

Dear Illinois School Administrators,

The Transforming School Discipline Collaborative (TSDC) is an interdisciplinary team of attorneys, school psychologists, policy advocates and community partners dedicated to supporting districts and schools to implement equitable and non-exclusionary discipline practices. We aim to meaningfully reduce the high numbers of school days that students lose due to exclusionary discipline policies and to eradicate inequities in the administration of discipline.

This model code is offered as a best practice of how school administrators can develop a student code of conduct that (1) is compliant with recent changes to Illinois law and (2) advances the goal of fairness and equity in the discipline process. In some places, the model code goes beyond the strict requirements of current law to encompass the intent behind legislative reforms to reduce the use of exclusionary school discipline. Achieving the purpose of the legislation requires a fundamental shift in school climate and policies to a prevention-oriented and student-centered approach that keeps students in school, fully engaged and on track to graduate.

What's the Urgency?

For many years, studies have demonstrated that school discipline is over-utilized and most frequently used for minor behaviors unrelated to school safety, such as tardies and truancy.¹ The impact of these policies is alarming: even one suspension in ninth grade can significantly reduce a student's chance of graduating and enrolling in post-secondary education.² Research has also consistently demonstrated that exclusionary discipline policies have been inequitably applied to exclude certain sub-populations of students.³ For example, across the country:

- Black students represent 16% of the student population but up to 42% of students suspended or expelled.⁴
- Students with disabilities represent 12% of the student population but a quarter of the students who are referred to law enforcement or subjected to school related arrests.⁵
- Lesbian, Gay, Bisexual, Transgender (LGB/T⁶) youth experience higher rates of harsh and exclusionary punishment than gender conforming and heterosexual youth.⁷

In Illinois, during the 2014-2015 school year, there were over 340,644 suspensions, expulsions, and transfers to alternative schools in lieu of another disciplinary action.⁸ Black students represented approximately 45% of the students impacted by these practices,⁹ even though black students constituted only 17.5% of the student population.¹⁰ According to national research, such discipline disparities are not attributable to black students engaging in more serious infractions than their white peers that would warrant more extreme school actions, such as suspension and expulsion. On the contrary, discipline disparities likely occur because black students are more frequently disciplined for subjective offenses, such as class disrespect and defiance, while white students are more often disciplined for overt behaviors, like vandalism.¹¹

What Has Changed in Illinois?

Here in Illinois, we have taken two critical steps toward combating this reality. Public Act 98-1102¹² increases accountability of school districts by requiring the Illinois State Board of Education (ISBE) to compile and publically release data regarding each school district's rates of

out-of-school suspensions, expulsions, and transfers to alternative schools. This data should be disaggregated by subgroups (e.g., race/ethnicity, gender, age, grade level, limited English proficiency, incident type and duration). ISBE will monitor those districts with grossly high and inequitable discipline numbers. Public Act 99-0456,¹³ which goes into effect on September 15, 2016, requires substantive changes to school discipline practices and policies, including the elimination of any broad-based use of zero tolerance policies. In addition to other requirements, schools must make substantial efforts to consider “appropriate and available” alternatives to exclusionary discipline, ensuring that suspension, expulsion, and school transfers are a measure of last resort. This new legislation and this model code are consistent with recent federal guidance on school discipline that calls upon districts to reduce the use of exclusionary school discipline practices as well as inequities in their administration.¹⁴

What Should We Do With This Code?

This document is intended to help your school or district revise the code of conduct that currently appears in your student handbook as well as to serve as a starting point to revising your internal administrative procedures. We suggest that you use this Code as a road map for your school community to develop more holistic, inclusive policies and practices that prevent and respond to student misbehavior. This work should be a collaborative process that empowers all stakeholders, including school administrators, teachers, school-based mental health professionals, school staff, members of the school board or governing body of a charter school, parents, students and community members. This process will enable this Code to be adapted and applied to your local context as well as your educational setting (preschool, elementary school, middle school and/or high school).

This Code is not intended to be adopted in isolation from other necessary school culture changes. Schools are encouraged to continue developing practices to prevent school violence and build a positive school climate. Examples of such practices include developing an inclusive and supportive curriculum, providing effective and culturally-relevant behavior supports, implementing restorative practices, offering classroom consultation and support, providing ongoing professional development and examining the role of implicit biases in the classroom and school community. We recognize that this is a challenging and ongoing process. To support your efforts to reform school discipline policies and practices, TSDC is rolling out a resource toolkit and offering professional development.

We hope that this model code supports your efforts as we all continue to make sure that our schools provide the very best education to all students in Illinois.

Sincerely,



¹ Daniel J. Losen & Tia Elena Martinez, "Out of School and Off Track: the Overuse of Suspensions in American Middle and High Schools," *The Center for Civil Rights Remedies*, April 8, 2013, http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/out-of-school-and-off-track-the-overuse-of-suspensions-in-american-middle-and-high-schools/OutOfSchool-OffTrack_UCLA_4-8.pdf.

² Robert Balfanz et al., "Sent Home and Put Off Track: The Antecedents, Disproportionalities, and Consequences of Being Suspended in the 9th Grade," *Closing the School Discipline Gap: Equitable Remedies for Excessive Exclusion*, Daniel Losen, Ed. (New York: Teachers College Press, 2014), 27-29.

³ Russell J. Skiba, "Race is Not Neutral: A National Investigation of African American and Latino Disproportionality in School Discipline," *School Psychology Review*, 40 (2011), 85-107.

⁴ U.S. Department of Education Office for Civil Rights, "Civil Rights Data Collection, Data Snapshot: School Discipline," March 2014, <http://ocrdata.ed.gov/Downloads/CRDC-School-Discipline-Snapshot.pdf>.

⁵ Ibid.

⁶ We use the acronym LGB/T to represent a wide range of non-norming sexual and gender identities and expressions.

⁷ V. Paul Poteat et al., "Sexual Orientation-Based Disparities in School and Juvenile Justice Discipline: A Multiple Group Comparison of Contributing Factors," *Journal of Educational Psychology*, 108 no. 2 (Feb. 2016), 229-41; K.E.W. Himmelstein & H. Bruckner, "Criminal-Justice and School Sanctions against Non-Heterosexual Youth: A National Longitudinal Study," *Pediatrics*, 127 no. 1 (2011), 49-57. See also Mariella Arredondo et al., "Documenting Disparities for LGBT Students: Expanding the Collection and Reporting of Data on Sexual Orientation and Gender Identity," *Discipline Disparities: A Research-to-Practice Collaborative*, 2, March 2016, <http://www.indiana.edu/~atlantic/wp-content/uploads/2016/03/SOGI-Brief-Final.pdf>.

⁸ Illinois State Board of Education, "2015 End of Year School Discipline Report," Oct. 2015, <http://www.isbe.state.il.us/research/pdfs/eoy-rpts/2015/2015-eoy-student-discipline.pdf>.

⁹ Ibid.

¹⁰ Illinois State Board of Education, "Illinois Report Card: 2014-2015." <http://www.illinoisreportcard.com/State.aspx?source=StudentCharacteristics&source2=StudentDemographics&Stateid=IL>.

¹¹ Skiba, "Race is Not Neutral," at 101-02; R. Skiba et al., "The Color of Discipline: Sources of Racial and Gender Disproportionality in School Punishment," *The Urban Review*, 34 no. 4 (2002), 317-342.

¹² P.A. 98-1102 (effective Aug. 26, 2014) was first introduced in the Illinois Senate as SB 2793.

¹³ P.A. 99-0456 (effective Sept. 15, 2016) was first introduced in the Illinois Senate as SB 100.

¹⁴ See U.S. Department of Education and Department of Justice, "Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline," Jan. 2014, <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.pdf>; U.S. Department of Education, "Guiding Principles: A Resource Guide for Improving School Climate and Discipline," Jan. 2014, <http://www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf>; U.S. Department of Health and Human Services and Department of Justice, "Policy Statement on Suspension and Expulsion Policies in Early Childhood Settings," <https://www2.ed.gov/policy/gen/guid/school-discipline/policy-statement-ee-expulsions-suspensions.pdf>.

TSDC's Model Student Code of Conduct

An interdisciplinary approach to transforming school discipline



2016

The Transforming School Discipline Collaborative is a collaborative of organizations that are working to ensure that Illinois' schools are safe and supportive for all students. This Model Student Code of Conduct was developed by faculty from the Loyola University Chicago School of Education, the Education Law and Policy Institute at Loyola University Chicago School of Law, and Northwestern University together with attorneys and other professionals from Equip for Equality, Chicago Lawyers' Committee for Civil Rights Under Law, Inc., Illinois Safe Schools Alliance, Prevent School Violence Illinois, Umoja Student Development Corporation and the Ounce of Prevention Fund. This document also benefitted from contributions by a student at Loyola University Chicago School of Law. It has been strengthened by feedback received from school administrators, school psychologists, attorneys, youth and a variety of other stakeholders and professionals in the field of education.

Model Student Code of Conduct

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How to use this document:

This model code is offered as a best practice of how your district or school can develop its student code of conduct. Throughout the document, text highlighted within a blue box (such as this) contains language intended to guide the reader in framing certain topics when considering student code of conduct language and policies. These boxes provide more information about the relevant legal requirements and applicable federal guidance. They also provide strategies for building collaborative processes to develop policies that are reflective of the shared values of your school community.

Language outside of the blue boxes can be directly inserted intact into your student code of conduct. While we believe it is ideal that your district or school adopt TSDC's proposed language for your student code of conduct, our ultimate goal is that you own the process and the product. Please use this document to best support your efforts to transform school discipline in a way that empowers your school community to build a safe, inclusive, and supportive school environment for all students.

