

Education vs. Exclusion: A Closer Look at Discipline in West Virginia Schools

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July 2024

Overview

West Virginia lawmakers have considered sweeping, punitive school discipline measures over the last two years in response to an increase in disruptive student behaviors. This issue is not unique to West Virginia—87 percent of public schools nationwide report that the pandemic has negatively impacted student socioemotional development.³ While teachers and schools certainly need more support to address student behavioral issues, policymakers must recognize the harms in failing to address the root causes of these behavioral issues as well as the disproportionate rate at which punishment policies fall on students of color.

Earlier this year, state lawmakers considered two pieces of legislation, Senate Bill 614⁴ and House Bill 4776⁵, that sought to expand a 2023 law, House Bill 2890⁶, to elementary grades, though neither were enacted.

Senate Bill 614 would have expanded the 2023 law to allow kindergarten through sixth grade teachers to remove children who exhibit behavior that is violent, threatening, or intimidating to staff or peers; creates an unsafe learning environment; or impedes on other students' ability to learn from the classroom. Similarly to HB 2890, the legislation failed to define any of those behaviors, raising concerns about potential overuse and misuse. Under the proposed legislation, an elementary student would be removed from the classroom and suspended for one to three days while alternative accommodations are made after a single behavioral incident. If a student's parents could not pick them up by the end of the day, law enforcement could be called. Allowing suspension as punishment for one incident and involving law enforcement increases the potential for biased decision-making⁷ or rushed judgment, likely violates federal protections for

What Did 2023's HB 2890 Do?

House Bill 2890, enacted in 2023, sought to give sixth through twelfth grade teachers more discretion in school disciplinary decisions, mandating that students be suspended from school if removed from a classroom for "disorderly conduct" three times in a month.

State School Board President Paul Hardesty called the legislation a "trainwreck waiting to happen" because it failed to define behaviors that could qualify a student for removal and provides broad authority to inexperienced or temporary teachers.¹

Mountain State Justice, a non-profit legal services firm, warned lawmakers that the legislation violates federal law, because schools are required to provide any student with a known or suspected disability the supports needed to enable them to remain in the classroom. Unlimited removals, including suspension and moving students unilaterally to a more restrictive environment, violates such law.²

¹ Steven Allen Adams, "Concerns raised over WV Legislature's school discipline bill", Weirton Daily Times, September 14, 2023, <https://www.weirtondailytimes.com/news/local-news/2023/09/concerns-raised-over-w-va-legislatures-school-discipline-bill/>.

² Lydia C. Milnes, Letter to Speaker Roger Hanshaw re: HB 2890 regarding school discipline violates federal law, January 30, 2023.

³ National Center for Education Statistics 2022-23 School Pulse Panel, <https://ies.ed.gov/schoolsurvey/spp/>.

⁴ SB 614, 2024 West Virginia Legislative Session.

⁵ HB 4776, 2024 West Virginia Legislative Session.

⁶ HB 2890, 2023 West Virginia Legislative Session.

⁷ Melissa Kay Diliberti and Rachel M. Perera, "What Does the Research Say About How To Reduce Student Misbehavior in Schools?", The Brookings Institution, September 21, 2023, <https://www.brookings.edu/articles/what-does-the-research-say-about-how-to-reduce-student-misbehavior-in-schools/>.

students with disabilities, and exacerbates the state’s child welfare crisis while reinforcing the well-documented school to prison pipeline.

Current data in West Virginia and around the country show that students of color, low-income students, students receiving special education services, male students, and LGBTQ students are disproportionately impacted by existing school discipline policies. These differences in how discipline is deployed cannot be reasonably explained by “worse” behavior among these students. The language of proposed legislation is also cause for concern by labeling students and their behavior as “guilty,” “disruptive,” “threatening,” and “intimidating.”

Exclusionary discipline aims to correct behavioral issues among students but does not address the root causes of these issues.⁹ These may include individual factors like physical and mental health and environmental factors such as a student’s school, family, and community. Larger structural factors like education policies and legislation can also influence student behavior. Research shows that punitive disciplinary approaches negatively impact academic performance and increase the chances of excluded students repeating a grade, dropping out of school, or interacting with law enforcement and the criminal legal system.¹⁰ Negative interactions with law enforcement can contribute to psychological strain and emotional distress among youth such as depression, anxiety, or post-traumatic stress disorder.¹¹ These interactions can also result in physical harm for youth.

