

This response was prepared for Melissa Bloom, Colorado Department of Education.

Your Question:

You asked for more information states that have defined “disproportionate discipline” or “discipline disparities” in state statute and what requirements are there for districts who are identified as having disparities or disproportionality in discipline.

Our Response:

Research has shown that exclusionary school discipline policies, such as suspension and expulsion, are disproportionately applied to students based on categories such as race, gender, and disability status. State policymakers have sought to address disproportionate student discipline rates in multiple ways. Under the Every Student Succeeds Act, states are required to report discipline data, but some states decided to incorporate school discipline into their accountability systems and school improvement plans within their state ESSA plan.

Additionally, policymakers have pursued legislative action to limit exclusionary discipline, implement reporting requirements, provide for alternative discipline strategies, and have created state definitions for disproportionate discipline and discipline disparities. This ECS [resource](#) provides a quick national scan of the state specific requirements to report discipline data disaggregated by race, ethnicity, gender or any other category. Below are examples of a few states that have defined the terms in statute and other examples on what the state requires from school districts regarding disproportionate discipline.

State Definitions of Disproportionate Discipline / Discipline Disparities

- **Illinois:** Under [105 Ill. Comp. Stat. Ann. 5/2-3.162](#), the state of Illinois requires a student discipline report in all school districts. The report will include data on the issuance of out-of-school suspensions, expulsions, and removals to alternative settings in lieu of another disciplinary action, disaggregated by race and ethnicity, gender, age, grade level, whether a student is an English learner, incident type, and discipline duration. In the report, “racial disproportionality” is defined as the “overrepresentation of students of color or white students in comparison to the total number of students of color or white students on October 1st of the school year in which data are collected, with respect to the use of out-of-school suspensions and expulsions.”
- **Oregon:** Under [Or. Admin. R. 581-017-0675](#), the American Indian/Alaska Native Student Success Plan Grant Program specifies definitions for “disproportionate discipline” regarding to the American Indian/Alaska Native student population. State statute defines it as, “disproportionate rates of suspensions and expulsions for American Indian/Alaska Native students compared to their white classmates who commit similar infractions and who have similar discipline histories.”
- **Washington:** Although [Wash. Admin. Code 392-172A-07040](#) is a provision of special education services, the state does specify “significant disproportionality.” According to state statute, the state collects and examines data annually from school districts to determine if significant disproportionality based on race or ethnicity is occurring in the state with respect to: a) The identification of children as students eligible for special education services; b) The identification of students with a particular disability; c) The placement of students

in particular educational settings; or d) The incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

School District Requirements for Disproportionate Discipline

- **Delaware:** Under [Del. Code Ann. tit. 14, § 703](#), the state department of education will compile and release an annual report on student discipline. The department will require schools to submit a plan to the department that identifies the strategies the school will implement beginning in the following school year to reduce the use of exclusionary disciplinary practices or use of exclusionary disciplinary practices with racial subgroups or students with disabilities, or both.
- **Hawaii:** In 2020, Hawaii enacted [S.B. 2486](#) which added several discipline measures to the list of performance indicators for which data from the preceding three years must be collected and reported. It creates reporting requirement on disciplinary rates across subgroups, including comparisons between the subgroup with the highest rate and the subgroup with the lowest rate. The department must also track the progress made by schools and complexes in reducing disciplinary disparities, the use of restraint, and assess if changes in discipline contribute to changes in student achievement and absenteeism rates.
- **Indiana:** Under [Ind. Code Ann. § 20-26-5-32](#), each school corporation will engage with parents to develop and review an evidence-based plan for improving student behavior and discipline. State statute specifies that “the model plan developed by the department must reduce out-of-school suspension and disproportionality in discipline and expulsion.”
- **Maryland:** Under [Code Md. Regs. 13A.08.01.21](#), the state of Maryland will develop a method to analyze local school system discipline data to determine whether there is a disproportionate impact on minority students. The statute states that, “if the department identifies a school's discipline process as having a disproportionate impact on minority students or a discrepant impact on special education students, the local school system shall prepare and present to the state board a plan to reduce the impact within one year and eliminate it within three years.”
- **Nevada:** Recently, [Nev. Rev. Stat. Ann. § 392.4644](#) indicates that the superintendent of each school district for profoundly gifted pupils will establish a plan to provide for the progressive discipline of pupils and on-site review of disciplinary decisions. The principal of each public school should review the plan and determine whether and to what extent the occurrences of the suspension, expulsion, or removal of pupils from school disproportionately affect pupils who belong to a group of pupils. Lastly, the superintendent of public instruction would issue a written notice to the school district if the data collected indicates disproportionality in disciplinary actions or is insufficient to determine whether disproportionality exist.
- **Oregon:** Under [Or. Rev. Stat. Ann. § 329.841](#), Oregon requires and has created a statewide education plan for students enrolled in early childhood through post-secondary education. The plan developed and implemented under this section must provide strategies to “address the disproportionate rate of disciplinary incidents for plan students compared to all students in the education system.”
- **West Virginia:** In 2020, West Virginia enacted [S.B. 723](#) which requires the department of education to analyze statewide data collected on school disciplinary action and based on the findings of this data, develop a statewide program intended to address the number of disciplinary actions taken by school personnel and county boards. It requires information be collected by subgroups and it requires county board implementation with the goal of improving disciplinary outcomes.