

Research Protocol for School Discipline Laws

Prepared by the Center for Public Health Law Research Staff

DECEMBER 2018

School Discipline Laws

- I. Date of Protocol:** December 2018
- II. Scope:** Compile state-level school discipline laws and regulations addressing suspensions and expulsions, including coding question to capture what behaviors require suspension or expulsion, what behaviors may result in suspension or expulsion, what behaviors are prohibited from being disciplined with suspension or expulsion, and what alternative disciplinary actions a state may require. This longitudinal dataset includes relevant laws and regulations from January 1, 2008 through December 1, 2018.

III. Primary Data Collection

- a. Project Dates:** April 2018—April 2019
- b. Dates Covered in the Dataset:** January 1, 2008—December 1, 2018
- c. Data Collection Methods:** The Policy Surveillance Program Staff (Team) building this dataset consisted primarily of three legal researchers (Researchers) and one supervisor (Supervisor).

Researchers began by writing background memorandums to understand the key policy components of school discipline laws. Next, each Researcher wrote a five- state policy memorandum, summarizing laws related to the key components identified in the background memorandum. The Team consulted secondary sources to determine the scope of the dataset, including the National Center on Safe Supportive Learning Environments' Compendium of School Discipline Laws and Regulations for the 50 States, Washington, D.C., and the U.S. Territories; <https://safesupportivelearning.ed.gov/school-discipline-laws-regulations-state> (2018). Westlaw Next and LexisNexis were used to identify states with legislation regulating suspension and expulsion in school discipline. All jurisdictions were 100% redundantly researched to confirm that all relevant law was collected.

Divergences, or differences between the original research and redundant research, were reviewed by the Supervisor and resolved by the Team.

- d. Databases Used:** Research was conducted using WestlawNext, LexisNexis and state-specific legislature websites.
- i.** Full text versions of the relevant laws were collected from each state's respective legislature website.
 - ii.** Searches performed on Google provided additional secondary and primary literature.

e. Search Terms:

- i. Keyword Searches:** Keyword searches: “school & suspension,” “school & suspend,” “school & expel!,” “school & expulsion,” “school & disciplin!,” and “school & tolerance.”
- ii.** Key word searches were supplemented by reviewing the table of contents of each relevant section of state law identified as a statute or regulation related to suspensions or expulsions in school discipline.
- iii.** Once all relevant statutes and regulations were compiled for a jurisdiction, a Master Sheet was created for each jurisdiction. The Master Sheet summarizes all the relevant statutes and regulations. It also includes the relevant effective dates for each version of the law.

f. Inclusion or Exclusion Criteria:

- i.** The following variables were included in the dataset:
 1. Statutes and regulations governing school expulsion policies
 2. Statutes and regulations governing school suspension policies
 3. Conduct requiring mandatory expulsion or mandatory suspension
 4. Conduct allowing discretionary suspension or discretionary expulsion
 5. Conduct protected from exclusionary discipline
 6. Minimum terms of mandatory suspension or mandatory expulsion
 7. Maximum terms of discretionary suspension or discretionary expulsion
 8. Alternative, non-exclusionary disciplinary options
 9. School-provided support to excluded students
 10. School- or district-based discipline reports to the state
 11. Required reports to law enforcement
- ii.** The following variables were excluded in the dataset:
 1. Pre-school and college requirements
 2. Alternative schools or alternative school programs
 3. Internet-based educational programs
 4. Summer school
 5. Corporal punishment
 6. Failure to use “sir” or “ma’am” when addressing school staff
 7. Expulsions or suspensions related to immunizations and medical conditions, including pregnancy or HIV status
 8. Expulsions or suspensions resulting from residency or school zone requirements
 9. Laws regulating special education or students with a disability
 10. Laws regulating removal from class that does not result in a suspension or expulsion
 11. Laws regulating restraint or seclusion
 12. Laws regulating requirements that only apply to bullying
 13. Laws regulating requirements that only apply to hazing
 14. Laws regulating compulsory attendance unrelated to school discipline

IV. Coding

- a. Development of Coding Questions:** The Team collaborated with subject matter experts to determine the focus of the research and the key questions to be coded. In addition, the Team consulted with these subject matter experts to discuss and refine the coding scheme. The questions were sent to the CDC team for review. When the questions were finalized, the Researchers entered the questions into the MonQcle, a software-coding program.

Throughout the coding of jurisdictions' record (a "record" refers to a set of coded responses for each jurisdiction for each point in time included in the dataset), the Team frequently met as a group to narrow the scope of the dataset. As necessary, the coding scheme was altered to accommodate newly identified features of the law and completed states were re-coded. Citations to the relevant legal text were included whenever a question was answered in the affirmative. No citation was provided when the answer was "No" or where the law was silent on the question.

