

Building a Foundation for School Discipline Reform

ACTION STEPS FOR STATES TO IMPROVE THE COLLECTION AND USE OF SCHOOL DISCIPLINE DATA

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Introduction

Research has long demonstrated that schools' use of punitive or exclusionary discipline can have negative effects on school climate and student outcomes.¹ Disciplinary and control measures such as suspension, expulsion, seclusion, restraint, corporal punishment,² referrals to law enforcement, and school-related arrests have limited or no demonstrated positive effects on student safety or learning.³ Further, there is evidence that schools often design discipline policies and apply them in ways that disproportionately affect students of color, LGBTQ youth, and students with disabilities.⁴ The resulting loss of instructional time and negative interactions with law enforcement contribute to the systemic redirection of marginalized groups of students, particularly young people of color, into the juvenile and criminal justice systems, a trend that has been described as the "school-to-prison pipeline."⁵

SEAs are federally mandated to address discrimination in schools, including discrimination in school discipline practices, and SEAs can play an important role in helping schools and districts develop and implement more equitable, data-driven approaches to student discipline. SEAs' ability to identify challenges and offer this support is largely dependent on their access to high-quality data on school discipline. To reduce disparities in school discipline practices, it is important for schools, districts, and SEAs to be able to answer key questions about how discipline is working in their schools and in their states. Important questions for schools, districts, and SEAs seeking to reduce disparities in school discipline practices might include the following:

- » How many students are suspended, expelled, placed in seclusion, or restrained each year?
- » How many students are arrested at school or referred by their school to law enforcement?
- » How many days of instruction are lost to school disciplinary or aversive control actions?
- » How often do schools employ disciplinary or control actions with their students?
- » For which types of offenses are students most often disciplined, and how?
- » Where and when are student offenses most likely to occur?
- » Which teachers refer students for discipline most often, and for which offenses?
- » Which students are at highest risk for being subjected to disciplinary or control measures, or for referral to law enforcement?
- » What is the impact of school discipline practices on student outcomes?

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Individual schools may have specific questions that build on or diverge from this list,⁶ but the ability to address any such questions depends on districts' and schools' capacity to identify and collect key data elements. Schools, districts, and SEAs then have the responsibility to put these data to good use.

However, in many states, data about school discipline is often lacking or inconsistent, making it difficult for stakeholders to effectively monitor school discipline practices and related student outcomes.⁷ Working with partners to improve access to and application of school discipline data in decision-making is therefore an important long-term strategy to help SEAs increase instructional time and minimize the potential negative effects of school discipline on school climate and student outcomes. This brief discusses the following key steps that SEAs can take to improve how they collect, publicly report, and use school discipline data:⁸

1. Meet all federal requirements for the collection, public reporting, and use of school discipline data.
2. Incorporate measures of disproportionality in school discipline into state accountability systems.
3. Build the capacity of districts and schools to collect, analyze, and use school discipline data effectively.
4. Take steps allowable under state law to expand the SEA's collection, reporting, and use of school discipline data beyond federal requirements.
5. Collaborate with stakeholders and leaders in other state and local agencies to improve the collection and use of data to inform policy and practice.

Action Steps for States

Having high-quality data on school discipline is essential for all SEAs working to eliminate disparities in school discipline practices and to maximize student outcomes. However, the path to school discipline reform will vary from state to state, and each SEA's approach to school discipline data must ultimately account for state laws, local perspectives, and other unique contextual factors. The five action steps identified in this brief are intended to guide SEAs at all different stages in the reform process to develop actionable plans for improving the collection, public reporting, and use of school discipline data. By taking these steps, SEAs can support their ongoing efforts to address disparities in school discipline and begin to build the foundation for future reform.

1. Meet all federal requirements for the collection, public reporting, and use of school discipline data.

In recent years, the federal government has made important advances in its requirements for state and local data collection and reporting.⁹ For example, SEA websites must now publish data on all disciplinary

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actions involving students with disabilities, disaggregated by students' race, ethnicity, English learner status, gender, and disability category.¹⁰ SEAs must also ensure that annual state and district report cards provide data (disaggregated by race, ethnicity, gender, and disability) on incidents for which school disciplinary actions resulted in loss of instructional days. Importantly, federal laws also dictate key privacy protections that must be met by all state and local education entities that collect, manage, and report student data.

Meeting federal requirements alone is not enough to ensure that states, schools, and communities have the information that they need to understand the effects of school discipline practices on student outcomes. However, bringing a state into compliance with these mandates is a good first step for an SEA seeking to demonstrate that it is taking action to address disproportionality in school discipline and reduce the negative impact of punitive and exclusionary discipline on school climate and student outcomes. Appendix A briefly summarizes some of the key federal statutes, regulations, and guidance governing the collection and reporting of school discipline data. SEAs may benefit from crosschecking state practices against these and other requirements, and then enlisting the support of schools and districts to resolve any gaps. More information about federal requirements is also available in Appendix B.

