

Assessment of Virginia's
Disability Services System:

The School to Prison Pipeline



Virginia Board for
People with Disabilities



2022 Assessment of the School to Prison Pipeline

First edition

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The Virginians with Disabilities Act § 51.5-33 directs the Virginia Board for People with Disabilities (VBPD), beginning July 1, 2017, to submit an annual report to the Governor, through the Secretary of Health and Human Resources, that provides an in-depth assessment of at least two major service areas for people with disabilities in the Commonwealth. In June 2021, the Board selected the School to Prison Pipeline as an area to be covered in a 2022 Assessment. The Board, as part of its authority and responsibility as a Developmental Disabilities (DD) Council under the federal Developmental Disabilities and Bill of Rights Act (42 U.S.C. §15021-15029), is also required to complete a similar analysis as it develops and amends its federal State Plan goals and objectives.

In this Assessment, the Board seeks to assess current trends in school discipline that disproportionately affect students with disabilities and students of color with disabilities and to highlight school-based interventions that can reduce the discipline disparities that lead to the disproportionate criminalization and school push out of students with disabilities.

The data for this Assessment was obtained from a variety of sources, including state and federal agency websites and reports, legislative studies, and various research publications. We appreciate the assistance of the state agencies that provided information and clarification on the data obtained and oversight responsibilities relevant to their agencies. The policy recommendations contained within this Assessment were reviewed, discussed and finalized by an ad hoc committee of the Board and approved by the full Board at its June 8, 2022 meeting.

Table of Contents

| | |
|---|-----------|
| <i>Statement of Values</i> | <i>iv</i> |
| <i>Executive Summary</i> | <i>1</i> |
| <i>Key Findings</i> | <i>1</i> |
| Recommendations Related to Equitable Discipline and Alternatives to Exclusionary Discipline | 2 |
| Recommendations Related to School Resource Officers, School Safety Officers and Policing in Schools | 3 |
| Recommendations Related to Data Transparency | 4 |
| <i>What is the School to Prison Pipeline?</i> | <i>5</i> |
| What's the Harm? Negative Effects of Exclusionary Discipline..... | 5 |
| Exclusionary Discipline: Suspensions and Expulsions | 5 |
| Even the Youngest Students are Suspended for Subjective Offense | 8 |
| The Role of Implicit Bias | 9 |
| Exclusionary Discipline: Referrals to law enforcement and school-based arrests | 9 |
| <i>Alternatives to Exclusionary Discipline</i> | <i>10</i> |
| Federal Guidance | 10 |
| Positive Behavioral Interventions and Supports (PBIS)..... | 10 |
| Virginia Tiered Systems of Supports (VTSS) Pilot | 10 |
| Other Alternative Models: Social and Emotional Learning and Restorative Practices | 11 |
| Recommendations Related to Equitable Discipline and Alternatives to Exclusionary Discipline | 11 |
| Key Issue: Behavior Escalation | 12 |
| Key Issue: Increased Suspensions and Chronic Absenteeism | 12 |
| Key Issue: Increased Arrests..... | 12 |
| Key Issue: Restraint and Seclusion | 13 |
| How many SROs and SSOs are stationed in Virginia public schools?..... | 13 |
| Alternatives to SROs..... | 14 |
| Alternatives to SROs Require an Investment in Trained Staff..... | 14 |
| Albemarle County: School Safety Coaches..... | 15 |
| Charlottesville City Schools: Care and Safety Assistants | 15 |
| Recommendations Related to Policing in Schools and Alternative Support Staff | 16 |
| <i>The Need for Data Transparency and Data-Driven Responses</i> | <i>17</i> |
| Data into Action | 17 |
| Promising Practice Maryland Data Collection and Partnership | 18 |
| Recommendations for Data Driven Accountability and Transparency | 18 |
| <i>Works Cited</i> | <i>19</i> |

Statement of Values

"Physical or mental disabilities in no way diminish a person's right to fully participate in all aspects of society, yet many people with physical or mental disabilities have been precluded from doing so because of discrimination ...; historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem ..."

— 42 U.S. Code § 12101 – Americans with Disabilities Act – Findings and Purpose

The Virginia Board for People with Disabilities serves as Virginia's Developmental Disability Council. In this capacity, the Board advises the Governor, the Secretary of Health and Human Resources, federal and state legislators, and other constituent groups on issues important to people with disabilities in the Commonwealth. The following assessment of intermediate care facilities for individuals with intellectual disabilities is intended to serve as a guide for policymakers who are interested in ensuring that people with disabilities can live in the most integrated setting, consistent with their choice, and receive a high quality of care in whatever setting they choose. The Board's work in this area is driven by its vision, values, and the following core beliefs and principles:

Inherent Dignity: All people possess inherent dignity, regardless of gender, race, religion, national origin, sexual orientation, or disability status.

Presumed Capacity: All people should be presumed capable of obtaining a level of independence and making informed decisions about their lives.

Self-determination: People with disabilities and their families are experts in their own needs and desires. They must be included in the decision-making processes that affect their lives.

Integration: People with disabilities have a civil right to receive services and supports in the most integrated setting appropriate to their needs and desires, consistent with the Supreme Court's Olmstead decision.

Diversity: Diversity is a core value. All people, including people with disabilities, should be valued for contributing to the diversity of our neighborhoods and of the Commonwealth.

Freedom from Abuse and Neglect: People with disabilities must be protected from abuse, neglect, and exploitation in all settings where services and supports are provided.

Fiscal Responsibility: Fiscally responsible policies are beneficial for the Commonwealth, and they are beneficial for people with disabilities.

Executive Summary

The “School to Prison Pipeline ” describes how students who are punished for behavior by removal from the classroom (exclusionary discipline) are more likely to become involved in the juvenile or adult criminal justice systems. Nationally and in Virginia, students with disabilities, and particularly, Black students with disabilities, are over-represented in three key points of the school to prison pipeline: exclusionary discipline, referrals to law enforcement and sentencing to juvenile correctional centers.

Purpose of the Assessment

To assess **current trends in school discipline** that disproportionately affect students with disabilities and students of color with disabilities and to **highlight school-based interventions that can reduce the discipline disparities** that lead to the disproportionate criminalization and school push out of students with disabilities.

Virginia has taken positive steps to reduce the use of suspensions, expulsions, and referrals to law enforcement for misdemeanor-level, school-based conduct. While progress has been made, the Virginia Board for People with Disabilities conducted a review of national best practices and Virginia’s discipline data, and the Board notes key findings and makes 13 recommendations to eliminate discipline disparities and end the school to prison pipeline.