- b. Coding Methods:** Researchers coded responses based on objective, measurable aspects of the law. Caution Notes were provided to explain any unique regulations and/or where the law was unclear.

Below is an explanation of the rules used when coding specific questions in the school discipline dataset. Note that this section only includes questions and responses that required further explanation to understand how they were coded. Descriptions were not included below for questions and responses that were coded on their plain language or meaning alone. Because of the nature of the question set, there were several explanations that applied to several questions in the dataset, described below.

c. General Coding Notes

- i.** Laws that used the term "dismissal" or "exclusion" in place of "expulsion" or "suspension" were coded along with any applicable offenses.
- ii.** When the law requires a repeat or heightened standard of an offense (e.g., continual, chronic, extreme), the underlying offense was coded and the requirement was included in a caution note.
- iii.** Laws expressing legislative intent were out of scope.
- iv.** When the law states "shall suspend or expel," this was coded as mandatory suspension and discretionary expulsion.
- v.** Attempts were coded based on the type of offense and caution noted.
- vi.** Cross-referenced laws (e.g., when the penal code was referenced by a school disciplinary statute) were not built as part of the legal text.

d. Coding Related to Specific Conduct

- i.** "Bullying" was coded when the law included intimidation, harassment, coercion, hazing, or retaliation

- ii. “Criminal record” was coded when disciplinary action was taken based on criminal charges, convictions, adjudications; or when the law referenced a referral to juvenile courts or criminal records.
- iii. “Damaging property” was coded when laws included threats to property with a caution note. A caution note was included when the law was limited to school property.
- iv. “Delinquent acts” was coded when the law refers to acts that, if committed by an adult, would constitute a crime; or for robbery, extortion, or larceny. “Delinquent acts” was also coded when the law described heightened categories (e.g., aggravated assault) to distinguish conduct from just physical violence.
- v. “Endangering the health, safety, or property of others” was coded when conduct was detrimental to the welfare of pupils or employees; or when the law included “posing imminent threat of harm.”
- vi. “Failure to conform” was coded only when specific or similar language was used (e.g., failure to follow rules). This did not include failure to follow rules for in-school suspension.
- vii. “False reports” were specific to reports alleging misconduct against teachers or other school employees.
- viii. “Interference with educational process” was coded when the law included “creation of hostile educational environment,” or referenced serious disruption of the educational process. “Disruptive behavior” and “in the best interests” were too general and were not coded as interference.
- ix. “Physical violence” was coded for assault or battery; or when the law included interference by force or violence. Conduct that was limited to violence against school employees was caution noted.
- x. “Possession of controlled substance” was coded when the law included the sale, use, or distribution of controlled substances.
- xi. “Possession of firearm” was coded when the law included the sale, use, or brandishing of a firearm; or an imitation firearm. When the law explicitly defined a weapon as a firearm, only coded “possession of firearm.”
- xii. “Possession of weapon” was coded when the law included the sale, use, or brandishing of a weapon; or an imitation weapon. Possession of weapon was also coded for explosive devices.
- xiii. “Secret societies” was coded when the law included sororities or fraternities.
- xiv. “Sexual assault” was coded when the law included sexual battery.
- xv. “Terroristic threats” was coded when the law referred to actual or threatened attempts to destroy school property by means of explosive or when the law mentioned an explicit and heightened level of threat. False reports of terroristic threats were also coded.
- xvi. “Theft” was coded only for conduct that did not give rise to a criminal act. Robbery, extortion, and larceny were coded as “delinquent acts.”
- xvii. “Threats of violence” was coded when the law included “menace” or “menacing,” or when the law included “making any threat to the health and

safety of a person.” Also coded “threats of violence” when the threat was made online or via electronic communication.

- xviii. “Willful defiance” was coded whenever the law mentioned willful disobedience, insubordination, disorderly conduct, disciplinary problem, and other behaviors that do not rise to the level of gross misconduct. Continual or repeated conduct was caution noted.

e. Coding Related to Disciplinary Term Limits

- i. “A Full School Year” was coded when laws included “total number of school days in a year.”
- ii. “Not specified” was coded when the period of suspension or expulsion was “indefinite.”
- iii. “Remainder of semester” was coded when discipline issued at the end of the second semester of the school year continues into the following school semester.

f. Coding Rules Applying to Specific Questions Question: “What conduct requires expulsion?”