2. Incorporate measures of disproportionality in school discipline into state accountability systems.

State accountability systems can be used as tools for improving public accountability around school discipline practices and outcomes. For example, committing to include measures of school discipline in reporting to the federal government as part of a state's Every Student Succeeds Act (ESSA) plan is one opportunity for the SEA to hold itself accountable for addressing disparities. SEAs may also choose to develop school and district accountability systems that include measures of school discipline, which can help the SEAs to identify and respond to local inequities in the application of school discipline practices.¹¹

Although some states have chosen not to include measures of school discipline in state accountability systems due to concerns that including such measures could discourage schools and districts from reporting infractions,¹² others (e.g., Illinois, Tennessee) have included measures of school climate or exclusionary school discipline¹³ as part of their state plans submitted under ESSA.¹⁴ In a small number of states (e.g., Massachusetts),¹⁵ state laws or regulations have created systems that require SEAs to report certain data on student disciplinary outcomes to the state legislature or other state governing body.

SEAs may benefit from reflecting on the following questions:

- » Is the goal of collecting data on a discipline indicator to address student achievement or to address equity in school discipline?
- » Is the indicator meant to measure student behavior, adult behavior, or both?
- » Are the data best used for reporting purposes or as part of an accountability system?

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One challenge for SEAs that choose to integrate school discipline data into the state's accountability system is that they must address the risk of incentivizing schools to underreport or misreport disciplinary incidents. Any new accountability measure can also be difficult and expensive to implement and bring to statewide scale. On the other hand, many states recognize the research demonstrating that there are more serious long-term economic costs to frequently removing students from the classroom because of the increased risks of them dropping out and becoming involved with the juvenile justice system.¹⁶ Therefore, it is critical that SEAs acknowledge the costs of data collection and reporting for schools and districts, engage school and district buy-in for the state accountability plan, and provide financial and technical assistance to support changes in local practice.

Lastly, SEAs need to be able to use data to identify local schools and districts whose school discipline policies, or the ways in which those policies are applied, disproportionately affect certain student subgroups. Using data in this way enables SEAs to meet their responsibilities under federal civil rights laws and to target resources where they are most needed by students and schools.

3. Build the capacity of districts and schools to collect, analyze, and use school discipline data effectively.

SEAs can provide training and technical assistance to districts and schools to improve local collection and use of school discipline data. While SEAs and the public may have limited access to school discipline data — and therefore a limited ability to identify and address instances of discrimination in school discipline practices — school districts generally have more detailed student-level data that they can use internally to evaluate the efficacy of their discipline policies and practices. With support from SEAs, districts can make good use of both the publicly reported school-level data and the more detailed student-level data to review ongoing efforts to improve school climate.

Training for schools and districts may take several forms. For example, SEAs can offer trainings in data entry to help teachers and school administrators improve the quality of school discipline data. This type of support can help ensure that schools, districts, and communities have the data they need to evaluate the impact of local school discipline practices. For SEAs, an investment in improving data entry can also make school discipline data more accurate and comparable across schools and districts, which in turn can facilitate statewide efforts to achieve desired school discipline outcomes.¹⁷

Offering training in data analysis for key LEA staff and providing support for other strategies, such as the formation of local school discipline working groups, can also help districts take ownership of the issue and drive necessary reforms from the local level.¹⁸ With encouragement and support from SEAs, districts and schools may be better able to disaggregate data (based on student characteristics such as race or ethnicity) and use disaggregated data for the purpose of identifying potential disparities in the implementation of discipline practices or in student outcomes.¹⁹

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SEAs can also provide training or support to districts and schools to ensure that, in the course of communicating with stakeholders about school discipline data, local school and district staff continue to meet FERPA requirements for the protection of directly and indirectly identifiable student data.²⁰ For example, school-level data disaggregated by race or ethnicity may unintentionally identify certain students in cases where few students of color attend the school. School and LEA staff who produce reports for stakeholders need to be trained in proper handling of data, including proper storage, destruction, and disclosure-avoidance techniques for appropriate release of data sets. The protection of student privacy does not preclude expanding state and local use of discipline data.²¹ Some states take the extra step of providing district staff with training in the protection and use of school discipline data and of encouraging districts and schools to conduct their own analyses to identify disparities in the application of disciplinary policies.²²

Lastly, SEAs can work with schools and districts to help them use data for decision-making. Educators, school leaders, and district administrators may find it helpful to review and analyze data on a regular basis in order to identify challenges and track efforts to resolve them. For example, schools may use school discipline data to address identified disparities or to develop plans for providing academic and behavioral supports to individual students.²³ SEAs may choose to dedicate technical assistance or other resources to schools or communities where there are significant disparities in how school discipline is applied among different student subgroups.²⁴

4. Take steps allowable under state law to expand SEAs' collection, reporting, and use of school discipline data beyond federal requirements.