Key Findings

Students with disabilities are subject to inequitable discipline. Exclusionary discipline harms all students and increases the likelihood that a child or teen will become involved with the criminal justice system. Other negative effects include lower academic achievement, chronic absenteeism, higher dropout rates, increased safety risk from lack of supervision and increased opportunity for delinquency for suspended students. Despite federally mandated protections for students receiving educational services under the (Individuals with Disabilities Act (IDEA) and Section 504, students with disabilities are significantly more likely to be suspended, referred to law enforcement, or expelled than students without disabilities.

Black students with disabilities have the highest disproportionality in exclusionary discipline and are more likely to be punished for subjective offenses, like “disorderly conduct.” Research shows that this disparity is caused by implicit bias (i.e. unconscious assumptions and stereotypes) toward Black children and children with disabilities. Educating teachers and administrators about the effect of implicit bias in discipline decisions can reduce disproportionality.

The Commonwealth has taken important steps in legislation and model guidance to reduce the use of exclusionary discipline in schools. The Virginia Board of Education (VBOE) has adopted Model Guidance and Alternatives to Suspension that use evidence-based approaches to reducing discipline disparity. To effectively implement these alternatives, alternatives to exclusionary discipline need to be required by the Standards of Quality. Additionally, the Virginia General Assembly needs to fully fund the school support staff necessary to implement positive behavioral interventions, like counselors, and school psychologists.

Discipline disparities increase for students with disabilities when School Resource Officers (SROs) and School Safety Officers (SSOs) are present. The presence of SROs and SSOs in schools has been shown to increase the incidence of in-school suspension, out-of-school suspension, expulsion, police referral and arrest for students with disabilities, particularly in middle and high schools. For many of these disciplinary consequences, the increased use of punishment is over two times larger for Black students than White students, and significantly larger for students with disabilities than students without disabilities. SROs also increase the rate of chronic absenteeism, particularly for students with disabilities.¹ Without sufficient training on the nature of students' disabilities and proper strategies for meeting students' individual needs, SROs may unconsciously criminalize behavior that is a manifestation of a student's disability. Depending on the nature of a student's disability, police questioning or orders may be misunderstood, physical searches or seizures may provoke a violent response, and confrontations with students may become dangerous without the use of proper de-escalation techniques by SROs or school staff members.

SROs and SSOs are specifically exempt from the restraint and seclusion regulations that prohibit restraint in discipline. They may use mechanical restraints, such as handcuffs or prone restraint. Using these kinds of restraints can be dangerous for students with disabilities, who may become frightened, agitated and physically distressed. Allowing SROs and SSOs to use restraints in nonemergency situations erodes protections for students with disabilities that are present in the regulations. While SROs are not covered by VBOE regulations, school divisions may limit their use of restraint and seclusion in required Memorandums of Understanding (MOUs) with law enforcement agencies.

Virginia currently lacks clear, transparent data that address the root causes of disproportionality in exclusionary discipline. The U.S. Department of Education, Virginia's Model Guidance, the Center on Positive Behavioral Interventions & Supports (PBIS) and national advocacy groups recommend a regular and consistent evaluation of discipline data to target the root causes of discipline disparities. In addition, PBIS also recommends that school districts "establish and mandate an ongoing process for using data-based decision making for equity. Schools and districts can create teams that meet regularly, have ongoing action plans, and share disaggregated data."²

Recommendations Related to Equitable Discipline and Alternatives to Exclusionary Discipline

1. School districts should train administrators, teachers, support staff, and security personnel about implicit bias and ways to reduce its harmful effects in the treatment of students with and without disabilities.
2. The General Assembly should prohibit out-of-school suspensions of any length for students in elementary school for disorderly conduct and related offenses that are subjective in nature.
3. The General Assembly, VDOE, and school divisions should continue to invest in evidence-based practices with a demonstrated impact on reducing

exclusionary discipline practices, such as school-wide positive behavioral interventions and supports, restorative practices and social emotional learning through training, grant programs, and technical assistance.

4. The General Assembly should amend the Standards of Quality to require all school divisions to implement alternatives to suspension and expulsion as described in the Model Guidance and to report on the use of instructional supports and behavioral interventions as categorized in the “School Behavior and Administrative Response” (SBAR).

Recommendations Related to School Resource Officers, School Safety Officers and Policing in Schools

5. The Virginia Department of Education should amend the Board of Education’s restraint and seclusion regulations so that they apply to School Safety Officers in non-emergency situations.
6. The General Assembly should amend Va. Code § 22.1-280.2 requiring schools to enter into MOUs with local law enforcement that address the appropriate role of School Resource Officers versus school personnel in addressing student conduct to explicitly require that all such MOUs exclude law enforcement from intervening to address student conduct unless that conduct constitutes a criminal offense.
7. In lieu of changes to state regulations or pending such changes, local school divisions should define, in policy, limitations on the use of restraint and seclusion for all non-criminal offenses by SROs in their MOUs with local law enforcement.
8. The General Assembly should create and fund a mechanism to support grant opportunities that fund alternative approaches to safety in schools, such as the use of trained school staff to perform safety, behavioral support, and mentorship roles. This task should be managed by the Virginia Center for School and Campus Safety, located within the Virginia Department of Criminal Justice Services, in collaboration with the VDOE. This task should also include the training of SSOs, SROs, and other school staff on disability awareness, trauma-informed care, and other alternative evidence-based approaches.
9. The General Assembly should direct VDOE to establish a state workgroup to study best practices regarding positive behavioral supports, trauma informed practices and security practices, such as “School Safety Coaches” who can monitor the school environment for safety as well as build positive relationships with students. The workgroup should report recommendations and strategies, to include needed changes to policy and practices, to increase the number of appropriately trained school personnel. VDOE should include

representation from select local school divisions and other stakeholders, including subject matter experts.

10. The General Assembly should remove the Support Staff Cap in school districts budgets to allow full funding of the student support staffing requirements in the Standards of Quality.

Recommendations Related to Data Transparency

11. The Board of Education should add to the Standards of Accreditation the requirement that schools submit disproportionate discipline corrective action plans to VDOE when VDOE identifies a school that reports disproportionate discipline of any group based on disaggregated data. VDOE should require the local school system to prepare and present to VDOE a plan to reduce the impact within one year and eliminate it within three years.
12. The General Assembly should provide funding for VDOE to invest in data systems that are transparent, accessible to the public, and used to guide discipline decisions at a school and division level on a monthly basis. VDOE should develop and support an interactive, public dashboard that reports behavioral interventions and exclusionary discipline actions by race, age, disability status and other factors at the state and division level, by elementary, middle and high school.
13. The General Assembly should provide funding to VDOE to expand the training offered to Virginia Tiered Systems of Support (VTSS) schools and divisions in how to analyze discipline data to identify root causes of disparities and how to create goals, strategies and benchmarks to reduce disparities to all school systems, using diverse stakeholder teams at the division and school level.