- i. Coded “delinquent acts” where the law described heightened categories, i.e. aggravated assault.
- **Question: “What is the minimum length of a required expulsion?”**
 - Coded the lowest minimum threshold described in the law with a caution note listing other offense-specific minimums.
 - Coded “A full school year” when the law stated a specific number of days that in effect results in a full school year (e.g., Kansas – maximum expulsion is 186 days).
- **Question: “What conduct may, but is not required to, be punished by expulsion?”**
 - Different requirements for conduct occurring on a bus were included in a caution note.
 - When prior discipline (e.g., multiple suspensions) was the only basis for expulsion, included in a caution note. The prior conduct on which the original punishment was based was not coded.
 - We also scoped out laws that prohibited students for being disciplined for buying lottery tickets.
- **Question: “What conduct is explicitly prohibited from being punished by expulsion?”**
 - Coded “minor physical altercation” only for conduct explicitly described as such.
 - Coded “tobacco use” with a caution note when the law indicated that the school board could not have a policy requiring expulsion solely for tobacco use. (CO)
 - Additional disciplinary action after return to school from juvenile detention was not included.

- We scoped out laws that prohibited students for being disciplined for failing to engage in social media with school employees.
- We also scoped out laws that explicitly banned expulsion for simulating a firearm or weapon while playing or wearing clothing or accessories that depict a firearm or weapon.
- **Question: “What is the maximum length of an expulsion?”**
 - Coded based on general maximum expulsion periods, and any exceptions were included in a caution note.
- **Question: “What is the minimum length of a required out-of-school suspension?”**
 - Coded the lowest minimum threshold described in the law with a caution note listing other offense-specific minimums.
- **Question: “What conduct may, but is not required to, be punished by out-of-school suspension?”**
 - We scoped out laws that prohibited students for being disciplined for failing to engage in social media with school employees.
 - We also scoped out laws that prohibited students for being disciplined for buying lottery tickets.
 - Laws providing disciplinary actions for tampering with, changing, or altering an official record or document of the school were scoped out.
 - We scoped out activating false fire alarms.
- **Question: “What is the maximum length of an out-of-school suspension?”**
 - Coded highest maximum length of suspension when laws included maximum lengths for long-term and short-term suspension, with a caution note describing short-term suspension maximum length.
 - Maximum lengths for offense-specific suspension were included in a caution note.
 - Coded consecutive-day suspension maximum lengths only. Limits on total suspensions in a semester or school-year were out of scope.
 - Where the law only specifies maximum length for short-term expulsion and long-term maximum was not specified, short-term maximum was coded.
- **Question: “Must the individual circumstances of each violation be considered prior to expulsion or suspension?”**
 - Coded “yes” based on “evidence of past disciplinary problems which led to... suspension” or when laws required implementation of policies that require consideration of individual circumstances.
 - Coded “no” when the law states “aggravating or mitigating” circumstances can or must be considered.
 - Requirements for consideration of individual circumstances specifically for bullying were out of scope.
 - Scoped out discretionary authority for school officials to consider when a knife or firearm is stored in a motor vehicle and there is no evidence of the pupil’s intent to use the firearm or knife in a criminal manner.
- **Question: “What factors must be considered?”**

- Coded “disability” when laws included developmental capacity or special education status.
- Coded “lack of intent” only when explicitly stated in the law.
- Undefined standards like “reasonably justified” and laws that included the opportunity to explain an offense were out of scope.
- **Question: “Are certain students exempt from school discipline requirements?”**
 - Coded “yes” when exemptions were limited in certain circumstances with a general caution note stating “exemption only applies to limited conduct and/or limited grades.”
 - Coded “yes” only when the law explicitly stated that students were excluded from disciplinary requirements.
- **Question: “Which students are exempt?”**
 - Durational limitations on school discipline requirements based on age or grade were not coded as exemptions, but were included in caution notes for questions 2.1.1, 2.4, 3.1.1, and 3.4.
 - The limited circumstances or limited grades that were exempted were explained in a caution note.
- **Question: “What support must schools provide to suspended or expelled students?”**
 - Supports limited based on type of discipline were included in a caution note.
 - Laws requiring schools to provide support only after parents or guardians were unable to provide support were included in a caution note.
 - Laws requiring that excluded students remain in a “continued school environment” were out of scope.
 - We included in a caution note when the law required the school to provide support upon the failure or inability by the parent or guardian.
 - Referrals to counselors, rehabilitation programs were not considered support.
- **Question: “What types of non-exclusionary discipline are described in the law?”**
 - Coded “in-school suspension” when laws required student to attend school during non-school hours.
 - Coded “in-school suspension” when laws included in-school discipline as an optional disciplinary action even if the law did not explicitly define it as an alternative. This answer was only coded when the parent question was either coded “Yes, required” or “No, but encouraged.”
 - Coded “parental involvement” when the law required conferences, even if not labeled as a parent-teacher conference.
 - Coded “positive behavioral support” when laws included “referral for a comprehensive psychosocial or psychoeducation assessment,” “program teaching prosocial behavior or anger management,” or “afterschool programs that address specific behavioral issues or expose pupils to positive activities and behaviors.”
 - Coded “restorative justice” to include mediation.
 - Alternative programs specific to bullying were scoped out.