Model Student Code of Conduct

1. Discipline Philosophy

Before developing your district or school’s code of conduct, it is important to first come to a consensus about your discipline philosophy. The discipline philosophy that this model code articulates is a positive vision based on best practices, research and experiences of communities.¹ The discipline philosophy sets the tone for the climate of the district or school and should be aligned with other systems and practices that support all students to stay in school, learn and be successful.

Developing your district or school’s discipline philosophy presents a meaningful opportunity for the educational community to engage in a collaborative process that results in a commitment to a shared vision. Your district or school should carefully consider how this process can be inclusive of voices often underrepresented in these decisions, particularly the students and families that tend to be most impacted and excluded by the discipline system.² The sections below are examples of what can be produced with input and collaboration from key constituents, particularly students, families and teachers.

Our district or school takes a preventive, positive approach to discipline rather than focusing exclusively on “punishment.” We respond to misbehavior with interventions and consequences aimed at teaching alternative expected positive behaviors, understanding and addressing the root causes of the behavior, resolving conflicts, meeting students’ needs and keeping students in school.³ We take deliberate steps to create a positive school climate in which every student can learn, fully engage in a rigorous curriculum, and feel safe, nurtured, and welcome.⁴ In our district or school, we utilize school discipline as an opportunity for teaching, repairing relationships and fostering growth among the whole school community.

Our philosophy is non-punitive, holistic, and inclusive of multiple, diverse perspectives. We use a restorative discipline approach that emphasizes relationships and community above rules and regulations. This is not a “soft” response to misbehavior nor does it fail to hold students accountable. Rather, restorative discipline helps students understand the impact of their behavior both on themselves and on others. Students also learn social and emotional skills to help them respond differently in the future. Through the use of restorative discipline, we resolve conflicts, encourage our school community members to take responsibility for their behavior, repair any harm done, restore relationships, and reintegrate students into the school community.⁵

We use schoolwide discipline policies developed and revised with meaningful input by the school community to create a positive and inclusive school climate for everyone. We are committed to applying school discipline policies and practices in a fair and equitable manner so as not to disproportionately impact students of color, students with disabilities,

LGB/T students, students with limited English proficiency, or other at-risk students that have been historically marginalized in schools.

2. Rights and Responsibilities

The code of conduct should identify the rights and responsibilities of parents, students, and teachers/school staff, district administrators and other important actors in your district or school. Coming up with the rights and responsibilities of each stakeholder should be a collaborative process that aligns with the discipline philosophy. You can begin to gather ideas for rights and responsibilities in smaller meetings, such as at your parent-teacher advisory committee or at your student council, but all stakeholders should gather together to collectively give meaningful input on the rights and responsibilities of every stakeholder. Individuals not typically in mainstream meetings and/or with historically limited voices should be active participants in this process. Examples are given below of rights and responsibilities based on codes of conduct throughout the country that have been revised to reflect positive, proactive strategies to address student behaviors.⁶

Students have the right and responsibility to:

- be respected as an individual and treated courteously, fairly and respectfully by other students and school staff;
- treat teachers, staff, other students, themselves and property with respect;
- take part in all school activities on an equal basis regardless of race, religion, religious practices, sex, sexual orientation, gender, gender identity, national origin, ethnic group, political affiliation, age, marital status, or disability; and
- attend school daily, be prepared for class and complete assignments to the best of their ability.

Parents have the right and responsibility to:

- be informed of their child's attendance, performance and behavior concerns;
- receive information and prompt notification of inappropriate or disruptive behaviors by their child and any disciplinary actions taken by principals or school staff and have a voice in how to address them in a proactive manner;
- assure their child brings to school only those things that are appropriate in a school setting;
- inform school personnel of any issues that may impact the educational experiences of their child; and
- participate in decision-making processes affecting school policies and procedures and the educational success of their child.

Teachers, principals and school staff have the right and responsibility to:

- establish a sense of community in the classroom, including opportunities for members of the school community to learn about and be respectful of each other's cultures;

- be knowledgeable about federal and state laws and regulations about the disciplinary process for students with disabilities and for all students;
- enforce the policies, rules, and regulations of the district, school, classroom, and code of conduct, including preventive and positive disciplinary policies in cooperation with students, parents/guardians, and administrators;
- communicate policies, expectations, and concerns to students and parents/guardians, and respond to complaints or concerns from students and parents/guardians in a timely manner and in a language they understand;
- engage parents when their child is subject to disciplinary action; and
- seek and receive support in preventing and responding to student behaviors in a supportive manner, including classroom and behavioral management strategies.

District administrators have the responsibility to:

- provide support and professional development training to principals and school staff to help them support all students, including students with disabilities and other special needs, particularly in areas of classroom/behavior management and instructional supports;
- ensure discipline policies are in compliance with civil rights laws, state and federal legislation and best practices in school discipline; and
- monitor discipline data to identify, investigate and address any disparities between students on the basis of disability, race, gender, or other student characteristics and to address unnecessary rates of school exclusion for all students.

Community-based/local organizations and agencies should:

- share ideas and strategies for improving school climate and discipline practices;
- make reasonable efforts to confer, consult, and collaborate with school staff and/or parents/guardians on student misconduct and potential responses; and
- integrate proposed supports and strategies with existing school-based practices to create a cohesive school discipline framework.

3. Participation and Collaboration

Illinois law, as amended by Public Act 99-0456, requires the following:

- School districts establish and maintain a parent-teacher advisory committee that develops, together with the school board, policy guidelines on pupil discipline, including school searches.⁷ As of September 15, 2016, this provision also applies to charter schools and their governing bodies, and it further requires that the parent-teacher advisory committee be involved in developing guidelines on bullying prevention.⁸
- Schools provide the discipline policy to students and parents before the 15th day of school each year.⁹
- School boards, with the parent-teacher advisory committee, review the discipline policy every year.¹⁰

- The parent-teacher advisory committee works with local law enforcement agencies and the school board to develop written policies for reciprocal reporting of criminal offenses with local law enforcement.¹¹

As of September 15, 2016, Illinois law also recommends that districts create a memorandum of understanding (MoU) with local law enforcement that clearly defines law enforcement's role in schools.¹²

We outline the following procedural guidelines in compliance with this legislation and aligned with our overall philosophy of inclusive collaboration with meaningful involvement of members of the school community who are most impacted by exclusionary discipline practices. There is not one way to engage in a collaborative process. However, we developed the guidelines below to support school leaders to maximize the potential for creating a truly collaborative process that results in effective discipline policies and practices.

Each district and school should collaboratively develop and include in this section more specific details regarding: (1) the opportunities that exist for district and school stakeholders to participate in the development, monitoring and revision of educational policies; (2) the process for filing and resolving discipline-related grievances and complaints; (3) the process for making and responding to suggestions related to the implementation of this Code; (4) your school or district's parent-teacher advisory committee, including its composition, how often it meets, how those in the school community can get involved and its role and responsibilities; and (5) the process for communicating the district or school's policies to all stakeholders.

Our district or school provides structured opportunities for all stakeholders in our educational community to obtain information, help make decisions, and participate in the educational process. By stakeholders we mean: students, parents, guardians, district and school staff members (including bus drivers, cafeteria workers, security officers and school resource officers), teachers, school-based mental health professionals, administrators, members of the school board or governing body of a charter school, and community members. We recognize that involvement of these various stakeholders in our educational community is essential to the success of our school or district, and we actively foster engagement with parents, families and community members.

In our district or school, we maintain an active parent-teacher advisory committee, teachers' association and student association. We also maintain a community advisory board that involves representatives from various community organizations, including community social service agencies, mental and physical health providers, and juvenile authorities. We value a welcoming and inclusive school environment for all families. Our policies and meetings are intended to be culturally sensitive to the background of the families in our community, and our written and oral communication is language accessible to the greatest extent possible.

We provide a process for stakeholders in our school community to file grievances or complaints or to make suggestions regarding the implementation of this Code of Conduct. Any person wishing to file a grievance or complaint or to make a suggestion, can: [**each district or school should insert the procedures to be followed.**] Our school or district investigates and responds to grievances and complaints fully and equitably, and we seek to resolve them informally where possible. If a person filing a complaint or grievance is not satisfied with the process followed or the result, then: [**each district or school should insert the procedures to be followed**]. Any grievances, complaints and suggestions received should be brought to the attention of the parent-teacher advisory committee.

Parent-Teacher Advisory Committee

Our district or school establishes and maintains a parent-teacher advisory committee that is selected annually. Our aim is for this committee to be representative of the community of parents and guardians in the school population in terms of their student's grade level, demographic, including racial and ethnic background, discipline background, and academic achievement.

The parent-teacher advisory committee works together with the school board on the following tasks:

- Developing written policy guidelines and procedures on student discipline, including school searches and bullying prevention;
- Annually reviewing and making necessary changes to our district or school's student discipline policies, the implementation and evaluation of these policies, and any other factors related to the safety of our educational community;
- Creating varied opportunities for engagement of parents, guardians and students in our educational community;
- Mapping community organizations and services in the area for students who may require additional supports outside of the school. Such services might include afterschool programs, restorative justice hubs, mental health and substance abuse support, violence and gang intervention support, and/or support programming on parenting.
- Collaborating with community organizations to include provisions in the school's student discipline policy to address the safety and support of students who have demonstrated behaviors that put them at risk for aggressive behavior, including bullying. (These provisions must include procedures for notifying parents or legal guardians and early intervention procedures based upon available community-based and district resources.);
- Working with local law enforcement agencies to create memoranda of understanding (MoUs) that clearly define law enforcement's role in schools, including reciprocal reporting procedures between the school district and local law enforcement agencies regarding criminal offenses committed by students and procedures for maintaining this information in a confidential manner; and

- Working with non-teaching staff, such as school bus personnel, school resource officers and security officers, to develop written policies that establish and maintain safety in their respective settings in a manner that reflects our district or school's commitment to a positive, prevention-oriented discipline philosophy.