What is the School to Prison Pipeline?

The “School to Prison Pipeline” describes how students who are punished for behavior by removal from the classroom are more likely to become involved in the juvenile or adult criminal justice systems.³ Both nationally and in Virginia, students who are Black and students who have disabilities are subject to significantly higher rates of exclusionary discipline and higher rates of referral to law enforcement. Exclusionary discipline describes any type of school disciplinary action that removes or excludes a student from their usual educational setting.

Legal Protections for Students with Disabilities

Federal and state laws require that behavior stemming from disability must be addressed in the Individualized Educational Plan (IEP) process rather than through discipline. In most cases, students with disabilities cannot be suspended for more than ten school days or expelled for conduct that is caused by the disability.

This includes in- and out-of-school suspensions, expulsions, removals from class, and alternative placements.⁴ This assessment focuses on school-based interventions that reduce the disparities in discipline and juvenile justice referrals for students with disabilities.⁵

What’s the Harm? Negative Effects of Exclusionary Discipline

Exclusionary discipline has many negative effects that may increase a student’s chances of becoming involved with the juvenile or adult criminal justice system. Effects include but are not limited to: higher rates of misbehavior; chronic absenteeism; and increased safety risk from lack of supervision and increased opportunity for delinquency for suspended students.

The connection between exclusionary discipline and criminal justice involvement is well documented. In a 2011 study of over 900,000 students in Texas, researchers found that a student who was suspended or expelled for a discretionary violation was nearly three times as likely to be in contact with the juvenile justice system the following year, even when controlling for campus and individual student characteristics.⁶ Similarly, a 2014 study examining the connections between exclusionary discipline and the school-to-prison pipeline found that students who are suspended or expelled from school were more than twice as likely to be arrested during the same month of their suspension or expulsion from school. Moreover, this effect was stronger among students who did not have previous behavioral issues.⁷

Exclusionary Discipline: Suspensions and Expulsions

Nationally and in Virginia, students of color and students with disabilities are disproportionately suspended compared to their white and non-disabled peers. According to the U.S. Department of Education, in 2017-2018, students served under IDEA represented 13.2% of total national student enrollment but accounted for:

1. 25% of all students who received one or more out-of-school suspensions

2. 23.3% of all expulsions with educational services
3. 14.8% of expulsions without education services⁸

Virginia's numbers are similar to the national average. Figure 1 compares the percentage of the student population served under IDEA to the percentage of those served under IDEA who received short-term suspensions and expulsions from school years 2014-15 through 2018-19.

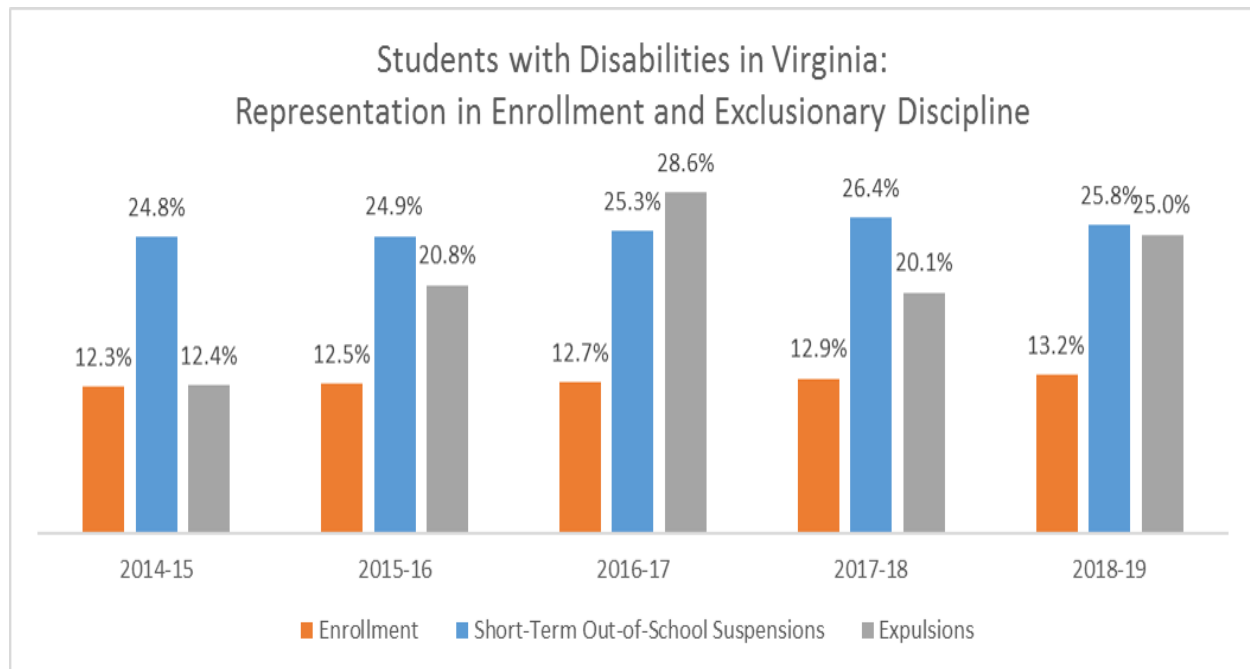


Figure 1 Data from VDOE Fall Membership Build-a-Table and Safe Schools Information Resource (SSIR), 2014-2019

| School Year | Enrollment | Short-Term Out-of-School Suspensions | Expulsions |
|-------------|------------|--------------------------------------|------------|
| 2014-15 | 12.3% | 24.8% | 12.4% |
| 2015-16 | 12.5% | 24.9% | 20.8% |
| 2016-17 | 12.7% | 25.3% | 28.6% |
| 2017-18 | 12.9% | 26.4% | 20.1% |
| 2018-19 | 13.2% | 25.8% | 25.0% |

Table 1 Students with disabilities in Virginia: Representation in enrollment and exclusionary discipline, data values.