The 2022-23 School Year in Review

House Bill 2890 took effect during the 2023-24 school year, and there is not yet publicly available data on its impact on disciplinary incidents. This data is essential for understanding the impact of recent changes and is expected to be available later this summer. In the meantime, by reviewing data from previous years, we can understand past use of exclusionary discipline in West Virginia public schools and forecast the impact of enacted and proposed changes.

During the 2022-23 school year there were nearly 148,000 school discipline incidents in West Virginia public schools.¹² Over half were for minimally disruptive behaviors and over one-quarter were for disruptive and potentially harmful behaviors. Imminently dangerous, illegal, or aggressive behaviors and severe behaviors were the least common. Severe behaviors include battery of a school employee,

How Are Schools Expected to Handle Disciplinary Issues?

The West Virginia Board of Education policy for Expected Behavior in Safe and Supportive Schools (Policy 4373) provides requirements and guidelines for safe and supportive schools, student conduct, and discipline.⁸

The 2019 version, which was in effect during the 2022-23 school year, did not recommend in-school suspension for minimally disruptive behaviors but allowed it at the discretion of an administrator for a maximum of three days. Additionally, out-of-school suspension was only to be considered when all other interventions and actions failed, except in the case of severe behaviors.

This policy also stated that determination of interventions and actions was at the primary discretion of school administrators, with input considered from teachers and service personnel. Counties were at liberty to enact policies with additional guidance to classify and address student behaviors.

⁸ Expected Behavior in Safe and Supportive Schools (Policy 4374), West Virginia Board of Education Policies.

⁹ NSW Education, “Factors Influencing Behavior”, Updated June 17, 2024, <https://education.nsw.gov.au/schooling/school-community/attendance-behaviour-and-engagement/behaviour-support-toolkit/support-for-teachers/understanding-behaviour/factors-that-influence-student-behaviour>.

¹⁰ Melanie Leung-Gagne et al., “Pushed Out: Trends and Disparities in Out-of-School Suspension”, Learning Policy Institute, September 30, 2022, <https://learningpolicyinstitute.org/product/crdc-school-suspension-report>.

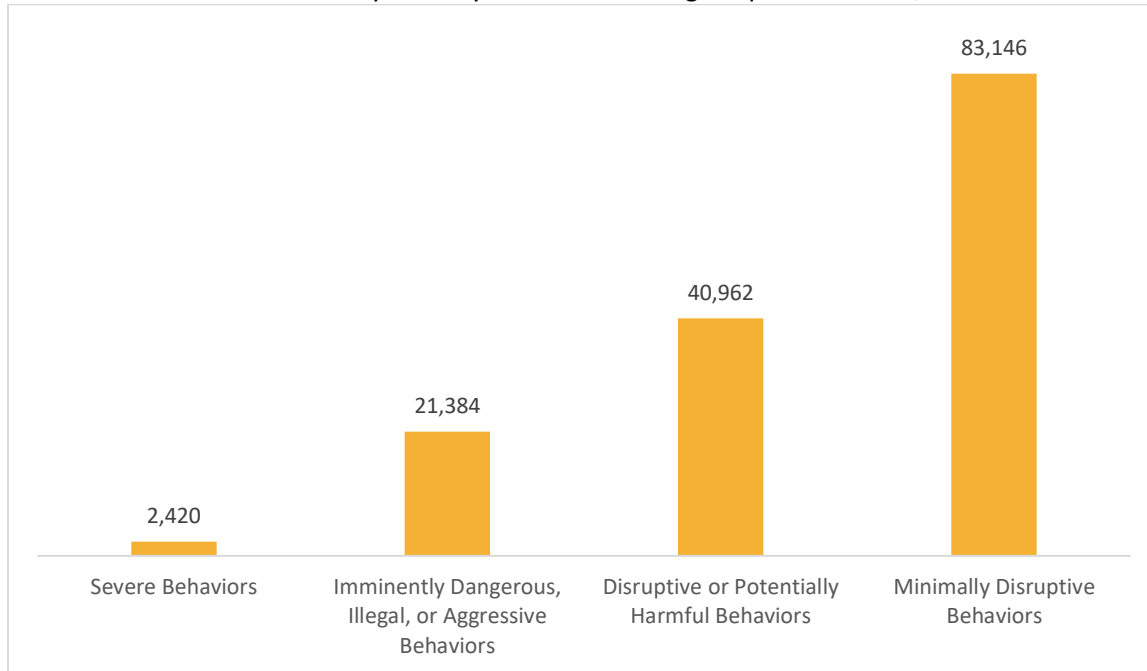
¹¹ Kristen Harper, Andrea M. Headley, and Victor St. John. “Reducing Adverse Police Contact Would Heal Wounds for Children and Their Communities”, Child Trends, June 14, 2022, <https://www.childtrends.org/publications/reducing-adverse-police-contact-would-heal-wounds-for-children-and-their-communities>.