Depending on state government practices and existing state laws, some SEAs may have significant latitude to increase the number of data elements they collect and the frequency of collection. In such cases, SEAs may benefit from working with schools, districts, and communities to identify the questions that local stakeholders would like answered, using school discipline data, and to ensure that they are collecting the data they need to answer those questions. Some states have formed state-level working groups to provide input on the state's collection, management, and use of school discipline data.

As part of the work of identifying data elements for collection, SEAs may want to revisit the frequency and level (e.g., aggregate versus student-level) at which school discipline data are collected. For example, increasing the frequency of state data collection may help states and districts monitor trends and respond to identified disparities in school discipline practices.²⁵ SEAs, districts, and schools are already required to collect a wide range of data elements as part of the Civil Rights Data Collection (CRDC) under section 203(c)(1) of the Department of Education Act (20 U.S.C. 3413(c)(1)) and under IDEA (20 U.S.C. Sec. 1418). However, because CRDC data are collected only every two years, an SEA that does not also require districts or schools to submit these data to the state on an annual basis may end up lacking access to the most accurate and timely data on school discipline practices and impacts on students.

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There are also important advantages to having data that are student-level and longitudinal, meaning that information from each disciplinary incident can be analyzed in combination with other discipline and non-discipline data (such as measures of school climate and academic success) over time. The collection of student-level discipline data, linked to a student's record by a unique student identifier, also allows SEAs, districts, and schools to disaggregate discipline data by any variable that a school or its partners collect that is also linked to that unique student identifier. Disaggregation is important for analyzing interactions between multiple student and incident characteristics and for evaluating the long-term effects of school discipline policies and practices on students — none of which is possible using existing federal data.²⁶ Because these student identifiers are required for calculating high school graduation rates, and many states and districts do track behavior as part of their warning system to help prevent dropouts, most states and many school districts already have the capacity to track individual students' discipline data longitudinally.

The collection of a comprehensive set of data elements can open the door for SEAs, districts, and schools to use school discipline data in new and important ways. For example, the availability of added data elements might allow SEAs to choose to monitor common disparities in school discipline across the state (such as higher risk of exclusionary discipline among students of color or LGBTQ students) and might enable schools and districts to identify a source of disparities in school discipline (such as a teacher who frequently refers students for discipline, or a time or place associated with certain types of student offenses resulting in disciplinary action).²⁷

Data Elements to Consider for State Collection

Data elements that may be useful for states to collect (some of which federal law already requires schools, districts, or states to collect) include, but are not limited to, the following:

Information about the offense

- » Offense type
- » Time and location of the offense

Student demographic information

- » Sex
- » Race or ethnicity
- » Disability status
- » Special education status
- » English learner status
- » Grade
- » Age
- » Self-identified gender and sexual orientation
- » School

Information about the school disciplinary action/control measure applied

- » Teacher or staff member who referred the student for disciplinary action/control measure
- » Type of disciplinary action/control measure
- » School-based arrest
- » Referral to law enforcement
- » Outcome of arrest or referral to law enforcement
- » Whether educational services continued, and in what setting
- » Length of the disciplinary removal

Appendix C offers a list of additional data elements that may be helpful specifically for schools, districts, and states interested in reducing referrals to law enforcement.

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Even where state laws inhibit collection or sharing of additional data elements, SEAs may still be able to issue guidance to districts to encourage greater uniformity and accuracy in data collection at the school and district levels. For example, an SEA can develop clear, common definitions and codes for each type of student offense, disciplinary action, and control measure that schools and districts are required to report.²⁸

SEAs can also increase transparency of and accountability for school discipline practices by maximizing public reporting of available data. For example, in addition to publicly reporting the CRDC data that must be included in school, district, and state report cards, SEAs may also choose to publish additional data points such as the number of days of lost instruction due to discipline or to disciplinary transfers to alternative schools. These data are required as part of the federal CRDC but are not listed as report card requirements pursuant to ESSA. SEAs can further improve data transparency by making relevant CRDC data available on SEA, LEA, or school websites. For other SEAs, the most actionable goal may be to work toward annual public reporting of school discipline data or public reporting of school discipline data disaggregated by multiple student subgroups.²⁹ In states such as Oklahoma and West Virginia, state laws governing protections for student data require that the SEA communicate with the public about the kinds of student data it collects, regardless of whether or not the data are made publicly available.³⁰ Sharing information about the collection of, use of, and protections for student data, including school discipline data, can help SEAs increase transparency and build public trust and investment in SEAs' data policies and practices.

