.
    - School districts should ensure student familiarity with the code.
    - School district accountability committees to consider and provide input regarding codes.
- Defined "Referral to Law Enforcement."
- Required a Disruptive Students Behavioral Plan.
    - Principals must develop and implement a behavioral plan after the first or second removal.
    - The student and parent must be notified of each disruption counted toward habitually disruptive.
    - Upon third removal [habitual] teacher may remove disruptive student for remainder of term.
- Eliminated mandatory expulsions in all categories, including habitually disruptive students (three or more times), with the exception of the federal gun law requirement.
- Asked schools to consider age, disciplinary history, disability, seriousness of the violation, threat to safety of student or staff and whether a lesser intervention would properly address violation.
- Eliminated mandatory denial of admission (student has 10 days to appeal expulsion or denial of admission).
- Required Peace Officers Standards and Training, or POST, board to establish standards for training and identify training curriculum, which incorporates suggestions of advocates and stakeholders (every municipal and county agency shall employ at least one person who has successfully completed the training; agencies are encouraged to ensure SRO's have completed training within six months of school assignment).
- Required schools to provide the opportunity for suspended students to make up school work for full or partial academic credit to the extent possible.
- Required schools to adopt an implement a safe school plan and review and revise as necessary in response to relevant data collected by the district.
- Articulated the following reporting requirements:
    - Schools report to Board of Education conduct and discipline code violations (most serious).
    - Law enforcement agencies report to Division of Criminal Justice the number of students investigated and type of offense, number of students arrested and type of offense, number of summons issued, and the age, gender, school, race, ethnicity of student.
    - District Attorneys report to Division of Criminal Justice the number of school cases, type of offense, disposition of the case, and the age, gender, school, race, ethnicity of student.

- District attorney shall report to the extent practicable the number of cases referred by law enforcement that were not filed in court, and the number of cases and types of offenses referred to juvenile diversion program
- Division of Criminal Justice shall provide data collected to public upon request.

Connecticut passed SB 1053 in 2015, which prohibits out-of-school suspensions and expulsions for students enrolled in a preschool program or grades kindergarten through second grade.

Illinois passed SB 100 in 2015, which:

- Eliminated "zero-tolerance" policies. Schools will no longer be allowed to use policies that require suspension or expulsion in response to particular student behaviors.
- Put tighter restrictions on the use of harsh disciplinary consequences. Out-of-school suspensions of longer than three days, expulsions, and disciplinary referrals to alternative schools can only be used when all other appropriate and available disciplinary interventions have been exhausted. School officials are also required to "limit the number and duration of expulsions and suspensions to the greatest extent practicable."
- Ensured out-of-school suspensions, expulsions, and disciplinary referrals to alternative schools are only used for legitimate educational purposes. The most severe disciplinary consequences are only to be used to preserve a safe and productive learning environment, not as punishment for misbehavior.
- Focused on meeting student needs and addressing root causes of disciplinary issues. Students that are suspended out of school for longer than four days must be provided appropriate and available support services. School districts must also create a policy for re-engaging students returning to school from suspensions and expulsions.
- Promoted proven disciplinary alternatives and improved professional development for school officials and staff. Districts are recommended to provide ongoing professional development to all school officials and staff members on "the adverse consequences of school exclusion and justice-system involvement, effective classroom management strategies, culturally responsive discipline, and developmentally appropriate disciplinary methods that promote positive and healthy school climates."
- Protected students from additional academic consequences. Schools are required to provide suspended students with the opportunity to make up work they missed for equivalent academic credit.
- Ensured greater transparency and accountability to parents/guardians. Schools are required to give parents/guardians more information about why their children are being excluded from school and why the particular length of exclusion was chosen.
- Prohibited school "pushout." Schools can no longer advise students to drop out when they have academic or behavioral challenges.
- Eliminated disciplinary fines and fees. Students can no longer be charged monetary fines or fees (an increasingly common practice in certain local charter schools) as a disciplinary consequence.
- Holds charter schools and traditional public schools to the same standards.

Maine passed LD 1503 in 2012. Key provisions included:

- Establishing target goals for graduation rates by specific dates.
- Defining truancy for elementary, middle and high school students.
- Defining mandatory age for school attendance.
- Giving guidelines for due process expulsion and re-entry plans.