Notification & Communication

At the beginning of each school year, our district or school provides to parents and guardians a copy of our student handbook, which contains our student code of conduct and other important policy guidelines and procedures, as part of the school registration, orientation process or otherwise on the student's first day of school. To ensure that policies are clearly communicated, we also provide a shortened version in English, and any other language spoken by a significant percentage of the population of our parents and guardians, that summarizes our expectations in a clear manner. Our student handbook and the shortened version are also annually updated and made available online on our district or school's website.

We clearly communicate our policies and behavioral expectations to all school stakeholders by:

- displaying our positive core values and behavioral expectations prominently in a highly trafficked area of our school with expectations specific to each setting (e.g. hallways, bathrooms, etc.);¹³
- hosting assemblies, at least twice each school year, to teach these values, and discipline policies in an age-appropriate manner, as well as acknowledge positive expected behaviors;¹⁴
- conducting follow-up schoolwide teaching lessons based on data review and schoolwide need, as necessary;
- developing classroom-based expectations and conducting classroom lessons on the core values, behavioral expectations, and discipline policies at least twice a year; Conducting classroom lessons more frequently as needed, based on data and classroom need; and
- holding informational sessions for all or specific groups, including one before the start of the school year and at least two each school year, regarding the student code of conduct and seeking input on the behavioral expectations for the entire school.

Feedback and Evaluation

We routinely evaluate our policies and procedures to make sure they are effective. We also regularly conduct a comprehensive review, at a minimum once every three years, by inviting the full participation of all stakeholders. We readjust as necessary our policies and procedures with meaningful input from all stakeholders and based on a review of data that informs our revision process.

Districts or schools should include qualitative measures of school climate and the effectiveness of school discipline policies. The following are some suggestions:

- The student association or government regularly reviews student policies, collects student feedback, and suggests revisions;
- Regular “town hall” meetings led by students, parents and/or guardians that provide opportunities for district staff and school board members to listen and respond to feedback and concerns;
- Opportunity at parent-teacher conferences or report card pick up for families to give feedback;
- Surveys sent home to families in the fall and spring;
- Special assessments, such as surveys, led by students, parents, and guardians to identify areas that need more accountability; and
- An online survey on annual school climate for students, parents, guardians, district and school staff, school board members, and community members to complete.

4. Prevention, Intervention and Disciplinary Responses

4A. Discipline Framework

A discipline framework outlines how a district or school will apply the discipline philosophy within their existing supports and services. Districts and schools may use different frameworks to guide their support and services. The example that follows may not be applicable to your local school district, but can be adapted based on your local needs. It is important, however, that each district or school develop and communicate an overall discipline framework that is connected to other supports and services within the building. This ensures that resources are delivered in a coordinated and efficient manner.

Our suggested discipline framework uses the Multi-Tiered System of Support (MTSS) model. The MTSS framework is a holistic model for districts or schools to determine scientifically-supported practices for: all students (schoolwide, tier 1), followed by additional or supplemental supports provided to groups (secondary, tier 2), and/or individual students (tertiary, tier 3) that require additional support beyond school-wide practices.¹⁵

Within a positive framework for discipline, our district or school provides proactive, differentiated interventions for students. These interventions are aimed at addressing the root causes of students’ behaviors and focus on teaching behaviors rather than excluding students for punishment. Challenging behaviors must be addressed in the context of a comprehensive, multi-level approach to behavior support that is designed to teach, nurture, and encourage positive social behaviors.¹⁶

We offer academic, behavioral, mental health, and social-emotional interventions and supports for students who have fallen behind academically and/or are being disciplined. We use schoolwide positive behavior support, social-emotional learning,¹⁷ and restorative practices. We employ an “early warning” system to allow us to identify students who are at

risk of dropping out or being pushed out of school, using a systematic review of already existing data (e.g. course failures, discipline referrals, and attendance).¹⁸

We limit the use of out-of-school student discipline to keep students connected to school so that they may graduate high school and be college- and/or career-ready. Every situation will be judged “on the merits” of that situation after gathering and analyzing the facts and surrounding circumstances carefully and objectively. Our schools redirect students to correct inappropriate behavior, teach positive and expected behaviors and minimize the possibility of the behavior escalating or recurring.

Our district or school recognizes that a safe, civil school environment is necessary for students to learn and achieve.¹⁹ To ensure the physical and emotional safety of all our students, our district or school has adopted a bullying prevention policy that is available: **[districts or schools should provide information on how parents and guardians can access the policy.]** As part of that policy, we seek to prevent, respond to, and put an end to bullying behavior by students and adults using interventions and supports that reflect a commitment to our positive discipline philosophy. Our focus is on teaching, rather than punishing, by engaging in restorative practices to repair relationships. We emphasize age-appropriate responses that help educate and rehabilitate the student responsible, while fully addressing the impact of the bullying on the targeted student.²⁰

Your district or school’s policy should outline the available support services and interventions to address school discipline and/or bullying situations. These services are implemented based on the particular conditions surrounding each incident, and include:

- Referral of those who experienced harm and caused harm to appropriate support services in the school and community, such as: counselors, psychologists, social workers, or other school support service personnel for case management, counseling, and other services as needed to address underlying behavior;
- Classroom-based interventions, such as classroom management and consultation, training in functional analysis of behavior and interventions;
- Notification to parents, guardians, and students in writing from all those involved;
- Processes for resolution, such as mediation, restorative practices led by an experienced practitioner, conversations, and family groups in appropriate situations;
- Conferences, behavior contracts, instruction in anger and/or stress management, and social and emotional skill-building;
- Academic interventions, such as tutoring and use of formative assessment, to help determine needed interventions that are provided efficiently and at an early state of noticing academic problems (these supports are connected with core instruction that is provided to all students within the system);²¹
- Community service, including opportunities to reflect on service to the school and/or community with adult mentors as a way of restoring relationships and harm done to the school community; and
- Study teams, guidance teams, resource panel teams, or other intervention-related teams that assess behavior, based on an analysis of the root cause/function, and develop and

implement individualized plans to address the behavior in partnership with the student and parents or guardians.

4B. Approach to Student Behaviors

This section is meant to describe a suggested prevention-oriented approach to addressing incidents involving student behaviors. In Public Act 99-0456, districts and schools must limit the use of suspensions and expulsions “to the greatest extent practicable.” The act recommends that these practices are used “only for legitimate educational purposes” and that school officials “consider forms of non-exclusionary discipline prior to using out-of-school suspensions or expulsions.”²² The act also requires that districts exhaust “other appropriate and available behavioral and disciplinary interventions” prior to imposing out-of-school suspensions of more than three days, expulsions, and disciplinary removals to alternative schools.²³

This section provides a process meant to enable districts to identify alternative approaches to responding to student behavior rather than relying on exclusionary discipline. Your school or district will need to identify the actors and team responsible for implementing each of the steps identified in this approach.

Our goal is to create a safe and supportive environment where all students can develop the academic, social, and emotional skills needed to become engaged citizens. Therefore, we are committed to addressing challenges in student conduct in the most constructive way possible. The goal of school discipline is to be instructional and corrective so as to reduce the likelihood of behaviors reoccurring.

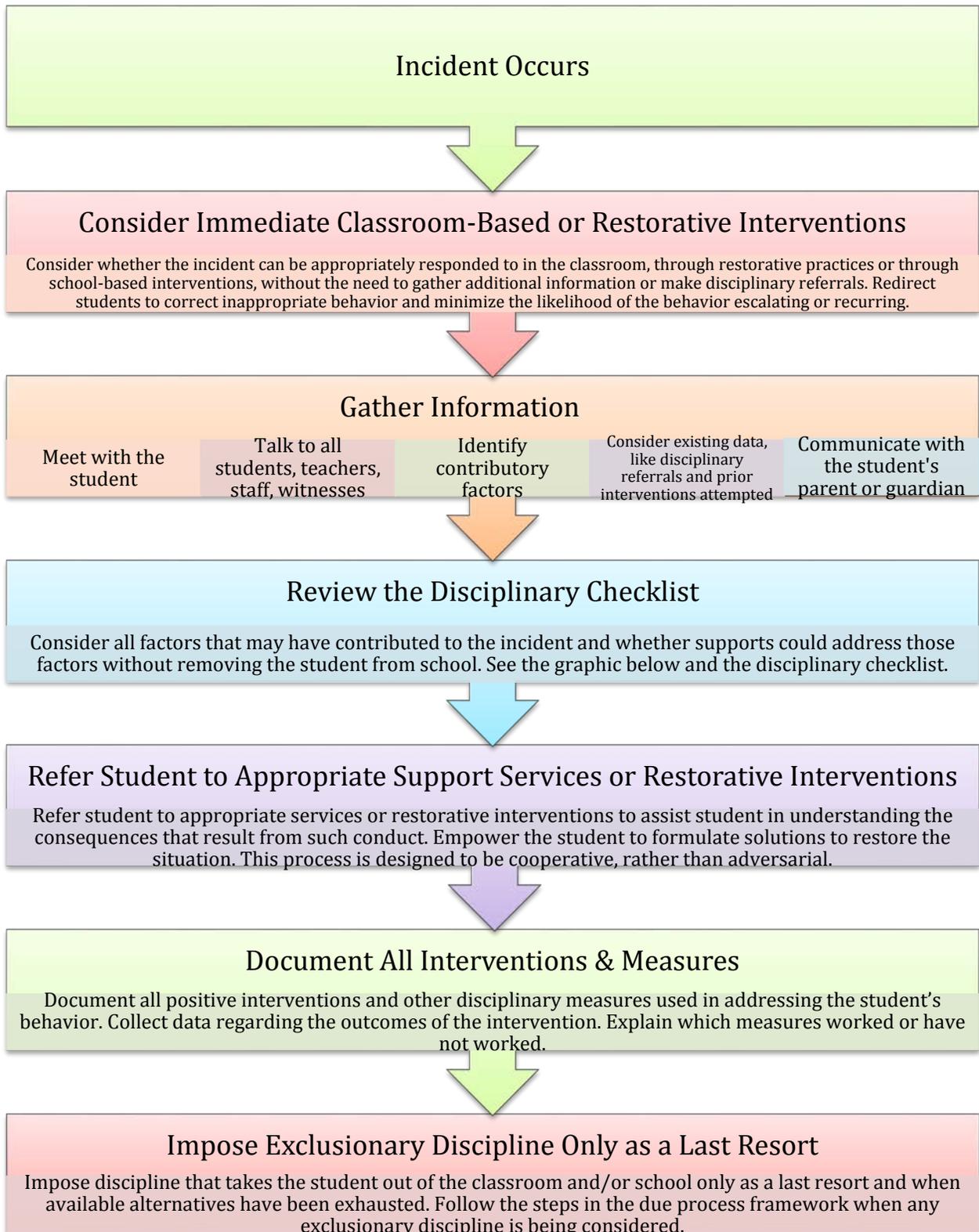
Out-of-school suspensions and expulsions are the most serious form of disciplinary consequence and should be used only as a last resort and for legitimate educational purposes. When an incident occurs, consideration shall be given first as to whether the incident can be appropriately addressed using a restorative practice, through behavior support practices, or through another available, appropriate intervention that will enable the student to remain in school. To prevent students from being excluded from school unnecessarily, **school staff must attempt non-exclusionary discipline prior to using out-of-school suspensions or expulsions, except in exigent and emergency situations involving school safety.**

