

# RETRENCHMENT, SEGREGATION, AND PUBLIC EDUCATION: A FIVE-YEAR ANALYSIS OF STATE EXCLUSIONARY SCHOOL DISCIPLINE LEGISLATION

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*Notwithstanding the decision in Brown v. Board of Education formally ending educational segregation and more than two decades of state reform, the legislative landscape protecting minoritized children from the structural violence of exclusionary school discipline has dramatically shifted in less than five years. From the passage of state “Teacher’s Bills of Rights” to mandatory expulsions, rescissions of prior protections, and new categories of removal, a retrenchment of anti-inclusion legislation—and its corollary, educational carcerality—has occurred. While studies of other forms of legislative retrenchment in K-12 public schools, such as anti-Critical Race Theory and Don’t Say Gay laws, literacy bans, and anti-transgender measures, have drawn sharp attention to the purpose and functionality of such laws to erase, exclude, and punish children, unaccounted for within this literature is the simultaneity of new bills that physically segregate children from their public school classrooms and communities. This Article addresses that gap and introduces the first systematic review of regressive state exclusionary school discipline bills proposed from 2020 to 2025.*

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*Results of the study include aggregated and disaggregated analyses of fifty-six bills across twenty-four states and reveal a substantial rise in exclusionary school discipline, producing a net result of heightened risk for punishment and structural violence against children as early as age five.*

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“Not all kids belong in the classroom anymore.”

Texas Senator Charles Perry, co-sponsor of S.B. 245<sup>1</sup>

## INTRODUCTION

This Article aims to extend the growing line of legal literature interrogating intersections between retrenchment and anti-inclusion in public education. More specifically, it builds upon and complements existing studies of K–12 public schools as renewed sites of legal, social, and political contestations<sup>2</sup> in the wake of school closures

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1. Talia Richman, *Texas Lawmakers Could Make It Easier to Kick Students Out of Class*, EDUC. WK. (Apr. 14, 2023), <https://www.edweek.org/leadership/texas-lawmakers-could-make-it-easier-to-kick-students-out-of-class/2023/04> [https://perma.cc/D8PL-GC5A].

2. While this Article attends to contemporary education law and policy, dimensions of anti-Black and anti-inclusion injustice have produced educational apartheid since the formation of American public schools. See, e.g., Aziz Rana, *The Long History of Anti-CRT Politics*, L. & POL. ECON. PROJECT (Dec. 8, 2021), <https://lpeproject.org/blog/the-long-history-of-anti-crt-politics/> [https://perma.cc/R45R-2WQB] (providing a brief

due to the COVID-19 pandemic,<sup>3</sup> national protests and racial justice activism following the death of George Floyd in 2020,<sup>4</sup> and the reelection of Donald Trump.<sup>5</sup> Though this field of study is diverse in its scope, a clear stream of scholarly analysis has emerged tracking state and national legislation<sup>6</sup> that operates to promote and preserve the

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historical analysis of anti-Black reactionary politics advanced through strategies such as school instruction bills designed to ensure the country’s “ethno-racial identity”); Clayton Pierce, *W.E.B. Du Bois and Caste Education: Racial Capitalist Schooling from Reconstruction to Jim Crow*, 54 AM. EDUC. RSCH. J. 23S, 28S, 34S (2017) (analyzing Du Bois’s critique of caste education as “controlling non-White and White populations on behalf of the goals of racial capitalism” within American education); Amity L. Noltemeyer, Julie Mujic & Caven S. McLoughlin, *The History of Inequity in Education, in DISPROPORTIONALITY IN EDUCATION AND SPECIAL EDUCATION: A GUIDE TO CREATING MORE EQUITABLE LEARNING ENVIRONMENTS* 3, 4–6 (Amity L. Noltemeyer & Caven S. McLoughlin eds., 2012) (detailing the history of exclusion against non-white children in U.S. educational structures, including forced assimilation and segregation policies).

3. See, e.g., Savannah Kuchar, *‘If Kids Are Dead, They Don’t Learn’: Lawmakers Clash over COVID Pandemic School Closures*, USA TODAY (July 27, 2023, 5:14 PM), <https://www.usatoday.com/story/news/politics/2023/07/26/covid-schools-pandemic-hearing/70468747007/> [https://perma.cc/6HBZ-55V7] (reporting on the political conflict that followed school closures during the COVID-19 pandemic, noting that Democrats tended to regard school closures as necessary safety precautions while Republicans argued closures lasted too long and caused students to suffer learning loss); Rebecca Jack & Emily Oster, *COVID-19, School Closures, and Outcomes*, 37 J. ECON. PERSP. 51, 59 (2023) (analyzing how school closures resulting from COVID-19 varied by school district, finding that “virtual schooling was correlated with the political leanings of an area, with more Republican-leaning areas having fewer days of virtual school on average”).