5. Collaborate with stakeholders and leaders in other state and local agencies to improve the collection and use of data to inform policy and practice.

While there are many steps that an SEA can take alone to improve the collection and use of school discipline data, other state policymakers and leaders can also play a role. For example, changes to legislation may be necessary if state laws already specify how the SEA must implement collection and use of school discipline data, or when state culture inhibits the SEA from taking action without legislative support. More often, the SEA may choose to partner with state legislators, the board of education, or the governor's office in order to obtain funding for increased collection, reporting, and use of school discipline data and to codify key advances in state practices.

An SEA can also benefit from engaging a wide range of stakeholders to help improve the ways in which school discipline data are collected, reported, and shared in a state. For example, the School Discipline Consensus Report published in 2014 advocates for the use of state and local stakeholder working groups to guide ongoing collection and use of school discipline data. These efforts ideally include parents, school staff, students, community organizations, and representatives from other local and state systems that serve youth, including juvenile justice and social services.³¹

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Conclusion

Disparities in school discipline practices are a real and pressing problem in U.S. public schools — one that every state is responsible for addressing. Good data can help states identify the challenges that their schools and districts are facing in the design and application of school discipline policies. Using such discipline data, states can take the lead in developing effective policy and practice solutions. Some states are already taking advantage of opportunities to leverage available data in support of this work. The first step for SEAs is to ensure that adequate data are collected and that schools and districts are prepared to use these data effectively, while meeting both legal and ethical standards for the protection of student privacy. Although SEAs can take some actions independently, engaging partners (including schools and districts, the governor’s office, state legislators, the state board of education, state and local justice agencies, districts, and members of the public) is also important for advancing best practices in the collection and use of school discipline data to inform policy.

The most effective data use is ongoing and iterative, driven by stakeholder needs and emerging trends, but also supported by state resources and accountability structures. Moreover, when used effectively, data can help to target resources for effective programs and practices. Those that succeed in keeping children in school and out of the juvenile justice system may also bolster local economies.³² For these reasons, state policymakers have played important roles in supplementing the efforts of SEAs and school districts to improve the quality of, access to, and use of school discipline data.

Given adequate funding, SEAs are in a unique position to build local capacity to collect and use data. SEAs can invest in technical assistance for schools and districts, and they can direct resources based on identified disparities in schools’ discipline practices and outcomes. At the local level, schools and districts can establish expectations for regular review of discipline data, and they are well-positioned to engage local stakeholders in identifying challenges and developing solutions around the issues of disproportionate use of school discipline and the school-to-prison pipeline.

The strategies identified in this brief represent just a few of the ways in which SEAs can facilitate better practices in the collection and use of school discipline data at the state and local levels. This area of focus may be new for many states, and each SEA must find its own way to address issues of school discipline data quality and access within the context of its state laws, culture, and political climate. Ultimately, all stakeholders share the same long-term goal: to use school discipline data to inform critical conversations and improve student outcomes.

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Appendix A: Federal Requirements for State and Local Collection and Reporting of School Discipline Data

The U.S. Department of Education requires that states and schools collect, submit, and publicly report certain data on school discipline and climate.³³ These data are publicly available through the ED Facts website³⁴ and the U.S. Department of Education's Office of Civil Rights.³⁵ However, many of these data are collected only once every two years³⁶ and can only be disaggregated at the school level by a limited number of variables. Under the Every Student Succeeds Act (ESSA), annual public state and district report cards must include school-level data on in-school suspensions, out-of-school suspensions, expulsions, school-related arrests, referrals to law enforcement, chronic absenteeism, and incidents of violence.³⁷ States and districts must also report these data to the public in their corresponding report cards. However, in 2017, the Data Quality Campaign found that state and local report cards in only 15 states reported aggregate data on student discipline.³⁸

The Individuals with Disabilities Act (IDEA)³⁹ includes several related requirements that make states responsible for identifying and addressing disparities in school discipline based on students' disability status. For example, IDEA mandates that states publicly report data on school discipline for students with disabilities, disaggregated by race, including differences in days of lost instruction due to disciplinary removals. A 2014 review of state websites found that 49 states were out of compliance with this requirement.⁴⁰ IDEA also goes a step further, requiring that each state review district-level racial disparities among students with disabilities, and that flagged districts reserve a small portion of their federal IDEA funds to address the issue. State-level compliance with this requirement varies.⁴¹