Our discipline approach is tailored to the individual incident and varies in method and severity according to the nature of the behavior, the age and developmental level of the student, and the student’s history of problem behaviors and performance.²⁴ We use the approach illustrated in the graphic below as a means to identify classroom-based responses or other supports and interventions that can be used instead of suspension or expulsion.

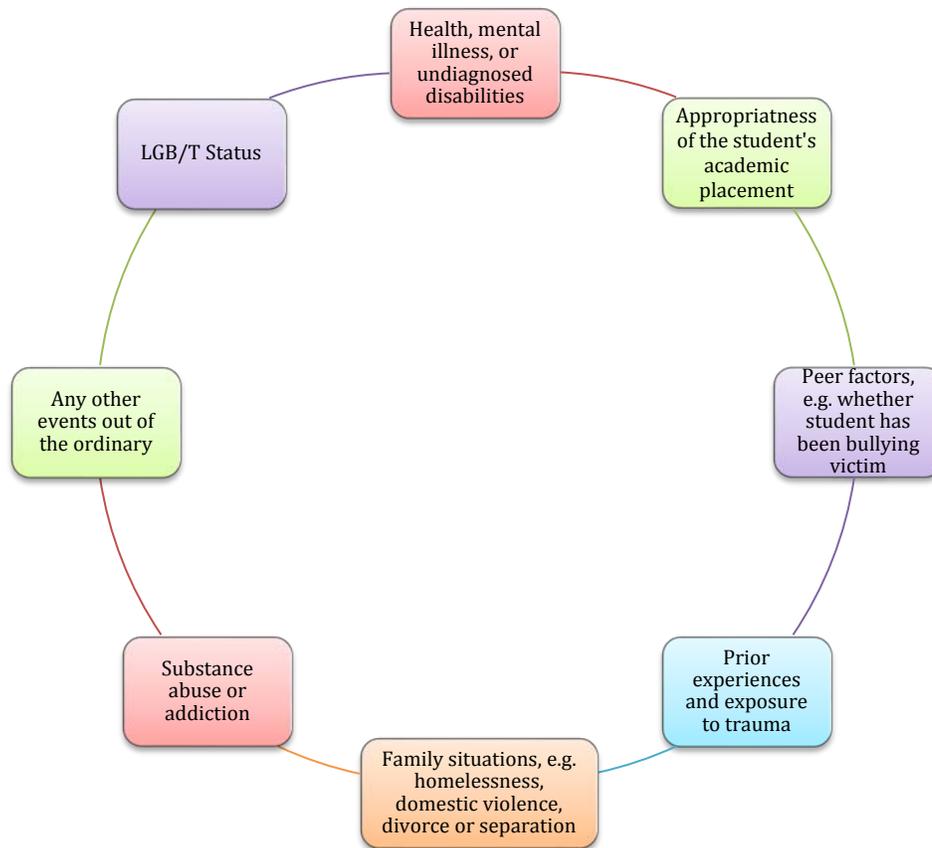
Our District or School Does Not...

- Use zero-tolerance policies that require school staff to suspend or expel students for certain behaviors except if required by law (for example, for certain offenses involving weapons).²⁵ This means out-of-school suspension cannot be a minimum or required consequence for any other offense. Therefore, our district or school encourages the use of alternative approaches to zero tolerance. We support staff in delivering alternatives to suspension and expulsion, with a focus on restorative practices and the teaching of desired behaviors that will promote future success.
- Advise or encourage students to drop out voluntarily due to behavioral or academic difficulties or to leave the school voluntarily in order to avoid formal disciplinary proceedings through either formal or informal “push out” procedures.
- Issue a monetary fee or fine as a disciplinary consequence, although students can be asked to pay for lost, stolen or damaged property.²⁶
- Use corporal punishment.²⁷
- Use restraint or seclusion for punishment or discipline.²⁸
- Withhold recess or lunch as a punishment.

If there is an incident, our district or school takes the following steps:



After an incident, our district or school considers the following factors in analyzing the root causes of an incident and whether supports could address these factors without removing the student from school.



4C. Proscribed Conduct

Your district or school should clearly identify conduct that is prohibited by the code of conduct. Your district or school should also clearly define the range of possible interventions and consequences that may result from a given violation of the code. The purpose in doing so is to 1) enable students and their parents or guardians to understand the potential consequences and interventions that may be triggered by a student's actions, and 2) enable districts and schools to respond to student misbehavior in a manner that is consistent and equitable.

This list is purposefully not included in the model code because your district or school's prohibited behaviors should be reflective of your school culture and climate. Your district or school should develop and review this discipline framework in a collaborative process that incorporates the feedback of students and parents along with teachers, staff and administrators. This framework should incorporate a continuum of "developmentally appropriate and proportional consequences for addressing ongoing and escalating student misbehavior after all appropriate interventions have been attempted."²⁹

In developing and reviewing this framework, we suggest that your district or school consider the following:

- It is often helpful to group or tier offenses by severity level, so that interventions and consequences can be tailored accordingly.³⁰
- National research shows that most suspensions are for minor, non-violent behavior for which other interventions are more appropriate and effective.³¹
- Conduct definitions should be specific and avoid overly subjective categories that leave room for bias (e.g., defiance, disorderly conduct, insubordination, disrespect, disobeying school rules).³²
- As part of the interventions available, districts or schools should include strategies for school staff (teachers, administrators, etc.) to understand and implement restorative practices.
- As part of a systematic process of monitoring discipline data, district and school staff should scrutinize categories of conduct that disproportionately impact students of color, LGB/T students, and students with disabilities. Your district or school should then work collaboratively with students and parents to identify ways to amend your disciplinary policies and practices so as to reduce and eliminate these disparities.

4D. Disciplinary Checklist

Public Act 99-0456 differentiates between (a) out-of-school suspensions of three days or less (“short-term suspensions”), and (b) out-of-school suspensions longer than three days (“long-term suspensions”), expulsions and disciplinary removals to alternative schools. Suggested definitions of these terms are provided in Section 10. The following standards apply:

(a) A suspension of three days or less is only allowed “if the student’s continuing presence in school would pose a threat to school safety or a disruption to other students’ learning opportunities.”³³

(b) A suspension longer than three days, expulsion, or disciplinary removal to an alternative school is only allowed if “other appropriate and available behavioral and disciplinary interventions have been exhausted” **and** the “student’s continuing presence in school would pose a threat” to safety or “substantially disrupt, impede, or interfere with the operation of the school.”³⁴

The disciplinary checklist below incorporates these standards together with guidance intended to support district and school staff in considering whether these standards have been met in particular circumstances. The purpose of developing a checklist like the one proposed below is to support school staff to make consistent and equitable disciplinary decisions. Scholars on implicit bias in other settings suggest that developing and using checklists at key decision points can help reduce bias in the decision-making process.³⁵

This checklist proposes default rules to guide the use of district and school discretion, while still allowing for exceptions to be made in serious and unusual circumstances. One such default rule is a suggested prohibition on suspensions or expulsions for first-time offenses. This is consistent with the requirement in Public Act 99-0456 that school officials

“consider forms of non-exclusionary discipline prior to using out-of-school suspensions or expulsions.”³⁶ It is also consistent with the law’s requirement that school officials must (1) make reasonable efforts to resolve threats and address disruptions in schools while limiting suspensions to the greatest extent practicable³⁷ and (2) exhaust “other appropriate and available behavioral disciplinary interventions” prior to imposing a long-term suspension, expulsion, or disciplinary removal to an alternative school.³⁸ At the same time, because we recognize that there may be limited situations where a suspension or expulsion may be imposed for first-time offenses, the checklist provides for an exception in exigent or emergency circumstances involving school safety.