Massachusetts passed Chapter 222 in 2012, which stipulated that:

- Exclusion from school is a last resort, especially for all but the most serious offenses.
- If a student is to be excluded for more than 10 consecutive school days for any offense, the school district must offer the student alternative education services.
- Required schools for all offenses, during the first 10 days of exclusion, to assist the student to make academic progress despite absence from classes.
- Required the state Department of Elementary and Secondary Education to collect additional school discipline data from school districts, post the data, analyze the data, and follow up when schools exclude high numbers of students and when students of color or students with disabilities are disproportionately disciplined.

Oregon passed HB 2192 in 2013, which:

- Removed mandatory expulsion (zero tolerance) language regarding weapons because it has been poorly understood and inconsistently applied to include items like small pocket knives and toys. This change increases school administrator discretion.
- Limited expulsion to conduct that poses a threat to health or safety, repeated behaviors that have not responded to other interventions, and expulsions mandated by law.
- Added additional guidance to school districts for making decisions about discipline, including:
    - Using discipline that is proportionate to the offense;
    - Taking the student's developmental capacities into account;
    - Keeping students in class as much as possible in order to maximize their opportunities to learn;
    - Providing opportunities for students to learn from their mistakes; Establishing clear expectations for behavior;
    - Creating and maintaining a positive learning environment for all students;
    - Using consequences that are designed to promote positive behavior and correct misconduct;
    - Using research-based interventions as much as is practicable.
- Added a 10 school-day limit to complete a mental health risk assessment for a student when the school administrator elects this option. Allows the school to exceed the 10-day limit for good cause.
- Specified that school policies are designed to impose discipline without bias against students from protected classes.
- Required districts to ensure that policies comply with state and federal laws concerning students with disabilities.

Texas passed HB 2398 and SB 107 in 2015. Key provisions included:

- Repealed the criminal offense of failing to attend school, and instead establishes a civil enforcement procedure.
- A student is not to be referred to truancy court if the truancy is a result of pregnancy, foster care, homelessness, or being the principal income earner for the student's family. Instead, a district is to offer the student access to additional counseling services.
- On the third unexcused absence within a four-week period, a school must initiate a truancy prevention program for the student.
- School districts' truancy prevention measures must now include at least one of the following:
    - A behavior improvement plan that includes a specific description of required or prohibited behavior, the period the plan will be effective (not to exceed 45 days after the effective date of the contract) or penalties for additional absences;
    - School-based community service; or
    - Referral to counseling, mediation, mentoring, teen court, community-based services or other services to address the student's truancy.
- School districts are required to employ a truancy prevention facilitator or juvenile case manager to implement its truancy prevention measures. A school district may designate an existing district employee to serve in this position.
- Each campus must have a staff person designated as the Campus Behavior Coordinator, primarily responsible for maintaining student discipline (The person designated as the Campus Behavior Coordinator may be the principal of the campus or any other campus administrator selected by the principal.)
- The Campus Behavior Coordinator is required to:
    - Promptly notify a student's parent or guardian if a student is placed into in-school or out-of-school suspension, placed in a disciplinary alternative education program, expelled, or placed in a juvenile justice alternative education program or is taken into custody by a law enforcement officer.
    - Promptly contact the parent or guardian by telephone or in person; and
    - Make a good faith effort to provide written notice of the disciplinary action to the student, on the day the action is taken, for delivery to the student's parent or guardian.

Texas also passed SB 393 in 2013, which:

- Prevents school police officers from issuing citations for misbehavior at school, excluding traffic violations. Officers can still submit complaints about students, but it will be up to a local prosecutor whether to charge the student with a Class C misdemeanor.
- If students are charged, prosecutors can choose to make students get tutoring, do community service or undergo counseling before they get sent to court.

Washington passed SB 5946 in 2013. Key provisions include:

- One-year limit to expulsions
- One-semester limit to long-term suspensions
- Emergency expulsions must now end or be changed to another form of discipline within 10 school days.

- Public school discipline data must be provided by the Office of the Superintendent of Public Instruction, or OSPI, that is broken down by demographics such as race, socioeconomic status, and gender.
- Reengagement plans and meetings should be developed for students by their schools, tailored to the student's circumstances, including consideration of the incident that led to the student's suspension or expulsion.
- Students cannot be suspended or expelled for expressing suicidal thoughts.
- A statewide taskforce was created as a result of the law that will develop consistent definitions of discipline and an increased collection of discipline data. This will include information about what educational services are being provided while students are out of school, the status of petitions to reenroll in school, and the number of school dropouts as a result of discipline.