In 2014, the U.S. Department of Justice and the U.S. Department of Education disseminated guidance to help schools address widespread disparities in the application and impact of school discipline practices. (This guidance has recently been rescinded, as discussed further in the next paragraph.) Language in the guidance emphasized that in some circumstances, schools, districts, and states that do not address disproportionality in school discipline could be in violation of students' civil rights. However, the guidance clarifies that data disparities alone do not constitute civil rights violations. The guidance helps districts explore the kinds of data disparities that might indicate intentionality in racially different treatment by educators. It also discusses how to distinguish concerns about differential treatment from the possibility that a particular discipline policy or practice might not be educationally justifiable and therefore violates civil rights law even though it was neutrally applied. Recommendations from the guidance include the implementation of practices supporting schools' ongoing self-monitoring and evaluation, including the collection and use of adequate data on school climate and discipline incidents, the hiring or training of school staff to analyze the data, and frequent reviews of discipline data to identify potentially problematic disparities between student subgroups.

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In December 2018, following the release of the final report of the Federal Commission on School Safety, the U.S. Department of Education and the U.S. Department of Justice released a joint letter rescinding the 2014 guidance. In support of the repeal, the report states that the guidance “may have paradoxically contributed to making schools less safe.”⁴² However, the report did not cite research evidence supporting the assertion that eliminating the disproportionate application and impact of school discipline for students in protected groups increases overall risks to student safety in schools. The report also questions the legal basis for holding school systems accountable for racial disparities in school discipline policies and outcomes when the application of those policies is not intentionally discriminatory. However, schools that receive federal funding are still prohibited by federal law from discriminating against students based on race, national origin, disability, or sex. SEAs, districts, and schools may continue to find the 2014 federal guidance on school discipline to be an important resource for improving their collection and use of school discipline data.

Lastly, the privacy of student information is paramount in all cases of state or local collection, use, or reporting of school discipline data, and this priority is reflected in federal law. Most federal requirements for SEAs’ protection of student data derive from The Family Educational Rights and Privacy Act (FERPA), which mandates that SEAs, local education agencies (LEAs), and schools ensure that students’ personally identifiable information remains confidential, with limited exceptions.⁴³ SEAs may also be subject to state laws protecting the privacy of student information. For these reasons, SEAs, districts, and schools that collect individual student data must meet extremely high standards for the management of those data and may release or report only school discipline data that have been aggregated at a level that prevents the identification of individual students.⁴⁴

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Appendix B: Federal Collection and Reporting of School Discipline Data

Governing Statute	Location of Data	Information Collected
Gun-Free Schools Act (GFSA)	EDFacts	Incidents involving firearms only
Title I of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act	State and District Report Cards	Students receiving out-of-school suspensions or expulsions as a result of certain types of incidents: violent incidents with physical injury, weapons possession, alcohol-related incidents, and illicit drug-related incidents
Individuals with Disabilities Education Act (IDEA)	EDFacts	Unilateral removals to an interim alternative setting by school personnel; removals to an interim alternative education setting based on a hearing officer determination regarding likely injury; out-of-school suspension or expulsion; in-school suspensions; total disciplinary removals; and cumulative duration of the disciplinary removals
Title VI of the Civil Rights Act of 1964	EDFacts	Includes data for the Civil Rights Data Collection (CRDC) under the following categories: <ul style="list-style-type: none"> • Enrollment and school characteristics • Early childhood education • College and career readiness • Discipline, offenses, bullying and harassment, restraint and seclusion • Staff and resources
Title IX of the Education Amendments of 1972	Civil Rights Data Collection (CRDC)	Disaggregated CRDC data by sex
Section 504 of the Rehabilitation Act of 1973	CRDC	Disaggregated CRDC data by student 504 status

Note: This table has been adapted from AASA and Children’s Defense Fund, *School Discipline Data*, <https://www.childrensdefense.org/wp-content/uploads/2018/06/school-discipline-data.pdf> (p. 5). A detailed list of data elements collected in the 2017/18 year as part of the CRDC is available at <https://www2.ed.gov/about/offices/list/ocr/docs/2017-18-crdc-data-elements.pdf>. Requirements for SEA and LEA report cards, organized by applicable federal statute and regulations, can be found at <https://www2.ed.gov/policy/elsec/leg/essa/essastatereportcard.pdf> (p. 4).