4. See generally Thalia González & Rebecca Epstein, *Racial Reckoning and the Police-Free Schools Movement*, 72 UCLA L. REV. DISCOURSE 38 (2024) (identifying and coding sixty-nine school policy reforms in direct response to national protests).

5. See generally Rachel M. Perera, Thalia González & Aidan Tomlinson, *Tracking Lawsuits Challenging the Trump Administration’s K-12 Education Agenda*, BROOKINGS (Sep. 8, 2025), <https://www.brookings.edu/articles/tracking-lawsuits-challenging-the-trump-administrations-k-12-education-agenda/> [https://perma.cc/8ZDQ-4KLV] (tracking ongoing legal challenges to the Trump Administration’s K-12 education executive actions); Exec. Order No. 14,190, 90 Fed. Reg. 8853 (Jan. 29, 2025) (executive order indicating that acknowledging white privilege “promotes racial discrimination” and requiring the creation of an “Ending Indoctrination Strategy” for K-12 schools).

6. See Luiza-Maria Filimon & Mihaela Ivănescu, *Bans, Sanctions, and Dog Whistles: A Review of Anti-Critical Race Theory Initiatives Adopted in the United States Since 2020*, 45 POL’Y STUD. 183, 191 (2023) (discussing 196 anti-CRT initiatives introduced throughout 2021 and 2022, focusing specifically on 16 bills passed across 15 states by the end of 2022); see also *CRT Forward*, UCLA SCH. L. CRITICAL RACE STUD. PROGRAM, <https://crtforward.law.ucla.edu/> [https://perma.cc/65LU-WSUW] (cataloging 870 anti-CRT initiatives introduced across the U.S. beginning in 2020 and current through 2024); LaToya Baldwin Clark, *The Critical Racialization of Parents’ Rights*, 132 YALE L.J. 2139, 2165–66 (2023) (documenting parental rights movement and anti-CRT measures proposed between 2021 and 2022 on local and state levels); Marcelo S.O. Goncalves et al., *Book Bans in Political Context: Evidence from US Schools*, 3 PNAS NEXUS 197 (2024) (analyzing a dataset of book bans over the

exclusivity of whiteness<sup>7</sup> or, as DeMarcus Jenkins critically observes, white dominance in public education occurring through the “unspoken grammar of anti-Blackness.”<sup>8</sup>

As the field of education law and policy has rapidly transformed over the last five years—with state legislatures codifying new socio-spatial arrangements of exclusion and the swift actions by the Trump Administration to limit civil rights protections and divest from equity and inclusion<sup>9</sup>—the most pronounced area of attention has been on the “critical racialization of parents rights”<sup>10</sup> and the promulgation of anti-Critical Race Theory (“anti-CRT”) measures championed by parental rights movement actors.<sup>11</sup> For example, research in this line

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2021–22 school year); *Legislation Affecting LGBTQ Rights Across the Country*, ACLU (Jan. 14, 2022), <https://www.aclu.org/documents/legislation-affecting-lgbtq-rights-across-country-2022> [https://perma.cc/XU7Q-H5PN] (tracking state bills that target LGBTQ people, limit local protections, and allow use of religion to discriminate); Thalia González & Mara Schiff, *The Uncertain Future of Restorative Justice: Anti-Woke Legislation, Retrenchment and Politics of the Right*, 30 WM. & MARY J. RACE, GENDER & SOC. JUST. 1, 22–48 (2024) (analyzing the anti-restorative justice activism of parental rights organizations and six recent Florida laws that expand policing in schools and place restrictions on classroom content).

7. In using the term whiteness, we adopt an intersectional critical race theory grounded in understanding whiteness as anti-Black discrimination interlocking with other forms of subordination including gender, class, and sexual identity.

8. DeMarcus Jenkins, *Unspoken Grammar of Place: Anti-Blackness as a Spatial Imaginary in Education*, 31 J. SCH. LEADERSHIP 107, 109 (2021) (“[A]nti-Blackness has stood as the dominant societal logic that has shaped the configuration and character of American social intuitions, including K–12 schools, colleges, and universities. In fact, the explicit design of public education was to advance the knowledge and skills of white children and to repress and contain literacy among enslaved Americans.”).