While disparities exist for all students with disabilities, Black students with disabilities have the highest overrepresentation in suspensions. In 2015-16, Black students comprised 27.5% of total students with disabilities enrolled in Virginia⁹, but 52.2% of students with disabilities who received out-of-school suspensions (Figure 2). Of students with disabilities who were suspended twice or more, 57.5% of these students were Black (Figure 3). In an analysis of Virginia school divisions and short-term out-of-school suspensions, the Legal Aid Justice Center found that in 2016-17, about one in every four Black male students with disabilities received at least one short-term suspension. Additionally, 14 school divisions suspended Black males 23 times more often than White female students without disabilities.¹⁰

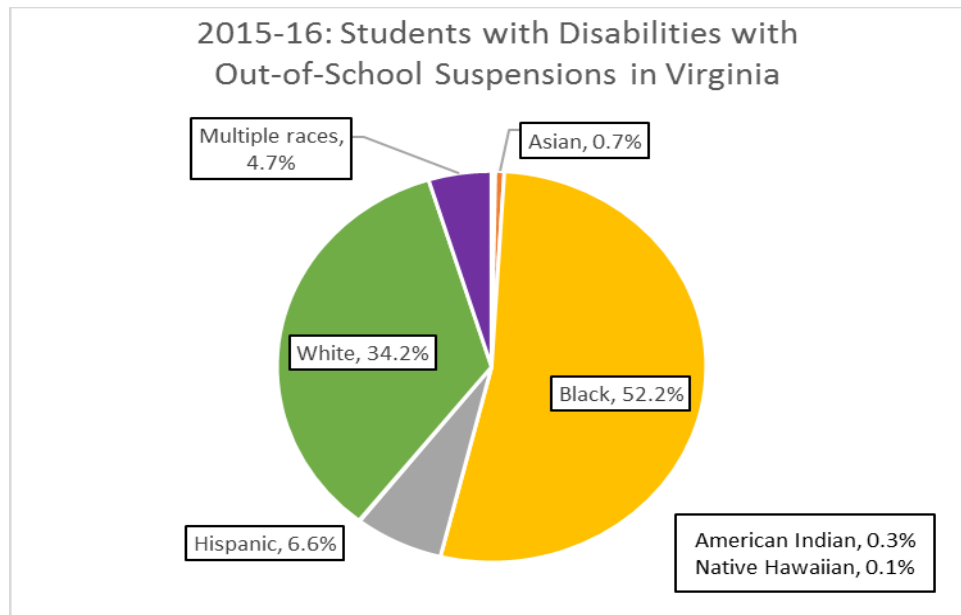


Figure 2 Data from CRDC State & National Estimations, 2015-16

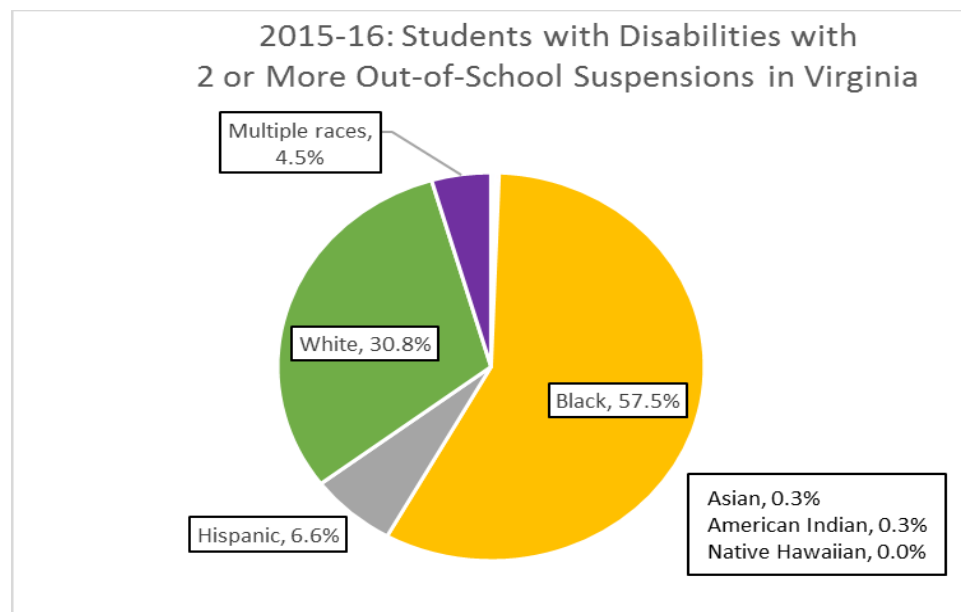


Figure 2 Data from CRDC State & National Estimations, 2015-16

Exclusionary discipline results in weeks and months of lost classroom-based instruction. Nationally, due to out-of-school suspensions, Black students lost on average 66 days of instruction per 100 students enrolled in 2015-16. This rate means that Black students lost five times as many days lost by white students. When disability is considered, Black students with disabilities lost approximately 77 more days of instruction compared to White students with disabilities.¹¹ Locally, the disparities are more significant. For example, a 2021 study from The Civil Rights Project found that length of out-of-school suspensions for Richmond City Public School students were higher than the national average in 2015-16. Students lost 352 days of

instruction per 100 students enrolled. Black students lost 408 days per 100 students enrolled, while students with disabilities lost 744 days per 100 students enrolled.¹²

Students with disabilities are more likely to be suspended for subjective offenses in Virginia. Black students with disabilities are overrepresented among students with disabilities disciplined in this area. Black students represented 22% of the overall student population from 2016-2019, but 62% of school-based Disorderly Complaints during the same time period. In Henrico County, for example, out-of-school suspensions decreased for all students from 2015-16 to 2016-17.

VBOE MODEL GUIDANCE

“Ongoing professional learning for school communities in implicit bias, cultural competence, restorative practices, mental health, and trauma informed care is required of all employees.” *Model Standards*

Yet, students with disabilities were 6.4 times more likely than students without disabilities to receive an out-of-school suspension for a subjective offense in 2016-17. In that same year for the same offense category, Black students with disabilities were 5.1 times more likely than White students with disabilities to receive an out-of-school suspension.¹³

Even the Youngest Students are Suspended for Subjective Offenses

In 2019-20, 725 elementary schools suspended between one and nine students with disabilities for conduct characterized as “disorderly” or “disruptive,” and 34 elementary schools suspended 10 or more students with disabilities. Figure 4 shows that in 2016-17, elementary school students with disabilities in Virginia were between 2.3 to 5 times more likely to receive suspensions after behavioral offenses compared to students without disabilities, and 6.2 to 7 times more likely in 2020-21.