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Appendix C: Data Elements Recommended for Collection to Reduce Referrals to Law Enforcement

The consensus report developed by Morgan et al.⁴⁵ identifies a set of data elements to include in any data system intended to help educators and juvenile justice professionals reduce the number of students being referred to law enforcement for minor school-based offenses. These data elements are as follows:

1. Of those youth referred to the juvenile justice system for school-based offenses, what are the most common offenses with which they have been charged?
 - a. How many are status offenses?
 - b. How many are misdemeanor offenses?
 - c. How many are felony offenses?
 - d. How many are first-time offenses?
2. Of all the school-based cases, how many are addressed by the courts and how many are dismissed or diverted prior to filing?
 - a. How many are dismissed?
 - b. How many are diverted?
 - c. How many are referred to probation prior to adjudication?
 - d. How many require youth to be held in a detention facility while awaiting adjudication?
 - e. How many are adjudicated?
 - f. How many are referred to probation post-adjudication?
 - g. How many result in confinement?
3. Standardized school discipline data elements
 - a. School-based offense
 - b. School-based location
 - c. Number of arrests/referrals
 - d. Number of students referred
 - e. Offense type
 - f. Disposition
4. Student characteristics
 - a. Race/ethnicity
 - b. Gender
 - c. Socioeconomic status (eligibility for free or reduced-price lunch)
 - d. English language learner (ELL) status
 - e. Identified disability
 - f. Age of student when referred
 - g. Category of offense

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Acknowledgments

We would like to thank the reviewers of this report, including Daniel Losen (Director, Center for Civil Rights Remedies at the Civil Rights Project, UCLA), Michael Harris (Attorney, Senior Director, Legal Advocacy and Juvenile Justice, National Center for Youth Law), Anthony Petrosino (Director, WestEd Justice and Prevention Research Center), Baron Rodriguez (Director of Privacy and Data Security, WestEd), and Augustus Mays (Director of Government Relations, WestEd).

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Suggested citation: Stern, A., & Rogers, C. (2019). *Building a foundation for school discipline reform: Action steps for states to improve the collection and use of data on school discipline* [Policy brief of the Mid-Atlantic Comprehensive Center]. San Francisco, CA: WestEd.

The Mid-Atlantic Comprehensive Center at WestEd helps state leaders with their initiatives to implement, support, scale up, and sustain statewide education reforms. We work closely with state leaders in the Mid-Atlantic region of Delaware, Maryland, New Jersey, Pennsylvania, and the District of Columbia.

The analyses and recommendations expressed in this report are those of the Mid-Atlantic Comprehensive Center.



The Mid-Atlantic Comprehensive Center (MACC@WestEd) is part of a federal technical assistance network of 15 Regional Comprehensive Centers and seven supporting Content Centers. This network of centers works closely with the Regional Educational Laboratories and other technical assistance providers to ensure effective coordination of services to SEAs and their constituents. The U.S. Department of Education selected WestEd to operate the MACC in October 2012 to provide direct assistance to the states of Delaware, Maryland, New Jersey, Pennsylvania, and the District of Columbia. MACC@WestEd works in partnership with states in building their capacity to implement state-level initiatives and support district- and school-level efforts intended to improve education outcomes for all students, close achievement gaps, and raise the quality of instruction.



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The contents of this brief were developed under a cooperative agreement, #S283B120026, from the U.S. Department of Education. However, the contents herein do not necessarily represent the policy of the U.S. Department of Education, and you should not assume endorsement by the federal government.

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Endnotes

1 Tony Fabelo et al., *Breaking Schools' Rules: A Statewide Study of How School Discipline Relates to Students' Success and Juvenile Justice Involvement* (New York: Council of State Governments Justice Center, 2011), https://csgjusticecenter.org/wp-content/uploads/2012/08/Breaking_Schools_Rules_Report_Final.pdf.

2 This brief does not address data specifically on corporal punishment in schools, but instead focuses on data related to suspension, expulsion, restraint, seclusion, referrals to law enforcement, and arrests for school-based offenses.

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4 Daniel J. Losen et al., "Disturbing Inequities," *Journal of Applied Research on Children* 5, no. 2 (2014): 1–20; Russell J. Skiba, Mariella I. Arredondo, and M. Karega Rausch, *New and Developing Research on Disparities in Discipline* (Bloomington, IN: The Equity Project at Indiana University, Center for Evaluation and Education Policy, 2014), http://www.njln.org/uploads/digital-library/OSF_Discipline-Disparities_Disparity_NewResearch_3.18.14.pdf.

5 Johanna Wald and Daniel J. Losen, "Defining and Redirecting a School-to-Prison Pipeline," *New Directions for Youth Development* 99 (2003): 9–15.

6 Emily Morgan et al., *The School Discipline Consensus Report* (New York: Council of State Governments Justice Center, 2014); Skiba, *Zero Tolerance, Zero Evidence*; AASA and Children's Defense Fund, *School Discipline Data* (Washington, DC: Children's Defense Fund, 2014), <https://www.childrensdefense.org/wp-content/uploads/2018/06/school-discipline-data.pdf>.