9. See Press Release, U.S. Dep’t of Educ., U.S. Department of Education Takes Action to Eliminate DEI (Jan. 23, 2025), <https://www.ed.gov/about/news/press-release/us-department-of-education-takes-action-eliminate-dei> [https://perma.cc/5HJF-BQ3Y] (eliminating numerous DEI initiatives in the U.S. Department of Education); Exec. Order No. 14,190, *supra* note 5.

10. Baldwin Clark, *supra* note 6, at 2139.

11. See Kristine L. Bowman, *The New Parents’ Rights Movement, Education, and Equality*, 91 U. CHI. L. REV. 399, 423–24 (2024) (“[I]n mid-2021, the New Parents’ Rights Movement took off, focusing on curriculum and policy focusing on (1) race and racism, and (2) sexual orientation and gender identity.”); Elizabeth Tobin-Tyler, *The Past and Future of Parental Rights: Politics, Power, Pluralism, and Public Health*, 30 VA. J. SOC. POL’Y & L. 312, 335–36 (2023) (“The current parental rights movement, egged on by self-interested politicians, represents a minority – predominantly white Christian – perspective on community standards, excluding the values, perspectives, and interests of other groups.”); Vivian E. Hamilton, *Reform, Retrench, Repeat: The Campaign Against Critical Race Theory, Through the Lens of Critical Race Theory*, 28 WM. & MARY J. RACE, GENDER & SOC. JUST. 61, 91, 94 (2021) (analyzing how a Texas bill, which “responded to parents’ complaints that students were being ‘indoctrinated’” and white people were being made to feel guilty, represented “white innocence”—a dominant trope of retrenchment); Joshua Gutzmann, *Fighting Orthodoxy: Challenging Critical Race Theory Bans and Supporting Critical Thinking in Schools*, 106 MINN. L.

of scholarship has tracked, coded, and analyzed the importation of “divisive concepts” under Executive Order 13950<sup>12</sup> into state law and local education policy.<sup>13</sup> As of December 2024, the proliferation of anti-CRT measures included “249 local, state, and federal government entities across the United States [introducing] 870 anti-Critical Race Theory bills, resolutions, executive orders, opinion letters, statements, and other measures” in forty-nine states.<sup>14</sup> Not surprisingly, many of the studies in this line of research have theoretically contextualized their findings under the temporal analysis of Critical Race Theory (e.g., “why now?”) to highlight a reform-retrenchment dynamic. For instance, LaToya Baldwin Clark specifically argues that “the anti-CRT measures’ timing reflects the temporal backlash to the racial-justice demands made by protestors in the summer of 2020, and the movement was still going strong through the end of 2022.”<sup>15</sup>

However, retrenchment or regression in K–12 education law and policy, as well as the overarching state and federal rejection of color consciousness and civil rights, has not been limited to legislative or local action against Critical Race Theory or equity, diversity, and inclusion policies and practices more broadly.<sup>16</sup> Scholars have also examined the

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REV. HEADNOTES 333, 339–40, 342–45 (2022) (discussing the racialized consequences of a school board promulgated rule that gave parents “the right to inspect curriculum, instructional materials, classroom assignments, and lesson plans to ensure compliance” with a law that banned certain course concepts); Zoe Masters, *After Denial: Imagining with Education Justice Movements*, 25 U. PA. J.L. & SOC. CHANGE 219, 252–54 (2022) (writing about a grassroots parent movement that acknowledges that “[w]hite parents have been the key barrier to the advancement of school integration and educational equity”).

12. Exec. Order No. 13,950, 85 Fed. Reg. 60683 (Sep. 22, 2020) (restricting instruction of “divisive concepts” in the United States Uniformed Services and for agencies and their contractors).

13. *CRT Forward*, *supra* note 6 (documenting anti-CRT measures adopted between 2020 and 2024); *see also* Baldwin Clark, *supra* note 6, at 2146–76 (a study of 563 anti-CRT measures from 2021 and 2022 found over 90% of the measures targeted K–12 educational institutions and sought to regulate classroom teaching and materials).

14. *CRT Forward*, *supra* note 6.

15. Baldwin Clark, *supra* note 6, at 2166. In her examination of anti-CRT measures, Baldwin Clark observes, “[i]n encouraging and advancing the aims of the anti-CRT movement, the parents’ rights movement forms a key component of protecting racial hegemony. In this context, parents’ rights really mean *White* parents’ rights.” *Id.* at 2189.