The checklist also includes proposed grade level restrictions on suspensions and expulsions based on the U.S. Department of Education’s guidance suggesting that disciplinary consequences “take into account the developmental differences of students at various stages of childhood and adolescence, as well as the cognitive and emotional maturity of the students served.”³⁹

Given national data that shows that expulsions and suspensions regularly occur in preschools,⁴⁰ this model code also includes strict restrictions on expulsion and suspension of preschool children. Districts that run preschool or pre-K programs should consult the specific federal guidance on discipline of children in early childhood settings⁴¹ and the requirements of their program’s funding stream (e.g. Head Start).

Our district or school limits the number of days the student is removed from school to as few as possible given our philosophy that students should be in school and learning. We provide all students, regardless of background or demographic characteristics, with adequate and meaningful due process prior to excluding a student from school for any length of time.

School staff should complete the checklist below before imposing a suspension or expulsion to determine whether other forms of intervention and support should be attempted first. Suspensions of more than three days are to be used only in certain situations as is defined further below.

Disciplinary Checklist: To Be Used Prior to Imposing Suspensions or Expulsions



Is the offense eligible for suspension?

Suspension and expulsion are prohibited for:

- being late to school or class or being absent, or
- violating school dress code, cell phone policies or uniform rules.

This behavior can be handled through in-school interventions and consequences.

Would the student’s continuing presence in school cause a threat to school

safety or a disruption to other students' learning opportunities?

Short-term suspensions are only allowed if the student's continuing presence in school would pose a **threat** to school safety or a **disruption** to other students' learning opportunities.

- School staff should be particularly mindful of this standard when imposing out of school discipline for offense categories that rely principally on staff's subjective interpretation (e.g., insubordinate behavior, defiance, disobedience, or disrespect).

Long-term suspensions, expulsions and disciplinary removals to alternative schools are allowed only if the student's continuing presence in school would either:

- pose a **threat** to the safety of other students, staff or members of the school community OR
- **substantially disrupt, impede or interfere** with the operation of the school.

Our district or school maintains a protocol to determine whether a student poses a threat to school safety or would disrupt the operation of the school.⁴² The determination of safety threats is based only on actual risks and objective evidence, and not on stereotypes or generalizations.⁴³ In making the determination as to whether suspension or expulsion is warranted, school staff should consider the following factors:

- the conduct at issue;
- the root cause of the conduct and whether it has been addressed;
- age of the student and ability to understand consequences;
- capability of the student to carry out the threat;
- student's discipline history and the frequency of inappropriate behavior;
- credibility of the student and willingness to acknowledge his or her behavior;
- and
- effect of the conduct on the school environment.

This is an individualized determination. School staff must make all reasonable efforts to resolve threats and address disruptions without the use of out of school suspensions and expulsions.

School staff should **minimize** the length of suspensions and expulsions to the extent practicable.

Has school staff exhausted alternatives to suspension and expulsion?

 No out-of-school discipline should be employed unless available, appropriate behavioral and disciplinary interventions have been **exhausted**. Before imposing discipline, school staff must first consider whether a restorative practice or another alternative to suspension or expulsion is an appropriate or available option. This determination should be made as early as possible following the incident.

Our district or school also consider whether previous interventions have been attempted and must document and evaluate their success. For suspensions of four days or more cumulatively or consecutively, this determination is made by a school-

based team composed of, at a minimum, a staff member familiar with the student's conduct, one of the student's teachers, and a staff member with mental health expertise. If a student has a disability, the team includes a special education teacher or another staff member who is responsible for implementing the student's IEP. The student and the student's parent(s) or guardian(s) should also be included in this process.

Our district or school refers students to the appropriate services where the behavior results from:

- family situations, trauma, or grief,
- addiction, mental illness, or substance abuse, and/or
- bullying, abuse, or self-defense.

If prior interventions were NOT successful, school staff should consider whether other interventions are available and appropriate. School staff should also consider whether there are academic, behavioral or other grounds that suggest the student may have a disability, and if so, refer the student for a special education screening or evaluation.

If prior interventions were attempted with moderate success, school staff should consider whether the interventions can be enhanced or applied with greater consistency.

If interventions to address the student's conduct have not been attempted, then the team should determine the appropriate interventions to be attempted and a process for documenting them.

Has the student previously violated the school code?



A suspension of more than three days or expulsion **cannot** be imposed for a first-time offense. The district and school **must** have first implemented other behavioral interventions and followed the district and school process for documenting when these interventions have been "exhausted."

Exceptions to these policies can be made in exigent or emergency circumstances involving school safety with justification and approval by the Superintendent or a designee, together with a showing that there were no appropriate and available interventions.

Is suspension or expulsion appropriate given the student's grade?



- Students in preschool and in kindergarten through third grade may not be suspended or expelled.
- Students in fourth and fifth grades cannot be suspended for more than three consecutive days.
- Students in sixth grade and above cannot be suspended for more than five consecutive days and no more than ten in a school year.

Exceptions to these policies can be made in exigent or emergency circumstances involving school safety with justification and approval by the Superintendent or a designee.

For children in preschool, long-term suspensions and expulsions are prohibited without exception. Suspensions of three days or less can be used only as a last resort in extraordinary circumstances where there is a determination of a serious safety threat that cannot otherwise be reduced or eliminated by the provision of reasonable modifications.⁴⁴ A mental health consultant or school-based mental health professional with early childhood experience must be engaged to advise on this determination and provide support when needed.

Has school staff considered whether the student has a disability and provided all required procedural protections?



- If a student has an Individualized Education Plan (IEP), Section 504 plan, or is currently being evaluated, follow the procedural protections for students with disabilities.
- If the student does not yet have an IEP or a Section 504 plan, school staff should discuss whether there are academic, behavioral or other grounds that reasonably give rise to a concern that a student may have a disability. This is required by the Child Find provisions of the Individuals with Disabilities Education Act (IDEA).
- School staff must invite the Department of Human Services to consult on suspensions or expulsions when mental illness might be a factor in the behavior.⁴⁵

See Section 6 below on Procedural Guidelines for Discipline of Students with Disabilities.

5. Due Process Procedures

When a district or school has made a decision to impose or seek to impose a suspension or expulsion, a student's right to an education has been implicated. As a result, certain procedural protections are triggered. The United States Supreme Court has held that a student's right to an education cannot be taken away without adequate notice and an opportunity to be heard.⁴⁶ Due to the significance of the educational entitlement at stake, expulsion hearings require additional procedural protections.⁴⁷ This section of the model code provides a suggested approach for providing full and meaningful due process to students that recognizes the significance of the entitlement at stake in expulsion hearings.

Illinois law contains a number of specific procedural requirements for suspensions and expulsions in order to protect a student's right to due process. For school suspensions, the law, as amended by Public Act 99-0456, requires the following:

- School officials must provide students with oral or written notice of the charges, an opportunity to explain their side of the story and a summary of the evidence related to the charges.⁴⁸
- School officials must immediately report suspensions to students' parents or guardians and provide a full statement of the reasons for the suspension and a notice of their right to review.⁴⁹
- School boards must be given summary of the notice, including the reason for suspension and the suspension length.⁵⁰
- If requested by the parents or guardian, the school board or its hearing officer must conduct a review of the suspension at which the parents or guardian may appear.⁵¹
- A hearing officer appointed by the board to conduct a suspension review hearing must prepare a written summary of the evidence and present it to the board for a decision.⁵²
- If the board upholds a suspension, then it must indicate the specific act of gross disobedience or misconduct for which the student was suspended and a rationale for the specific duration of the suspension.⁵³ For suspensions over three days, the suspension decision must document the other interventions attempted or whether there were no available and appropriate interventions.⁵⁴

For school expulsions, the law, as amended by Public Act 99-0456, requires:

- School officials must send a registered or certified letter requesting that parents appear at a meeting of the board or with its hearing officer to discuss their child's behavior. They must notify parents of the time, place and purpose of the meeting.⁵⁵
- School officials cannot rely on written reports to justify an expulsion. They must present testimony of eyewitnesses, unless there is a showing of a significant risk of harm should the witness testify.⁵⁶
- A hearing officer appointed by the board for an expulsion hearing must prepare a written summary of the evidence and present it to the board.⁵⁷
- If the board expels a student, its written expulsion decision must (1) detail the specific reasons why removing the pupil from the learning environment is in the best interest of the school, (2) include a rationale as to the specific duration of the expulsion; and (3) document the other interventions attempted or whether there were no available and appropriate interventions.⁵⁸

The suggested provisions in this section incorporate the legal requirements described above and recommend that districts also develop their own procedural due process provisions in furtherance of their obligation to limit school suspensions and expulsions “to the greatest extent practicable.”⁵⁹ For example, if a district or school is considering expelling a student without educational services, the model code suggests that parents/guardians or the student have an opportunity to speak briefly to the school board in closed session to present their views on why the student should not be expelled or should receive educational services. Because of the significant impact an expulsion can have on a student, we suggest that the board take the time to hear directly from the student or the student’s parents or guardian even if a hearing officer was the one who conducted the expulsion hearing.

Consistent with the student’s right to notice and an opportunity to be heard in school disciplinary proceedings, this section includes suggested provisions to better equip parents and students to effectively present the student’s side of the story at the hearing. For example, the model code suggests that, in addition to mailing notices, notices be sent by e-mail when an e-mail address is available and that they be sent in the parent or guardian’s primary language unless not practicable. The model code also proposes that parents and guardians be sent expulsion notices at least 10 days in advance of the hearing, that the school district accommodate reasonable requests to reschedule the hearing, and that parents and guardians be given an opportunity to review in advance of the hearing any documentary or video evidence related to the incident. These provisions and the others proposed in this section help to provide parents and guardians with an adequate opportunity to prepare the student’s case and to consider whether they need legal counsel to represent the student at the hearing.