- **Question: “Is the school district required to report information related to school discipline to the state?”**
 - Coded “yes” for State Department of Education or other state agency data collection requirements.
 - Coded “yes” for other types of reports that specifically included discipline reporting requirements.
 - Coded “yes” when laws required the state to disseminate discipline data collected from local bodies.
 - Coded “no” for reporting requirements only to local or district agencies.
 - Reports to the federal Department of Education were out of scope.
 - Individual incident reports were out of scope.
- **Question: “What information must be included in the report?”**
 - Coded “demographic information” when laws included specific demographic information other than race or ethnicity, with a caution note describing the scope of demographic information.
 - Coded “firearm incidents” when laws required reporting of expulsions for firearms.
 - Coded “incident type” when offenses not listed in answer choices must be reported.
 - Coded “number of expulsions” for total number of expulsions, rather than number of expulsions for a particular offense.
 - Coded “number of out-of-school suspensions” when laws referred to suspensions generally.
 - Coded “referrals to law enforcement” when laws required reporting of school arrests and referral to the juvenile justice system.
- **Question: “What information must be disaggregated?”**
 - Coded “disability status” when the law referred to special education status.
- **Question: “Must certain student conduct be reported to law enforcement?”**
 - Coded “yes” if laws required referrals to juvenile court or the juvenile justice system.
 - Coded “no” when the school was required to report expulsions to the department of motor vehicles.
- **Question: “What conduct must be reported?”**
 - Reporting requirements for safety and emergency response or crisis management were out of scope.
 - Reporting requirements for substance use rehabilitation or probation were out of scope.

V. Quality Control

- a. **Quality Control – Background Research:** 100% of jurisdictions were redundantly researched to confirm that the Researchers collected all relevant laws. The Supervisor reviewed all redundant research, and any diverging laws that were determined to be in scope were added to the collection of laws used to complete coding.

b. Quality Control – Coding

- i. Original Coding:** Quality control of the original coding consisted of the Supervisor exporting the data into a Microsoft Excel document to examine the data for any missing entries, citations, or unnecessary caution notes. All needed citations and other entries were added and unnecessary caution notes were deleted.
- ii. Redundant Coding:** The redundant coding process entails independent, redundant coding by two Researchers for each jurisdiction. Redundant coding means that each jurisdiction (a record) is assigned and coded independently by the two Researchers. Within each jurisdiction, redundant coding was only conducted when there was a substantive change in the law (i.e., a change that required a change in coding). Divergences, or differences between the original coding and redundant coding, are resolved through consultation and discussion with the Team. Quality control of the redundant coding consisted of the Supervisor exporting the data into a Microsoft Excel document to calculate divergence rates.

For Batch 1 and Batch 2, 100% of substantive changes were redundantly coded. After coding and redundantly coding the first 11 jurisdictions (Batch 1), the rate of divergence was 15.2%. A coding review meeting was held and all divergences were resolved. Questions that caused confusion were edited for clarity and then checked across the dataset to make sure coding was consistent. The Supervisor assigned the next 14 jurisdictions (Batch 2) for original and redundant coding and the rate of divergence dropped to 14.3%. Again, a coding review meeting was held and all divergences were resolved.

For Batch 3 and Batch 4, one substantive record from each jurisdiction was selected for redundant coding. The Supervisor assigned original and redundant coding of the next 10 jurisdictions (Batch 3) and the divergence rate was 15.4%. Divergences were again resolved through consultation and discussion with the Team. The Supervisor then assigned original and redundant coding of the final 16 jurisdictions (Batch 4) and the divergence rate was 13.3%. These final divergences were resolved through consultation and discussion with the Team.

- c. Final Data Check:** Prior to publication, the Supervisor downloaded all coding data into Microsoft Excel to do a final review of coding answers, statutory and regulatory citations, and caution notes. All unnecessary caution notes were deleted and all necessary caution notes were edited for publication. Any responses which were inconsistent with the project's coding rules were updated. Any missing citations were added.