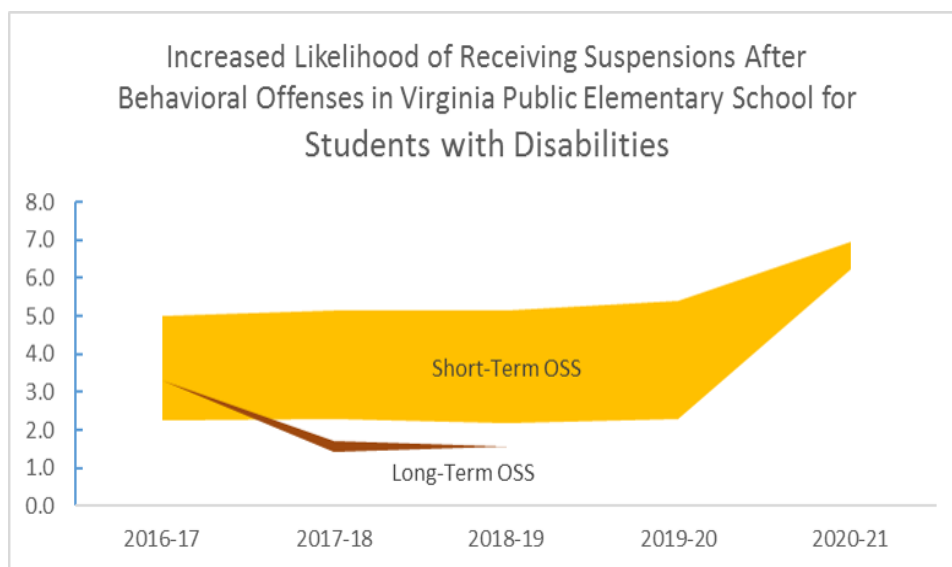


Figure 4 Data from VDOE SSIR, 2016-2021

| School Year | Short-Term Out-of-School Suspensions | Long-Term Out-of-School Suspensions |
|-------------|--------------------------------------|-------------------------------------|
| 2016-17 | 2.3 - 5.0 | 3.3 |
| 2017-18 | 2.3 - 5.1 | 1.4 - 1.7 |
| 2018-19 | 2.2 - 5.1 | 1.6 |
| 2019-20 | 2.3 - 5.4 | 1.7 |
| 2020-21 | 6.2 - 7.0 | 0.0 |

Table 2 The number of times that a student with disability is more likely than a student without disability to receive a suspension after committing a behavioral offense, as a Virginia public elementary school student. Risk ratio data values. Ranges are indicated for some years.

The Role of Implicit Bias

Disproportionality in subjective offenses is often caused by the phenomenon of implicit bias, which describes “the attitudes or stereotypes that affect our understanding, actions, and decisions in an unconscious manner...They cause us to have feelings and attitudes about other people based on characteristics such as race, ethnicity, age, and appearance.”¹⁴

To reduce the impact of implicit bias in discipline, educators and administrators need to receive training to address unconscious assumptions and prejudices. Research shows that discipline disparities are reduced when the school provides systemic support for staff to increase their awareness of cultural differences, including professional development opportunities, internal coaching, or holding regular forums for problem solving and the discussion of discipline issues potentially related to cultural differences.¹⁵

Exclusionary Discipline: Referrals to Law Enforcement and School-Based Arrests

While disproportionality in referrals to law enforcement is a national problem, Virginia has the unfortunate distinction of having one of the highest disproportionality rates in the country. According to a 2021 report by the Center for Public Integrity, in 2017-18, Virginia had the overall highest rate of referrals to law enforcement in the country, with an average of 14 students referred to law enforcement for every 1,000 students enrolled in school. That year, Virginia’s referral rate for all students was more than three times the national average of 4.5 students per 1,000. Virginia also led the nation in the number of students with disabilities referred to law enforcement. Virginia reported 30.1 students per 1,000, which is more than 6 times the national average for all students.¹⁶

These disparities increase for Black students in Virginia. In the 2015-16 academic year, Black students made up 17.2% of the population served under IDEA. Among referrals to law enforcement, Black students made up 33.1% of students with disabilities.¹⁷

Students with disabilities are also significantly overrepresented in the juvenile justice system. In 2019, students with disabilities made up 13% of the total Virginia student population. At Bon Air Juvenile Correctional Center (JCC), however, students with disabilities was 42% of the population.¹⁸ In other words, representation of students with disabilities at Bon Air JCC was three times greater than in the total student population.

Alternatives to Exclusionary Discipline

Key Features of PBIS

1. Define and teach a common set of three to five positive behavioral/social expectations throughout the school.
2. Acknowledge and reinforce the behavioral/social expectations.
3. Establish and use consistent, equitable consequences for problem behaviors.
4. Collect and record when, where, why, and to whom disciplinary interventions are given to make informed decisions about resources and assistance.
5. Develop and utilize multi-tiered support: Tier 1 interventions for all students, Tier 2 prevention for students who are at risk, and Tier 3 interventions focused on students and families who are the most chronically and intensely at risk of negative behavior, and in need of greater supports.

--Fixing School Discipline

Federal Guidance

Through VBOE's Model Guidance, the Commonwealth endorses the types of behavioral interventions that are required for students served under IDEA. In a 2016 Dear Colleague Letter, the U.S. Department of Education emphasized the need for proactive behavior supports for students with disabilities. The following section discusses three evidenced-based alternatives to exclusionary discipline that are promoted by the Model Guidance and U.S. Department of Education.

Positive Behavioral Interventions and Supports (PBIS)

Positive Behavioral Interventions and Supports (PBIS) is a nationally recognized approach to support positive academic and behavioral outcomes for all students. The Model Guidance explains that: "PBIS helps teachers and administrators learn about and implement new techniques that reduce disruptive student behavior, which...leads to office referrals, in-school suspensions, and out-of-school suspensions that decrease instructional time for students."

Virginia Tiered Systems of Supports (VTSS) Pilot

First established in 2005 as Effective School-wide Discipline (ESD), the Virginia Tiered Systems of Supports (VTSS) pilot has run in its current form since 2014. VTSS establishes a decision-making framework in divisions and schools that choose to participate in the pilot. This framework integrates academic, behavioral, and mental wellness supports. Positive Behavioral Interventions and Supports (PBIS) forms the behavioral component of VTSS.