The language in this section also proposes that schools and districts make clear that students should not be sent home before the end of the school day unless the school has established contact with the student’s parent or guardian and provided at least oral notice of the suspension. When a school sends a student home earlier as a consequence for the student’s behavior, this should be considered a suspension and trigger the due process rights to which the student is entitled. Ensuring that the parent or guardian is notified before any student is sent home early helps to ensure that appropriate arrangements can be made for the student’s supervision.

Our district or school implements fair, equitable and transparent due process procedures designed to give the student a full and meaningful opportunity to be heard. Suspensions and expulsions have serious, long-lasting effects on students. When these practices are being considered, schools must follow certain procedures to be sure that the student’s rights are protected. These due process procedures are different depending on whether the student is being suspended or expelled. The chart below lays out the required procedures:

Investigation

1. School staff must investigate a situation and gather evidence to determine what happened before making any disciplinary decisions or disciplinary referrals. School staff should consider whether the incident in question can be appropriately addressed directly with the student or students involved without making a disciplinary referral.

Student Meeting

2. School staff must give the student involved the opportunity to speak on his or her own behalf before deciding what violations have been committed and what form of discipline to use. Students shall have the right to remain silent or to speak with their parents, guardians, or an attorney before deciding whether to make a statement. School staff must also make reasonable efforts to speak with the student’s parent before making any determination regarding school discipline.



Disciplinary
Alternatives



Notice to
Student



Notice to
Parents

3. School staff must utilize the checklist above before moving forward with a suspension or expulsion. School staff must consider and document whether a restorative practice or another intervention or support are available to address the conduct in question before considering exclusionary discipline.
4. School staff must tell the student specifically the part of the code he or she is accused of violating, the disciplinary measures the school will take, and the school's future expectations for the student. The student must be given a reasonable opportunity to respond to the school's charges.
5. School staff must provide the parent or guardian with written AND oral notice of the charge, discipline, and parents' and guardians' rights to hearing and/or appeal. No student shall be sent home before the end of the school day unless the school has established contact with the student's parent or guardian and provided at least oral notice of the suspension.

All notices must:

- Be sent both by certified and first-class mail, as well as by e-mail if there is an e-mail address on file.
- Be provided in the **parent's primary language** unless not practicable. At a minimum, notices must be provided in Spanish to parents whose primary language is Spanish.
- Explain **the charges** the student is facing, including the excerpt from the school code relevant to the charge.
- Include **contact information** at the school for requesting that a meeting or hearing be rescheduled and answering questions.
- Include **information** regarding the parent's rights to a hearing and appeal and a list of free or low-cost attorneys who provide services in school hearings.
- Include a **statement** for the parents and student to sign (if able) acknowledging receipt and understanding of the information in the notice, but must NOT include any statement admitting the student's fault or waiving rights, including appeal or hearing.

For a suspension:

The notice must:

- Be sent within **24 hours** of a school decision to suspend a student.
- Include an **invitation** to the parent or guardian to attend a suspension conference to discuss the proposed suspension at the parent or guardian's earliest possible availability.

- Provide a **full statement** of the reasons for the suspension, not just listing an offense; provide information about the **non-exclusionary interventions** that were attempted; and **describe the alternatives to suspension** that were considered and why they were rejected.
- Explain the **terms of the suspension**, including number of days, start date, and end date, and provide a justification for the duration of the suspension.
- Document the **support services** available during the suspension and the means by which the student will be reengaged upon return to the school community.
- Provide notice of the parent or guardian's **right to review**.

For an expulsion:

The notice must:

- Be sent at least **10 days** in advance of the hearing date.
- Include any **supporting evidence** that will be introduced at the hearing, including copies of witness statements, investigative reports and video or photographic surveillance or detail how documentation can be readily obtained.
- Provide an explanation of the structure and format of the hearing.
- A **list of all people** who will be present at the hearing must be provided to the parent at least two days in advance of the hearing.



6. **Suspension conferences** with the parent or guardian must be held as soon as is practicable and convenient for the parent or guardian. The purpose of the conference is to discuss the explanation of the evidence and version of the facts that the school is relying on, the student's version of the facts and/or explanations for the alleged behavior, the availability of disciplinary alternatives, and whether or not the school's recommendation is consistent with the requirements of this Code.
 - The student has the right to bring an attorney or advocate to the conference.
 - For suspensions of four days or more consecutively or cumulatively, school staff must undertake a formal review of attempted interventions and initiation of interventions not yet attempted and share the results of the review with the parent or guardian.
 - After the suspension conference and any required review, the principal or a designee can choose to uphold the suspension or remove any part of the suspension already served from the student's record and permit the student to return to school.

Suspension Review

- For students with a disability, any suspension days served count against the 10-day limit, even if otherwise removed from the student's record.

7. After the school has made a decision to suspend a student, students and their parents or guardians can seek a **review** of the suspension.
 - A suspension review is a hearing that takes place before the district's school board or an impartial hearing officer appointed by the board. If the review is held before a hearing officer, the hearing officer provides a summary of his or her findings to the board, and the board makes its determination regarding the suspension.
 - The board must issue a written suspension decision detailing the **specific act of gross disobedience or misconduct** resulting in the decision to suspend and include a **rationale as to the specific duration** of the suspension.
 - Even if the suspension has been fully served, the board can still decide to remove the violation from the student's record.

Expulsion Hearing

8. In the case of an **expulsion**, the hearing must take place before the student is expelled from the school. The school bears the burden of proving, by clear and convincing evidence, that the student committed the charged infraction and that expulsion is the only acceptable option. At a hearing, the student and the student's parent or guardian has the opportunity to present evidence that the student did not violate the code of conduct and/or that there are mitigating factors that mean the student should not be expelled.
 - An expulsion hearing is held before the school board or an impartial hearing officer appointed by the board.
 - The student has the right to bring an attorney or advocate.
 - School staff must provide sufficient advance notice and flexibility to enable the student's parent or guardian as well as any attorney or advocate retained by the family to attend the expulsion hearing. School staff should grant at least one opportunity to reschedule a hearing date.

The following procedures apply to expulsion hearings:

- All witnesses shall be required to appear and testify in person, unless the witness is a student and the district and school present evidence that testifying would endanger the student's safety. Submissions of written or recorded testimony or testimony by phone may be permitted if both parties consent.
- The student must be given an opportunity to present witnesses or evidence and to cross-examine witnesses.
- School staff must make a recording of the proceeding and give

the parents or guardians and student a copy.

- Any written hearing officer recommendation must be provided to the parent or guardian before the final decision by the board of education.

The final decision on an expulsion must be made by the board of education based on a review of the evidence and relevant mitigating factors.

- In circumstances in which the board is considering a hearing officer's report, the board must allow the student and/or the student's parent or guardian an opportunity to address the board in closed session before the school board can decide to expel a student without educational services.

The student and the parent or guardian have a right to notice of the decision as soon as is practicable. The expulsion decision must:

- Provide a written explanation detailing the reasons for the decision.
- Detail the **specific reasons** why removing the student from the learning environment is in the best interest of the school, and the **alternatives to expulsion** that were considered and why they were rejected.
- Include a **specific rationale** as to the duration of the expulsion.
- Document the **support services** available during the duration of the expulsion and the means by which the student will be reengaged upon return to the school community.

6. Procedures Following Suspension and Expulsion

Public Act 99-0456 places a number of new requirements on schools following suspension and expulsion. In particular, the law requires that districts shall provide "appropriate and available support services" to students suspended longer than four days.⁶⁰ In addition, suspended students must have the opportunity "to make up work for equivalent academic credit."⁶¹ Districts shall also have a policy "to facilitate the re-engagement of students who are suspended out-of-school, expelled, or returning from an alternative school setting."⁶² Under Illinois law as amended by Public Act 99-0456, districts have the ability to refer expelled students to appropriate and available support services and transfer them to alternative schools (either Alternative Learning Opportunity Programs or Regional Safe School Programs), but they are not required to do so.⁶³

The section below provides a suggested approach for supporting students during and after their suspensions and expulsions. We suggest that your district or school consider making academic and behavioral supports more widely available to students. We also recommend that you provide such services not only to students serving suspensions of more than four days but also to students who have been expelled from the district or school. Providing educational services to students on expulsion is recommended by the U.S. Department of

Education and the Council of State Governments,⁶⁴ and it furthers the discipline philosophy of enabling students to remain engaged and successfully graduate from high school.

Our district or school provides alternative educational options during suspension and expulsion. A reengagement plan should be developed following suspensions greater than four days (cumulatively or consecutively), expulsions, and transfers from alternative settings.

Post
Discipline

Our district or school provides the following services to help the student successfully reenter school and prevent future incidents:

- i) **Exit Counseling and Provision of Academic Work:** School counselors will advise the student and the student's parents or guardian on what recommended steps they should take while the student is out of school to ensure the student's successful return and prevent future incidents.
 - School staff must provide all work and arrange make-up test dates in order to allow the student to return to school without further impacting his or her academic record or graduation. This provision also applies to students who are suspended from bus transportation whose parents cannot arrange alternative transportation.
 - School staff must provide a list of alternative schools to which the student may transfer during an expulsion.
- ii) **Academic and Behavioral Support Services:** Appropriate and available support services must be provided to students who are suspended out of school for four days or more and to students on expulsion. These services can include, but are not limited to:
 - educational services in an alternative setting;
 - access to online courses for academic credit;
 - homework hotlines;
 - peer tutoring;
 - service learning credits for students who perform community service while on suspension or expulsion; and
 - referrals to free or low-cost community resources, including providers of substance abuse, mental health, vocational training and mentoring services
- iii) **Entrance Counseling and Reengagement Planning:** School counselors will advise the student and his or her parents on how credits from alternate education will transfer back to the current program and how to catch up to where he or she should be academically. Schools will convene a meeting with the students and the parents within two days upon return to school

from suspension, expulsion or an alternative school setting to develop a plan for ensuring that the student is successfully reintegrated into the school community. In developing a reengagement plan, the school must consider ways to prevent future school exclusions, forms of restorative action, and supportive intervention to aid in the student's academic success.