7 Morgan et al., *School Discipline Consensus Report*.

8 An earlier version of this brief was developed in response to a state request for information from the Mid-Atlantic Comprehensive Center (MACC). The authors then revised and updated the brief for a wider audience. The content of the brief is based on the authors' review of relevant research, analyses of state and federal policy, and federal law, including Title I section 1111 (h) (1) (C) (viii) (I) of the Elementary and Secondary Education Act and Section 20 USC 1418(a) of the Individuals with Disabilities Education Act. The brief also draws on the findings of *The School Discipline Consensus Report* (Morgan et al., 2014). The research studies and reports that the authors reviewed in developing this brief were selected mainly through keyword searches of online databases (e.g., EBSCO Host, Google Scholar) and the websites of leading education and juvenile justice organizations. The authors also identified sources from state websites and by contacting experts in the field. Lastly, the authors gathered information about state legislation and regulations from state government websites and from *Compendium of School Discipline Laws and Regulations*, maintained by the National Center on Safe and Supportive Learning Environments (<https://safesupportivelearning.ed.gov/school-discipline-compendium>).

9 Daniel J. Losen, Damon Hewitt, and Ivory Toldson, *Eliminating Excessive and Unfair Exclusionary Discipline in Schools* (Bloomington, IN: The Equity Project at Indiana University, Center for Evaluation and Education Policy, 2014), http://www.indiana.edu/~atlantic/wp-content/uploads/2015/01/Disparity_Policy_010915.pdf.

10 In response to new requirements under the Every Student Succeeds Act (ESSA), states and districts that receive Title I, Part A funds are also required to include exclusionary discipline rates disaggregated by race/ethnicity, sex, and disability in their annual public report cards.

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- 11 Daniel J. Losen, *Good Discipline* (Boulder, CO: National Education Policy Center, 2011), http://nepc.colorado.edu/files/NEPC-SchoolDiscipline-Losen-2-LB_FINAL.pdf.
- 12 Delaware Department of Education, *Delaware's Approved Consolidated ESSA State Plan* (Dover, DE: Delaware Department of Education, 2017), <https://www.doe.k12.de.us/Page/3794>.
- 13 Council of State Governments Justice Center, *Realizing the Full Vision of School Discipline Reform* (New York: Council of State Governments, 2017), https://casel.org/wp-content/uploads/2017/11/JC_Realizing-the-Full-Vision-of-School-Discipline-Reform_A-Framework-for-Statewide-Change.pdf.
- 14 In another example, California's state ESSA plan integrates measures of school discipline and discipline disparities into its state accountability system. Annual school-level suspension rates disaggregated by student characteristics, including race and ethnicity, foster care involvement, homelessness, socioeconomic status, and disability status, are also published online as part of California's data dashboard. For more information about California's accountability system, including its online data dashboard, see the California School Dashboard and System of Support website: <https://www.cde.ca.gov/ta/ac/cm/index.asp>.
- 15 See Massachusetts Session Laws, Acts of 2012, Chapter 222, <https://malegislature.gov/Laws/SessionLaws/Acts/2012/Chapter222>.
- 16 Russell W. Rumberger and Daniel J. Losen, *The High Cost of Harsh Discipline and Its Disparate Impact* (Los Angeles: The Civil Rights Project/Proyecto Derechos Civiles, 2016), <https://www.civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/the-high-cost-of-harsh-discipline-and-its-disparate-impact>.
- 17 Anthony Petrosino et al., *Analyzing Student-Level Disciplinary Data: A Guide for Districts (REL 2017-263)* (Washington, DC: U.S. Department of Education, Institute of Education Sciences, National Center for Education Evaluation and Regional Assistance, Regional Educational Laboratory Northeast and Islands, 2017), <https://ies.ed.gov/ncee/edlabs/projects/project.asp?projectID=4470>; National Forum on Education Statistics, *Forum Guide to Crime, Violence, and Discipline Incident Data (NFES 2011-806)* (Washington, DC: U.S. Department of Education, National Center for Education Statistics, 2011), <https://nces.ed.gov/pubs2011/2011806.pdf>; Morgan et al., *School Discipline Consensus Report*.
- 18 Greta Columbi and David Osher, "Advancing School Discipline Reform," *Education Leaders Report* 1, no. 2 (2015), <http://www.nasbe.org/education-leader/advancing-school-discipline-reform/>; Morgan et al., *School Discipline Consensus Report*.
- 19 Morgan et al., *School Discipline Consensus Report*.
- 20 National Forum on Education Statistics, *Forum Guide to Education Data Privacy (NFES 2016-096)* (Washington, DC: U.S. Department of Education, National Center for Education Statistics, 2016), <https://nces.ed.gov/pubs2016/nfes2016096.pdf>.
- 21 Morgan et al., *School Discipline Consensus Report*.
- 22 Columbi and Osher, "Advancing School Discipline Reform."
- 23 Morgan et al., *School Discipline Consensus Report*, p. 109.
- 24 National Resource Center for Mental Health Promotion and Youth Violence Prevention, *Improving School Discipline, Climate, and Safety Data Collection* (Washington, DC: American Institutes for Research, 2017), <https://healthysafefchildren.org/sites/default/files/Data-Collection-Brief-508.pdf>.