VTSS tracks data from schools according to the cohort in which they entered the program. For Cohorts 1 and 2, average out-of-school suspensions decreased from academic year 2014-15 to 2018-19 (39% decrease for students without disabilities and 21% decrease for students with disabilities).¹⁹

Other Alternative Models: Social and Emotional Learning and Restorative Practices

In 2021, VDOE published the Virginia Social Emotional Learning (SEL) Guidance Standards. Virginia's Model Guidance defines SEL as *"the process through which all young people and adults acquire and apply the knowledge, skills, and attitudes to develop healthy identities, manage emotions and achieve personal and collective goals, feel and show empathy for others, establish and maintain supportive relationships, and make responsible and caring decisions."*

SEL strategies are an evidenced-based approach to increase better behavior and academic outcomes. A meta-analysis comparing 213 schools with SEL programs and schools without SEL programs found that SEL student participants had greater improvement of social and emotional skills and academic performance than students in other schools.²⁰ Schools using SEL-programs have also reported a reduction in student suspensions. One California middle school using SEL saw a 29% decrease in suspensions over a two-year period.²¹

Recommendations Related to Equitable Discipline and Alternatives to Exclusionary Discipline

| Recommendations | Description |
|------------------|---|
| Recommendation 1 | School districts should train administrators, teachers, support staff, and security personnel about implicit bias and ways to reduce its harmful effects in the treatment of students with and without disabilities. |
| Recommendation 2 | The General Assembly should prohibit out-of-school suspensions of any length for students in elementary school for disorderly conduct and related offenses that are subjective in nature. |
| Recommendation 3 | The General Assembly, VDOE, and school divisions should continue to invest in evidence-based practices with demonstrated impact on reducing exclusionary discipline practices, such as school-wide positive behavioral interventions and supports, restorative practices and social emotional learning through training, grants and technical assistance. |
| Recommendation 4 | The General Assembly should amend the Standards of Quality to require all school divisions to implement alternatives to suspension and expulsion as described in the Model Guidance and to report on the use of instructional supports and behavioral interventions as categorized in "Student Behavior and Administrative Response" (SBAR). |

Policing Student Behavior: The Role of School Resource Officers and School Safety Officers

A school resource officer (SRO) is defined in Virginia Code as "certified law enforcement officer hired by the local law enforcement agency to provide law enforcement and security services to Virginia public elementary and secondary schools."²² SROs are stationed in public schools through a memorandum of understanding (MOU). As of 2019, the MOU must be based on the model MOU developed by the Virginia Center for School and Campus Safety, located within the Virginia Department of Criminal Justice Services.

Schools may also employ School Safety Officers (SSOs) who are not serving as police officers but are employed by the local school board. They are responsible for the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

Key Issue: Behavior Escalation

Without sufficient training on the nature of students' disabilities and proper strategies for meeting students' special needs, SROs and SSOs may unconsciously criminalize behavior that is a manifestation of a student's disability. Depending on the nature of a student's disability, police questioning or orders may be misunderstood, physical searches or seizures may provoke a violent response, and confrontations with students may become dangerous without the use of proper de-escalation techniques by SROs or school staff members.²³

Key Issue: Increased Suspensions and Chronic Absenteeism

A 2021 study of all public schools in the U.S found that students, especially Black students and students with disabilities, experience increased negative discipline and negative effects when an SRO is present in the school. Researchers found that the presence of SROs in schools was associated with 26.2 additional out-of-school suspensions per 100 students for Black students, compared to 10.6 additional out-of-school suspensions per 100 students for White students. Meanwhile, SRO presence was associated with 23 additional out-of-school suspensions per 100 students for students with disabilities. The study found similar disproportionate outcomes for expulsion of Black students. Additionally, the researchers found that SRO presence was associated with an increase in chronic absenteeism of 13.4 students per 100 for students with disabilities.²⁴

Key Issue: Increased Arrests

The presence of SROs increases arrests for nonviolent, behavior-based offenses. A 2009 study found that, controlling for socioeconomic status and poverty levels, schools with an SRO have a higher arrest rate for disorderly conduct.²⁵ Because students with disabilities and Black students with disabilities are disproportionately charged with subjective offenses, they are at the highest risk of arrest.

To reduce the risk of arrest for code of conduct violations, the Model MOU developed by the Virginia Center for School and Campus Safety requires that:

The SD [School Division] will handle discipline within the school disciplinary process without involving SROs. The SD policies, administrative guidance, training, and ongoing oversight should clearly communicate that school personnel are responsible for school discipline and that law enforcement is not to be involved with disciplinary action, except as may be requested by the SD (e.g., if factual information gathered or observations by the SRO are relevant to a disciplinary matter).²⁶

However, the model language does not explicitly exclude law enforcement from intervening to address student conduct unless that conduct constitutes a criminal offense. Without a specific prohibition on the use of SROs for student conduct violations, students may have more

interactions with SROs that result in behavior escalation, trauma, and unnecessary restraint or seclusion.

Key Issue: Restraint and Seclusion

In 2021, VDOE implemented restraint and seclusion regulations to reduce the use of harmful and traumatic disciplinary practices on students, particularly students with disabilities. The regulations prohibit school staff use of mechanical, pharmacological and prone restraints; aversive stimuli and corporal punishment on any students. School staff cannot restrain or seclude a student when contraindicated in documentation related to an IEP or Section 504 Plan created by a qualified health professional. Restraint is allowed as a last resort in emergencies.

However, SROs and SSOs are specifically exempted from the regulation.²⁷ They may use mechanical restraints, such as handcuffs or prone restraint, (i.e., restraining a student with their chest on the ground), and other forms of physical restraint at any time. Allowing SROs and SSOs to use restraints in nonemergency situations erodes protections for students with disabilities that are present in the restraint and seclusion regulations.

How Many SROs and SSOs are Stationed in Virginia Public Schools?

As of 2020, 1,253 public schools (64% of all public schools) reported using SROs. The Virginia Department of Criminal Justice Services reports that SROs were employed at 45% of elementary schools, 97% of middle schools, and 91% of high schools.²⁸