- iv) **Services:** School counselors will recommend services the school will provide that will help the student return to and succeed in school, such as mediation.
- v) **Check In:** School counselors will prepare progress reports and check in with students every week for the first month to see if the student is having difficulties readjusting socially or academically. Thereafter, the counselor will meet with the student at least once every six months prior to graduation. Counselors should also regularly communicate with the student's parent or legal guardian regarding the transition process. During these meetings and conversations, the counselor will review whether the present strategies or services are the best way to help the student readjust and prevent the need for further disciplinary measures. If not, the counselor must revise the current plan.
- vi) **Students with Disabilities:** Students with disabilities must be provided with an appropriate education in an alternative educational setting during the period of any expulsion. School staff should contact the District Special Education Department to arrange for a prompt educational alternative, generally to start within one week. The parent should be notified of alternative educational services with the notice of expulsion.

7. Procedural Guidelines for Discipline of Students with Disabilities

School staff must consider a student's disability and whether the student's Individualized Education Program ("IEP") was implemented as one factor in determining the response to any behavior incident. Our district or school has discretion to limit the use of consequences that remove students with disabilities from the classroom, which are otherwise permitted in this Code. School staff should consider whether the student's needs require individually-tailored positive behavior supports beyond what is outlined in this Code.

Before recommending a consequence, school staff must review a student's IEP and any behavior intervention plan included in the IEP. If the IEP and this Code conflict, school staff must follow the IEP. School staff may suspend students with disabilities for a total of up to 10 school days in one school year without providing procedural safeguards beyond those that apply to general education students. However, after any discipline incident, school

staff should consider whether a student's behavior is interfering with the student's learning or the learning of others, and, if so, begin a functional behavior assessment (FBA) to develop a positive behavior intervention plan (BIP).

"Students with disabilities" include any student:

- with an Individualized Education Program (IEP);
- with a Section 504 Plan or eligible for a Section 504 plan;
- who is currently being evaluated for an IEP or 504 plan;
- whose parent has requested a special education evaluation; or
- about whom school staff has raised a question about a pattern of behavior or the need for special education services.

Manifestation Determination Review ("MDR") Requirement

When school staff anticipate that a student with a disability may be removed from school more than 10 days in a single year, including through an expulsion or change of placement:

- 1) Staff must schedule a Manifestation Determination Review (MDR) meeting with the student's IEP team within 10 school days of the decision to discipline the student.
- 2) Staff must provide written and verbal notice to the parent of the intervention or consequence being considered and the date of the MDR meeting. The notice must include a copy of the parent's procedural safeguards.

The student cannot be removed more than 10 cumulative days for behavior that constitutes a pattern until the MDR has occurred. In-school suspension counts as a day of removal, unless the student continues to receive all services required by the student's IEP. A student who is sent home early for behavior has been "removed" for that entire day. Any partial day counts as a full day for the 10-day rule.

At the MDR, the IEP team must:

- a. Review all relevant information about the student, including the student's current IEP, any behavior plan, any behavior data, the latest school evaluations, any private evaluations, and any other information provided by the parent or any school staff.
- b. Review the behavior the student is accused of committing.
- c. Determine if the behavior is a manifestation of the student's disability. The behavior is a manifestation if:
 - i. the conduct in question was caused by the student's disability or has a direct and substantial relationship to the student's disability; or
 - ii. the conduct in question was the direct result of the school's failure to implement the student's IEP.
- d. If the team does not have sufficient data to determine if the behavior is a manifestation, the MDR can be continued to obtain that data, including new evaluations.

- e. No matter the outcome of the MDR, the team must conduct a new functional behavior assessment (FBA) and create a new (or revise an existing) behavior intervention plan (BIP) to address the behavior for which the student is being disciplined.
- f. The team should develop an assessment plan as part of the FBA evaluation. This plan should include a determination of target behaviors, the method of data collection, and a timeframe for completion of the assessment.
- g. In order to allow for a reasonable period of data collection, the team should draft an interim BIP.

If the student's behavior is a manifestation, the student may not be removed for more than 10 cumulative days, expelled, or subject to disciplinary transfer, and must remain in the student's educational placement prior to the disciplinary incident.

Limited Exception

There are limited circumstances where a student may be removed for more than 10 cumulative days without an MDR. School staff must contact **[insert name of district special education or legal administrator]** before removing a student for more than 10 days.

A student with a disability may be transferred to an alternative educational setting for up to 45 school days without an MDR or in circumstances in which the student's conduct is a manifestation of the student's disability only if the student: 1) inflicts serious bodily harm (such as leading to a substantial risk of death), 2) brings a weapon to school, or 3) possesses, uses, sells, or solicits illegal drugs. If a school is considering this step, contact **[insert name of district special education or legal administrator]** and the parent immediately. Even in an alternative setting (or during an expulsion), our district or school must continue to provide educational services to ensure that a student with a disability is participating in the general education curriculum and making adequate progress on the student's IEP goals.

8. Professional Development

The new law states that districts and schools must make a "reasonable effort to provide ongoing professional development to teachers, administrators, school board members, school resource officers, and staff" regarding specific discipline topics. These topics include: adverse consequences of school exclusion, adverse consequences of criminal justice system involvement, effective classroom management strategies, culturally responsive discipline, and developmentally appropriate disciplinary methods.⁶⁵ The U.S.

Department of Education also underscores the importance of training in cultural competency, noting that, “Where appropriate, schools may choose to explore using cultural competence training to enhance staff awareness of their implicit or unconscious biases and the harms associated with using or failing to counter racial and ethnic stereotypes.”⁶⁶ Additional topics of training are suggested below in order to enable district and school staff to effectively implement the disciplinary philosophy, framework, and approach suggested in this model code.

Our district or school provides professional development aimed at equipping our teachers and staff with the necessary training to effectively carry out these discipline responses, including using a “trauma-informed lens” and restorative practices. Our district or school has a professional development plan to ensure that all staff members have the tools, skills and support that they need to implement our discipline policy. We annually review and revise our district or school’s professional development plan based on identified needs.

In particular, our district or school makes reasonable efforts to provide ongoing professional development to teachers, administrators, school board members, school resource officers, and staff on the adverse consequences of school exclusion and justice system involvement, effective classroom management strategies, culturally responsive discipline, implicit bias, bullying, and developmentally appropriate disciplinary methods that promote positive and healthy school climate. All teachers, classroom staff, and other staff potentially involved in situations leading to school discipline (including contracted service providers like bus drivers, cafeteria workers, and security staff) are regularly trained in youth development, the impact of trauma, implicit bias, positive behavior interventions, de-escalation techniques, and restorative practices.

Our trainings recognize and address the national data showing that African-American male students are disproportionately impacted by suspensions and expulsions, even though their behaviors are comparable to their same-age peers. Our trainings also address the disproportionate impact of suspensions and expulsions on students with disabilities, LGB/T students, and other vulnerable populations in our community.

9. Data Collection and Monitoring

Under Illinois law, ISBE must annually compile data from districts 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, limited English proficiency, incident type, and discipline duration.⁶⁷ Starting in fall 2017, an exclusion reduction plan will be required for districts with the highest rates of suspension, expulsion, and/or racial disproportionality for the previous three school years.⁶⁸

The suggested language below suggests a process by which districts or schools should collect and monitor their discipline data. To be effective in gauging the impact and equity of disciplinary policies and practices, data review should be systemic and regular, and we suggest that it go beyond the specific data categories indicated above.

We employ a systematic data review process to determine if and where disparities exist, identify any overuse of exclusionary discipline and adjust our practices accordingly. Our district or school regularly collects, analyzes and makes public data on suspensions (in-school and out-of-school), expulsions, and transfer to alternative school settings in lieu of disciplinary action. Data is disaggregated by race/ethnicity, as well as by gender, age, grade level, limited English proficiency, special education status, free lunch eligibility, incident type, discipline duration and other characteristics viewed important for the particular school context.

Data is tracked to monitor discipline equity and use of exclusionary discipline and to inform discipline practices and code revisions. Data is made publically available twice per year: (1) data from the preceding fall semester is made available during the spring semester, and (2) data from the preceding school year is made available during the fall semester. Summaries of the data are also provided to the school board and made public during these time periods.

10. Definitions

Short-Term Suspensions:

- The student is removed from school for three days or less. This also includes in-school suspensions or disciplinary removals from class for more than 60 minutes.
- A district or school's request for "early pick-up" due to a student's behavior is an exclusion from school. It must be documented and treated as a suspension, and the student should receive the same due process protections as if suspended.

Long-Term Suspensions:

- The student is removed from school for four to ten days.

Expulsions:

- The student is removed from the home school for more than ten days and up to two calendar years.
- "Involuntary transfers" for more than 10 days to Alternative Learning Opportunities Programs (ALOPs) and Regional Safe Schools Programs (RSSPs) also impact a student's educational rights, and students must receive the same due process protections as in expulsions. For students with disabilities the procedural protections set forth in Section 7 of this Code apply.