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25 Losen, Hewitt, and Toldson, *Eliminating Excessive and Unfair Exclusionary Discipline*; Morgan et al., *School Discipline Consensus Report*.

26 Morgan et al., *School Discipline Consensus Report*.

27 National Forum on Education Statistics, *Guide to Crime, Violence, and Discipline Data*; Losen, Hewitt, and Toldson, *Eliminating Excessive and Unfair Exclusionary Discipline*; Vicki Nishioka (with Sho Shigeoka and Erin Lulich), *School Discipline Data Indicators: A Guide for Districts and Schools (REL 2017-240)* (Washington, DC: U.S. Department of Education, Institute of Education Sciences, National Center for Education Evaluation and Regional Assistance, Regional Educational Laboratory Northwest, 2017), <http://ies.ed.gov/ncee/edlabs>; Morgan et al., *School Discipline Consensus Report*.

28 Petrosino et al., *Analyzing Student-Level Disciplinary Data*; National Forum on Education Statistics, *Guide to Crime, Violence, and Discipline Data*; Morgan et al., *School Discipline Consensus Report*.

29 Losen, Hewitt, and Toldson, *Eliminating Excessive and Unfair Exclusionary Discipline*.

30 National Forum on Education Statistics, *Guide to Education Data Privacy*.

31 Morgan et al., *School Discipline Consensus Report*.

32 Rumberger and Losen, *High Cost of Harsh Discipline*.

33 The U.S. Department of Education is authorized to require states and schools to collect and report data on school discipline and climate under provisions of the Elementary and Secondary Education Act (ESEA), the Individuals with Disabilities Education Act (IDEA), the Department of Education Organization Act, Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and section 504 of the Rehabilitation Act of 1973.

34 Data files and more information about ED Facts are available on the U.S. Department of Education website at <https://www2.ed.gov/about/inits/ed/edfacts/data-files/index.html>.

35 All public schools in the United States are required to submit data biennially as part of the Civil Rights Data Collection (CRDC), which includes an extensive collection of school-level indicators related to access and barriers to educational opportunity from early childhood through grade 12. Data are available on the CRDC website at <https://ocrdata.ed.gov/>.

36 Losen, Hewitt, and Toldson, *Eliminating Excessive and Unfair Exclusionary Discipline*.

37 For more information about state report card requirements, see the Every Student Succeeds Act (ESSA) State and Local Report Cards Non-Regulatory Guidance (2017), available at <https://www2.ed.gov/policy/elsec/leg/essa/essastatereportcard.pdf>.

38 E. Dabney, personal communication, April 30, 2018.

39 IDEA requires that "(a) In general Each State that receives assistance under this subchapter, and the Secretary of the Interior, shall provide data each year to the Secretary of Education and the public on the following: (1)...(D) The incidence and duration of disciplinary actions by race, ethnicity, limited English proficiency status, gender, and disability category, of children with disabilities, including suspensions of 1 day or more." For more information, see 20 U.S.C. Sec. 1418, available at <https://sites.ed.gov/idea/statute-chapter-33/subchapter-II/1418>.

40 The Civil Rights Project/Proyecto Derechos Civiles, *Instructions and Nationwide Survey of SEAs' Online School Disciplinary Data for Students With Disabilities* (Los Angeles: The Civil Rights Project/Proyecto Derechos Civiles, 2014), https://www.civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/online-data-resources/nation-wide-survey-of-state-education-agencies2019-online-school-disciplinary-data/SWD_Discipline_Data_Survey_Instructions_2014.pdf.

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- 41 Daniel J. Losen, *Disabling Punishment* (Los Angeles: The Civil Rights Project/Proyecto Derechos and Charles Hamilton Houston Institute for Race and Justice, 2018), <http://www.schooldisciplinedata.org/ccrr/docs/disabling-punishment-report.pdf>.
- 42 Federal Commission on School Safety, *Final Report of the Federal Commission on School Safety* (Washington, DC: U.S. Department of Education, 2018), <https://www.ed.gov/school-safety>, p. 72.
- 43 For a summary of these exceptions and additional information about SEAs' legal responsibilities for the protection of student data under FERPA and other federal laws, see *The Forum Guide to Education Data Privacy* (National Forum on Education Statistics, 2016).
- 44 National Forum on Education Statistics, *Guide to Education Data Privacy*.
- 45 Morgan et al., *School Discipline Consensus Report*, pp. 282-3.