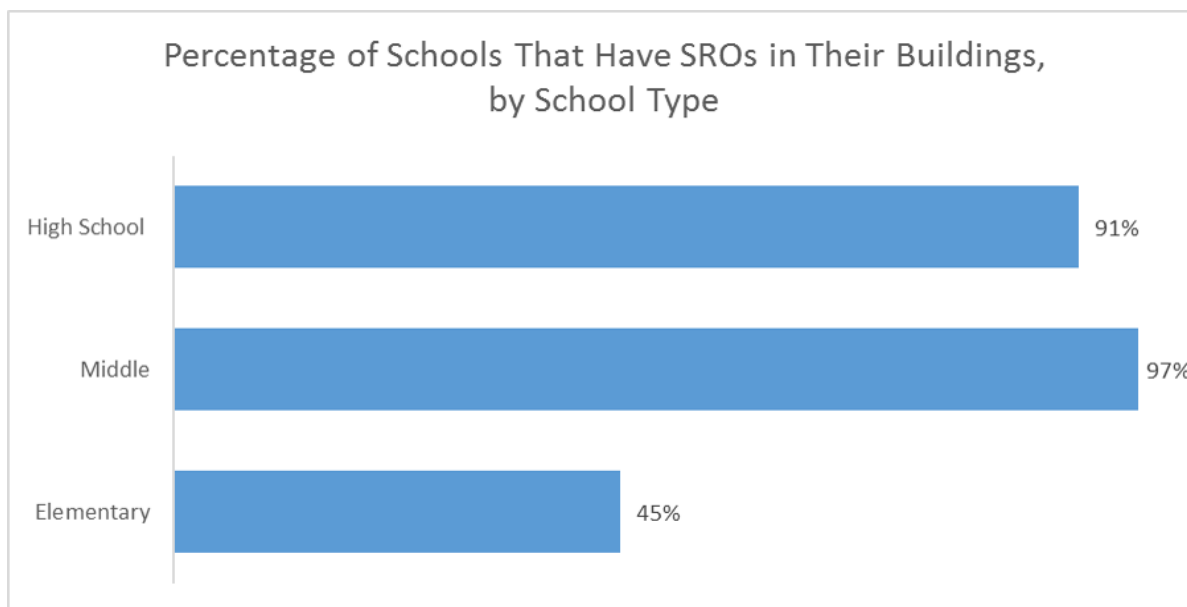


Figure 5 Based on data from DCJS's 2020 VIRGINIA SCHOOL AND DIVISION SAFETY SURVEY RESULTS

Most schools (96%) have only one SRO. Among the individual SROs working in the schools, 73% worked full-time. About one quarter of schools (26%) employ or have been assigned one or more SSOs at least part-time. Of these schools that have SSOs, 63% had one SSO, 12% had two SSOs, and 25% had three or more SSOs.

Alternatives to SROs

The Virginia Department of Criminal Justice Services 2020 Virginia School and Division Safety Survey Results revealed that schools are more likely to have a full-time SRO than a full-time psychologist, social worker and substance abuse counselor. Mental health professionals are critical to supporting the wellbeing of students in schools, particularly students with disabilities who need additional behavioral and emotional supports to succeed in the classroom.

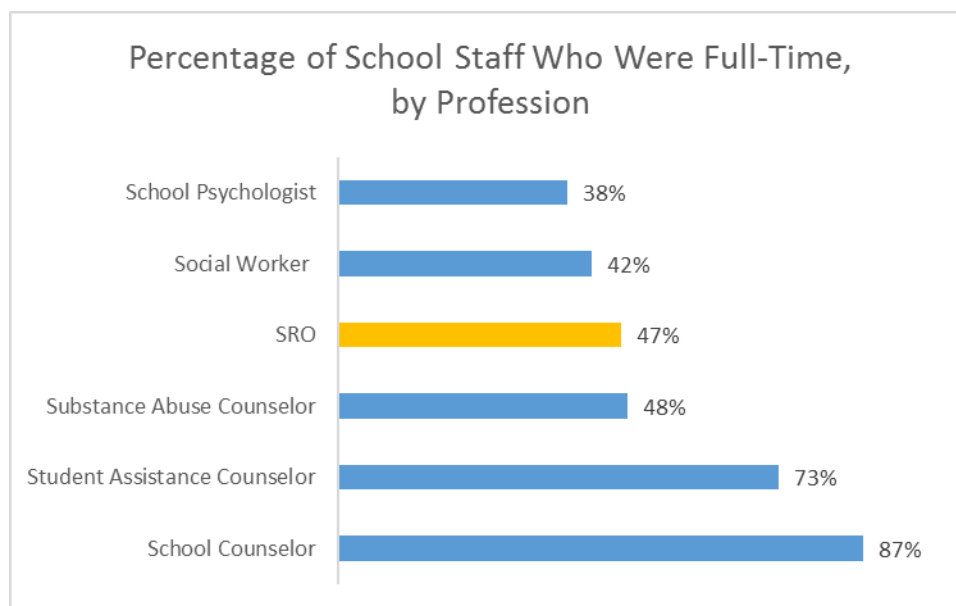


Figure 6 Based on data from DCJS's 2020 VIRGINIA SCHOOL AND DIVISION SAFETY SURVEY RESULTS.

Alternatives to SROs Require an Investment in Trained Staff

Investing in school support staff reduces exclusionary discipline for students of color and students with disabilities. For example, Cleveland Metropolitan School District experienced a 59% decrease in out-of-school suspensions after implementing a positive behavioral approach using student support teams, counselors, positive interventions, and planning centers.²⁹

The Constitution of Virginia requires the VBOE to establish Standards of Quality (SOQ) for the Commonwealth's school divisions that sets state funding for school divisions. In October 2021, the VBOE prescribed revisions to the SOQ to require a ratio of four specialized student support personnel per 1,000 students. Student support positions include school nurses, social workers, psychologists, and other licensed health and behavioral positions. This SOQ would cost the state \$102.5 million. Additionally, the revised SOQ requires a ratio of one school counselor per 250 students at a state cost of \$106.4 million.³⁰ To date, the SOQs have not been fully funded because of the cap lawmakers put on how much to invest in school support staff, established in 2009.

DCJS estimates that the average annual cost to employ a new full time SRO is \$125,000, inclusive of salary, benefits, equipment, vehicle, and training. VDOE estimated an additional state cost of \$79.2 million of general fund support in fiscal year 2023 and \$82.8 million of general fund support in fiscal year 2024 to support one SRO in every elementary and secondary

school. Additionally, the Commission on Local Government estimated local costs from \$0 to \$19 million per locality.

Some school districts have chosen to use a different model of school safety interaction that de-emphasizes contact with law enforcement and promotes mentorship and positive, respectful interactions. The models adopted in two Virginia school districts are summarized below.

Albemarle County: School Safety Coaches

In fall of 2021, Albemarle County Schools began a “School Safety Coach Program” instead of placing SROs in schools. The safety coaches balance security with mental health supports. In November 2021, the school district employed 8 school safety coaches. The coaches receive school security officer training administered by the state, plus training on restorative practices, mental health first aid, and monthly anti-racism training.³¹ The program cost the school district \$560,000. When the district used SROs, they supported half of the officers’ costs, paying \$265,000.

Charlottesville City Schools: Care and Safety Assistants

In May of 2021, Charlottesville City Schools (CCS) approved a new “Safety and Security Resources” Model Plan. Instead of using SROs, the plan requires the hiring of “Care and Safety Assistants” (CSA) who perform similar to duties to security officers but also offer behavioral support. The approach is modeled in part on Toronto District School Board’s approach to school safety, which stopped using SROs in 2017 and has seen a decline in suspensions and expulsions. CSA duties include:

- Regularly monitor hallways, common areas and all exterior doors to address any unauthorized visitors or intruders, unsafe or unexpected behaviors and unsecured entrances
- Assist school administration, staff and students to uphold the school’s code of conduct and CCS safety policies
- Provide assistance/direction to visitors to the school
- Assist school administration with serious and routine incidents and security matters
- Build positive, prosocial relationships with students
- Serve as a liaison between students and school administration
- Identify situations between students and between students and staff that could escalate into conflict, and engage/intervene to de-escalate
- Resolve disputes between students using de-escalation techniques, encouraging positive communications and working to minimize conflicts.³²

At the beginning of the 2021 school year, there were eight care and safety assistants total in the school division. To fund the new model, the school division planned to use the \$301,231 it previously paid the Charlottesville Police Department for SROs.