Bullying:

- Any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward a student or students that has or can be reasonably predicted to have the effect of one or more of the following:

(1) placing the student or students in reasonable fear of harm to the student's or students' person or property;

- (2) causing a substantially detrimental effect on the student's or students' physical or mental health;
 - (3) substantially interfering with the student's or students' academic performance; or
 - (4) substantially interfering with the student's or students' ability to participate in or benefit from the services, activities, or privileges provided by a school.⁶⁹
- Bullying is prohibited on the basis of actual or perceived race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, military status, sexual orientation, gender-related identity or expression, unfavorable discharge from military service, association with a person or group with one or more of the aforementioned actual or perceived characteristics, or any other distinguishing characteristic.⁷⁰

¹ Dignity in Schools, "A Model Code on Education and Dignity," Oct. 2013, <http://www.dignityinschools.org/our-work/model-school-code>; Sarah Schriber et al., "Supporting LGBT Youth: Comprehensive School Transformation as Effective Bullying Prevention, forthcoming in *Sexual Orientation, Gender identity, and Schooling: The Nexus of Research, Practice, and Policy*, eds. Stephen T. Russell & Stacey Horn.

² Ibid.

³ Ibid.

⁴ U.S. Department of Education, "Guiding Principles: A Resource Guide for Improving School Climate and Discipline," Jan. 2014, <http://www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf>.

⁵ See B.E. Morrison and D. Vaandering, "Restorative justice: Pedagogy, praxis, and discipline." *Journal of School Violence*, 11 no. 2 (2012), 138-155.

⁶ These example rights and responsibilities are drawn from, in large part, the following document: School Superintendent's Association and Children's Defense Fund, "Framework for Revising School District Codes of Student Conduct," Sept. 2014, http://www.aasa.org/uploadedFiles/Childrens_Programs/Code%20of%20Conduct_9.16.14.pdf.

⁷ 105 ILCS 5/10-20.14(a). All citations in this model code are to the amended version of the statute, which goes into effect on September 15, 2016.

⁸ 105 ILCS 5/10-20.14(a).

⁹ 105 ILCS 5/10-20.14(a).

¹⁰ 105 ILCS 5/10-20.14(a).

¹¹ 105 ILCS 5/10-20.14(b).

¹² 105 ILCS 5/10-20.14(b).

¹³ R. Horner et al., “A Randomized, Wait-list Controlled Effectiveness Trial Assessing School-wide Positive Behavior Support in Elementary Schools,” *Journal of Positive Behavior Interventions*, 11 no. 2 (2009), 133-145.

¹⁴ Ibid. See also OSEP Technical Assistance Center, *Positive Behavioral Interventions & Supports*, last accessed Feb. 1, 2016, <http://www.pbis.org>.

¹⁵ “Understanding RtI/MTSS,” *Illinois SPDG, State Personnel Development Grant*, last accessed Feb. 1, 2016, <http://www.illinoisrti.org/i-rti-network/for-educators/understanding-rti-mtss>.

¹⁶ Ounce of Prevention, Proposed Expulsion and Suspension Policy for Child Care Development Fund (CCDF).

¹⁷ See “Illinois Learning Standards, Social/Emotional Learning (SEL),” *Illinois State Board of Education*, last accessed Feb. 1, 2016, http://www.isbe.net/ils/social_emotional/standards.htm.

¹⁸ E. Allensworth, “The Use of Ninth-Grade Early Warning Indicators to Improve Chicago Schools.” *Journal of Education for Students Placed at Risk (JESPAR)*, 18 no. 1 (2013), 68-83.

¹⁹ 105 ILCS 5/27-23.7.

²⁰ National Safe Schools Roundtable, Draft Guidance on Drafting Effective Safe Schools Legislation, at 12 (2011).

²¹ Illinois SPDG, “Understanding RtI/MTSS.”

²² 105 ILCS 5/10-22.6(b-5).

²³ 105 ILCS 5/10-22.6(b-20).

²⁴ National Safe Schools Roundtable, “Draft Guidance,” 12.

²⁵ 105 ILCS 5/10-22.6(b-10).

²⁶ 105 ILCS 5/10-22.6(i).

²⁷ 105 ILCS 5/ 24-24.

²⁸ U.S. Department of Education, “Guiding Principles,” 14.

²⁹ Ibid., 13.

³⁰ Council of State Governments Justice Center, “The School Discipline Consensus Report: Strategies from the Field to Keep Students Engaged in School and Out of the Juvenile Justice System,” 72, Aug. 2014, https://csgjusticecenter.org/wp-content/uploads/2014/06/The_School_Discipline_Consensus_Report.pdf.

³¹ Daniel J. Losen & Tia Elena Martinez,, “Out of School and Off Track: the Overuse of Suspensions in American Middle and High Schools,” *The Center for Civil Rights Remedies*, April 8, 2013, http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/out-of-school-and-off-track-the-overuse-of-suspensions-in-american-middle-and-high-schools/OutofSchool-OffTrack_UCLA_4-8.pdf; U.S. Department of Education, “Guiding Principles.”

³² Cheryl Staats, “Implicit Racial Bias and School Discipline Disparities: Exploring the Connection,” *Kirwan Institute* 7, May 2014, <http://kirwaninstitute.osu.edu/wp-content/uploads/2014/05/ki-ib-argument-piece03.pdf>.

³³ 105 ILCS 5/10-22.6(b-15).

³⁴ 105 ILCS 5/10-22.6(b-20).

³⁵ Shawn Marsh, “The Lens of Implicit Bias,” *Juvenile and Family Justice Today* 19 (Summer 2009), <http://www.ncsc.org/~media/Files/PDF/Topics/Gender%20and%20Racial%20Fairness/Implicit%20Bias/IMPLICIT%20BIAS%20Marsh%20Summer%202009.ashx>.

³⁶ 105 ILCS 5/10-22.6(b-5).

³⁷ 105 ILCS 5/10-22.6(b-15) & (b-20).

³⁸ 105 ILCS 5/10-22.6(b-20).

³⁹ U.S. Department of Education, “Guiding Principles,” 13-14.

⁴⁰ U.S. Department of Health and Human Services and U.S. Department of Education, “Joint Letter,” Dec. 10, 2014, https://www.acf.hhs.gov/sites/default/files/ece/hhs_and_ed_joint_letter.pdf.

⁴¹ U.S. Department of Health and Human Services and U.S. Department of Education, “Policy Statement on Expulsion and Suspension Policies in Early Childhood Settings,” Dec. 2014, <https://www2.ed.gov/policy/gen/guid/school-discipline/policy-statement-ece-expulsions-suspensions.pdf>.

⁴² See D. Cornell, et al., “A Retrospective Study of School Safety Conditions in High Schools Using the Virginia Threat Assessment Guidelines Versus Alternative Approaches.” *School Psychology Quarterly*, 24 No. 2 (2009), 119-129.

⁴³ Ounce of Prevention, “Proposed Expulsion and Suspension Policy for Child Care Development Fund (CCDF),” citing U.S. Department of Health and Human Services, Administration for Children and Families, *45 CFR Chapter XIII, Subchapter B, Head Start Performance Standards, Proposed Rule* 2015, <http://www.gpo.gov/fdsys/pkg/FR-2015-06-19/pdf/2015-14379.pdf>.

⁴⁴ Ibid.

⁴⁵ 105 ILCS 5/10-22.6(c).

⁴⁶ *Goss v. Lopez*, 419 U.S. 565 (1975)

⁴⁷ *Colquitt v. Rich Township High School District No. 227*, 298 Ill.App.3d 856 (1st Dist. 1998).

⁴⁸ *Goss v. Lopez*, 419 U.S. 565, 580 (1975)

⁴⁹ 105 ILCS 5/10-22.6(b).

⁵⁰ 105 ILCS 5/10-22.6(b).

⁵¹ 105 ILCS 5/10-22.6(b).

⁵² 105 ILCS 5/10-22.6(b).

⁵³ 105 ILCS 5/10-22.6(b).

⁵⁴ 105 ILCS 5/10-22.6(b) & (b-20).

⁵⁵ 105 ILCS 5/10-22.6(a).

⁵⁶ *Colquitt v. Rich Township High School District No. 227*, 298 Ill.App.3d 856 (1st Dist. 1998).

⁵⁷ 105 ILCS 5/10-22.6(a).

⁵⁸ 105 ILCS 5/10-22.6(a) & (b-20).

⁵⁹ 105 ILCS 5/10-22.6(b-5).

⁶⁰ 105 ILCS 5/10-22.6(b-25).

⁶¹ 105 ILCS 5/10-22.6(b-30).

⁶² 105 ILCS 5/10-22.6(b-30).

⁶³ 105 ILCS 5/10-22.6(a) & (b-25); Illinois State Board of Education, "Public Act 97-0495: Transfer of Students to Regional Safe School and Alternative Learning Opportunity Programs," Non-Regulatory Guidance 12-03, Aug. 22, 2012, <http://www.isbe.net/pdf/guidance-alop-rssp-pa97-0495.pdf>.

⁶⁴ U.S. Department of Education, "Guiding Principles," 14; Council of State Governments Justice Center, "The School Discipline Consensus Report," 76.

⁶⁵ 105 ILCS 5/10-22.6(c-5).

⁶⁶ U.S. Department of Education, "Guiding Principles," 16-17.

⁶⁷ 105 ILCS 5/2-3.162.

⁶⁸ 105 ILCS 5/2-3.162.

⁶⁹ 105 ILCS 5/27-23.7(b).

⁷⁰ 105 ILCS 5/27-23.7(a).