¹² West Virginia Department of Education Discipline Data, <https://zoomwv.k12.wv.us/Dashboard/dashboard/28497>.

possession/use/distribution of illegal drugs and substances, and possession/use of deadly weapons (e.g., knife, brass knuckles, firearm). Of these incidents, those involving illegal drugs and substances were most common.

Figure 1
Most Student Behavioral Issues Are Minimally Disruptive

Student behavioral incidents by severity level in West Virginia public schools, 2022-23



Source: West Virginia Department of Education Discipline Data

During the 2022-23 school year the actions used by schools to address student behavior varied greatly. The five most used actions were detention, in-school suspension, out-of-school suspension, administrator/teacher and student conference, and loss of privileges. Holistic actions like supportive interventions and referral for other services were used less than two percent of the time.

Table 1
Suspension is One of the Top Disciplinary Actions Uses

Top five disciplinary actions used in West Virginia public schools, 2022-23

Action Type	Total Count	Rate of Use
Detention	45,707	28.85%
Out-of-school Suspension	34,161	21.56%
In-school Suspension	33,588	21.20%
Administrator/Teacher and Student Conference	19,431	12.26%
Loss of Privileges	6,125	3.87%

Source: WVCBP analysis of West Virginia Department of Education Discipline Data

In-school and out-of-school suspensions were each used over 20 percent of the time to address student behavioral issues, which led to significant learning opportunity losses. The average length of in-school suspensions was about 1.6 days and the average length of out-of-school suspensions was about 3.5 days.

To put this in perspective:

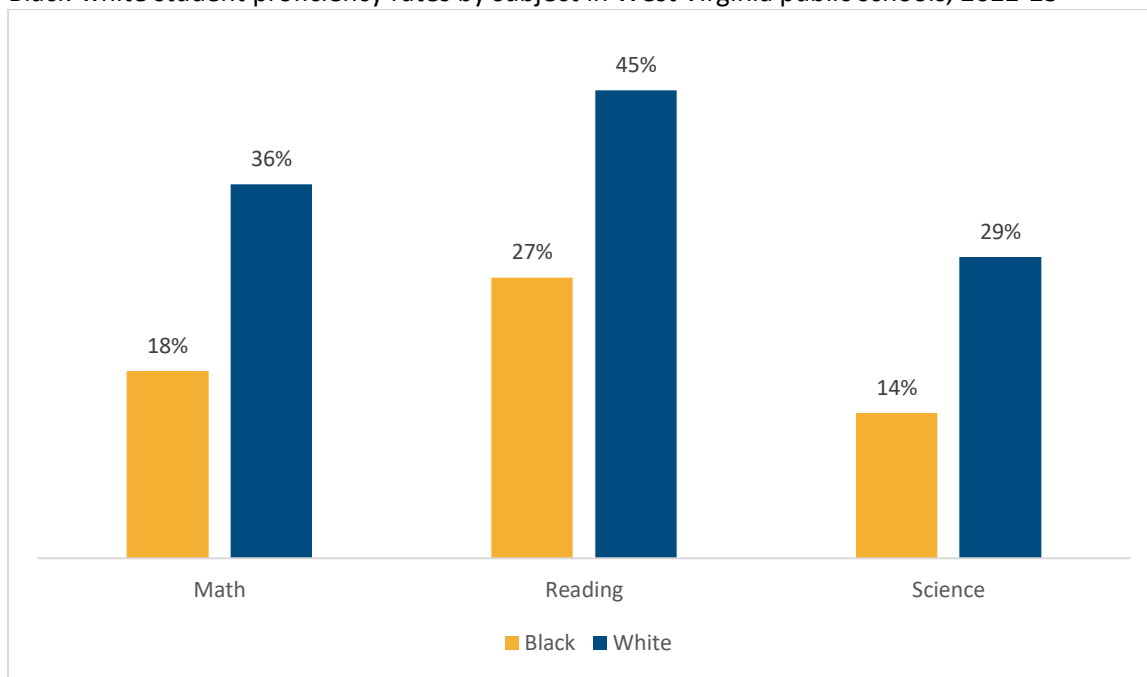
- 33,588 in-school suspensions × 1.645 days = 55,252.26 days of learning lost
 - 55,252.26 days ÷ 180 school days per year = 307.0 years of learning lost