Recommendations Related to Policing in Schools and Alternative Support Staff

| Recommendations | Description |
|-------------------|---|
| Recommendation 5 | VDOE should amend the Board of Education's restraint and seclusion regulations so that they apply to School Safety Officers in non-emergency situations. |
| Recommendation 6 | The General Assembly should amend Va. Code § 22.1-280.2 requiring schools to enter into Memorandums of Understanding (MOUs) with local law enforcement that addresses the appropriate role of School Resource Officers versus school personnel in addressing student conduct to explicitly require that all such MOUs exclude law enforcement from intervening to address student conduct unless that conduct constitutes a criminal offense. |
| Recommendation 7 | In lieu of changes to state regulations or pending changes, local school divisions should define in policy limitations on the use of restraint and seclusion for all non-criminal offenses by SROs in their MOUs with local law enforcement. |
| Recommendation 8 | The General Assembly should create and fund a mechanism to support grant opportunities that fund alternative approaches to safety in schools, such as the use of trained school staff to perform safety, behavioral support, and mentorship roles. This task should be managed by the Virginia Center for School and Campus Safety, located within the Virginia Department of Criminal Justice Services, in collaboration with the VDOE. This task should also include the training of SSOs, SROs, and other school staff on disability awareness, trauma-informed care, and other alternative evidence-based approaches. |
| Recommendation 9 | The Virginia General Assembly should direct VDOE to establish a state workgroup to study best practices regarding positive behavioral supports, trauma informed practices and security practices, such as "School Safety Coaches" who can monitor the school environment for safety as well as build positive relationships with students. The workgroup should report recommendations and strategies, to include needed changes to policy and practices, to increase the number of appropriately trained school personnel. VDOE should include representation from select local school divisions and other stakeholders, including subject matter experts. |
| Recommendation 10 | The General Assembly should remove the Support Staff Cap in school districts budgets to allow full funding of the student support staffing requirements in the Standards of Quality. |

The Need for Data Transparency and Data-Driven Responses

An emerging best practice for eliminating disproportionate discipline is to provide on-demand, visual access to discipline data. Most raw discipline data is available through federal data collections and some state reports. However, VDOE does not routinely publish in-depth analyses of disparities within discipline data, and school districts are not required to address disparities except in limited circumstances.

VBOE MODEL GUIDANCE

“At least annually, the school board and school administrators should review school-level discipline data by race, gender, disability status, socio-economic status, and the intersections of those categories. The review should identify and analyze gaps between these categories and subcategories and should be used to inform plans to address disparities revealed in the analysis. The review should also include input from students, parents, and teachers.”

In contrast, other states host easily accessible dashboards for the public to see different disciplinary actions for various subgroups. For example, Texas’s Education Agency publishes interactive dashboards showing discipline measures by race, sex, special education status and economic risk at the state, region and district level.³³ The State of Washington has “Diversity Reports” that show exclusionary discipline based on race, age, disability and other factors available at the school, district and state level.³⁴

By making the data readily available to school administrators and the public, schools can take action to address the root causes of disparity in discipline. Families and advocates can also measure the progress of the school district in reducing disparities, creating accountability.

Data into Action

Another emerging best practice includes involving teams of diverse stakeholders to regularly review the data and use the information to create goals and strategies to eliminate disparities in discipline. Since 2012, the Dignity in Schools Campaign (DSC), a stakeholder coalition made up of youth, parents, educators, grassroots groups, and policy and legal advocacy groups dedicated to ending the school to prison pipeline, has produced a “Model Code” for school discipline. DSC’s Model Code recommends creating a data monitoring team responsible for:

1. Defining measurable annual goals and objectives;
2. Making decisions on what data is needed and how that data is used;
3. Determining data collection tools, methods and a schedule for data collection;
4. Analyzing and evaluating data;
5. Making decisions on how best to present data to policy makers, stakeholders and the broader community;
6. Determining how data is used to improve educational systems; and

7. Making decisions on how best to communicate progress resulting from the implementation of data-driven practices in improving instructional and disciplinary practices of schools.

The Center for Positive Behavior Interventions and Supports (PBIS) also recommends that school districts “create teams that meet regularly, have ongoing action plans, and share disaggregated data.”³⁵

Promising Practice Maryland Data Collection and Partnership

In Maryland, researchers found that school leaders who review and respond to suspension and office discipline referrals at least monthly are demonstrating success in eliminating disproportionality.

Maryland state law requires the Maryland State Department of Education (MSDOE) to submit to the Governor and General Assembly a student discipline data report. The report disaggregates school discipline data by race, ethnicity, gender, disability status, eligibility for free or reduced price meals or an equivalent measure of socioeconomic status, English language proficiency, and type of discipline for: (i) the state; (ii) each local school system; and (iii) each public school.³⁶ Maryland state regulations require the MSDOE to determine whether there is a disproportionate impact on “minority students” or special education students. If the Department identifies a school's discipline process as having a disproportionate impact on either of these groups, the local school system must prepare and present to the State Board a plan to reduce the impact within one year and eliminate it within three years.

Recommendations for Data Driven Accountability and Transparency

| Recommendations | Description |
|-------------------|---|
| Recommendation 11 | The Board of Education should add to the Standards of Accreditation the requirement that schools submit disproportionate discipline corrective action plans to VDOE when VDOE identifies a school that reports disproportionate discipline of any group based on disaggregated data. VDOE should require the local school system to prepare and present to VDOE a plan to reduce the impact within one year and eliminate it within three years. |
| Recommendation 12 | The General Assembly should provide funding for VDOE to invest in data systems that are transparent, accessible to the public, and used to guide discipline decisions at a school and division level on a monthly basis. VDOE should develop and support an interactive, public dashboard that reports behavioral interventions and exclusionary discipline actions by race, age, disability status and other factors at the state and division level, by elementary, middle and high school. |
| Recommendation 13 | The General Assembly should provide funding to VDOE to expand the training offered to Virginia Tiered Systems of Support (VTSS) schools and divisions in how to analyze discipline data to identify root causes of disparities and to create goals, strategies and benchmarks to reduce disparities to all schools school systems, using diverse stakeholder teams at the division and school level. |

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