- 34,161 out-of-school suspensions × 3.455 days = 118,026.26 days of learning lost
 - 118,026.26 days ÷ 180 school days per year = 655.7 years of learning lost

Exclusionary discipline is not equally applied across race and ethnicity. Black students only make up about four percent of the total student population but account for about nine percent of in-school and out-of-school suspensions. Black students also receive longer average lengths of out-of-school suspensions at 3.7 days compared to the overall average of 3.5 days and average for White students of 3.4 days. For Black students across the state, this amounts to 11,822.09 days or 65.7 years of learning lost due to out-of-school suspensions.

Research shows that suspension contributes to negative academic performance such as lower grades and lower graduation rates.¹³ In West Virginia, this impact is made clear through racially disparate graduation rates,¹⁴ dropout rates,¹⁵ and proficiency in study subjects.¹⁶ Black students graduate at a rate of 90 percent, while their white peers graduate at a rate of 93 percent. Black students also have a higher dropout rate of 1 percent compared to white students' dropout rate of 0.8 percent. Lower rates of proficiency in school subjects are also observed among Black students: 18 percent of Black students are proficient in math, 27 percent are proficient in reading, and 14 percent are proficient in science; meanwhile, 36 percent of white students are proficient in math, 45 percent are proficient in reading, and 29 percent are proficient in science. These stark disparities between racial groups cannot be reasonably explained by differences in student intelligence or ability.

Figure 2
Black and White Students Are Performing Differently in Statewide Assessments
 Black-white student proficiency rates by subject in West Virginia public schools, 2022-23



Source: West Virginia Department of Education Statewide Assessment Data

¹³ Leung-Gagne et al., “Pushed Out.”

¹⁴ West Virginia Department of Education Graduation Data, <https://zoomwv.k12.wv.us/Dashboard/dashboard/2111>.

¹⁵ West Virginia Department of Education Dropout Data, <https://zoomwv.k12.wv.us/Dashboard/dashboard/2145>.

¹⁶ West Virginia Department of Education State Assessment Data, <https://zoomwv.k12.wv.us/Dashboard/dashboard/7310>.

Choosing Education Over Exclusion

By using exclusionary discipline like suspensions, West Virginia policymakers are only addressing the symptoms of a larger problem rather than the underlying need. To better address student behavioral issues while prioritizing education and equity, we must aim to significantly reduce the use of suspension, particularly among Black students. If suspension is used, it should be as a last resort and the length of suspension should be significantly shorter.

West Virginia schools must also prioritize prevention over intervention. Prevention-based practices can reduce discipline issues among students while improving academic achievement and cultivating a safe and supportive school environment.¹⁷ Our schools can adopt a prevention-based approach by increasing the use of holistic and restorative practices like culturally competent education, diverse educators, referral to counseling or psychology services, and supportive interventions like social and emotional learning.

In recent years, there has been a concerning trend of stricter student discipline policies across the country.¹⁸ Once data for the 2023-24 school year is available, we will be able to assess the impact of House Bill 2890 on West Virginia students and determine its impact on addressing student behavioral issues and on disparate use of discipline. Moving forward, it is essential that comprehensive and timely data is made available to the public so that we can understand the impact of laws and policies on our education system and be equipped for informed decision-making.

This information clearly signals the need for a shift from punishment to support so that we may better serve Black students and empower them with the skills and knowledge necessary to succeed. All West Virginia students deserve opportunities to learn and grow in an affirming, safe, and supportive school environment. To achieve this goal and cultivate a better future for West Virginia, we will need to invest in our students and staff through supportive and equitable legislation, funding, and resource allocation.

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¹⁷ Bert Eliason, Michelle M. Massar, and Bet M. Eliason, “Do Out-of-School Suspensions Prevent Future Exclusionary Discipline?”, Technical Assistance Center on PBIS, May 1, 2015, <https://www.pbis.org/resource/do-out-of-school-suspensions-prevent-future-exclusionary-discipline>.

¹⁸ Diliberti and Perera, “Student Misbehavior in Schools.”