16. *See* Exec. Order No. 14,151, 90 Fed. Reg. 8339 (Jan. 20, 2025) (eliminating DEI initiatives in the federal government); Exec. Order No. 14,173, 90 Fed. Reg. 8633 (Jan. 21, 2025) (revoking various executive orders addressing environmental justice and diversity in the federal workforce). Though outside the scope of this Article, bans on equity, diversity, and inclusion programs extend beyond K–12 education. *See* Jessica Bryant & Chloe Appleby, *These States’ Anti-DEI Legislation May Impact Higher Education*, BESTCOLLEGES (May 6, 2025), <https://www.bestcolleges.com/news/anti-dei-legislation-tracker/> [<https://perma.cc/DWS9-UT45>] (demonstrating that as of May 2024,

post-2020 rise of anti-literacy legislation, with one report finding that nearly twice as many anti-literacy or book ban initiatives were sought nationwide over a three-month period in 2021 than during the entirety of 2020.<sup>17</sup> As of December 2024, there were more than twenty-one states with anti-literacy and curricular bans<sup>18</sup> affecting “more than 22 million children, almost half of the country’s public school students.”<sup>19</sup> Additionally, more than sixteen states have advanced “Don’t Say Gay laws” that include prohibitions on instruction on LGBTQI+ issues, as well as restrictions on expressions of gender identity and the use of preferred pronouns.<sup>20</sup> Similar to anti-CRT measures, Jonathan Feingold

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there were over thirty bills “targeting DEI funding, practices, and promotion” at state-funded colleges); Press Release, Fla. Dep’t of Educ., State Board of Education Passes Rule to Permanently Prohibit DEI in the Florida College System (Jan. 17, 2024), <https://www.fl DOE.org/newsroom/latest-news/state-board-of-education-passes-rule-to-permanently-prohibit-dei-in-the-florida-college-system.shtml> [https://perma.cc/GS5U-A7EU] (discussing the Florida State Board of Education’s decision to restrict public funding for DEI practices in the Florida College System).

17. Marisa Shearer, *Banning Books or Banning BIPOC?*, 117 NW. U. L. REV. ONLINE 24, 27 (2022). Scholars have also analyzed the trends across these book bans. See Goncalves et al., *supra* note 6 (finding that authors of color were over four times as likely to have their book banned than white authors and that school districts in counties with increasingly contested politics post-2020 were more likely to ban books than politically-consistent counties); Jonathan Friedman, *Banned in the USA: The Growing Movement to Censor Books in Schools*, PEN AM. (Sep. 19, 2022), <https://pen.org/report/banned-usa-growing-movement-to-censor-books-in-schools/> [https://perma.cc/9V5Y-G8VJ] (reviewing data on book bans, particularly tracking the role of organized ban efforts); Erin M. Carr & Nabil Yousfi, “Anti-Wokeism” & Authoritarianism: A Renewed Call for Constitutional Protections for Education, 74 SYRACUSE L. REV. 971, 1000, 1002–03 (2024) (demonstrating how “anti-woke” legislation reinforces racial retrenchment).

18. Jeffrey Adams Sachs et al., *America’s Censored Classrooms 2024*, PEN AM. (Oct. 8, 2024), <https://pen.org/report/americas-censored-classrooms-2024/> [https://perma.cc/CYH7-JN9A] (noting bans included state laws, state policies, and executive orders); *see also 2024 Book Ban Data*, AM. LIBR. ASS’N, <https://www.ala.org/bbooks/book-ban-data> [https://perma.cc/JF6R-LY7H].

19. Catherine J. Ross, *Are “Book Bans” Unconstitutional? Reflections on Public School Libraries and the Limits of Law*, 76 STAN. L. REV. 1675, 1680 (2024). Effective January 24, 2025, the U.S. Department of Education’s Office of Civil Rights “has rescinded all department guidance issued under the theory that a school district’s removal of age-inappropriate books from its libraries may violate civil rights laws.” Press Release, U.S. Dep’t of Educ., U.S. Department of Education Ends Biden’s Book Ban Hoax (Jan. 24, 2025), <https://www.ed.gov/about/news/press-release/us-department-of-education-ends-bidens-book-ban-hoax> [https://perma.cc/DKZ8-6HP9].

20. *See LGBTQ Youth: LGBTQ Curricular Laws*, MOVEMENT ADVANCEMENT PROJECT (June 25, 2025), <https://www.lgbtmap.org/img/maps/citations-curricular-laws.pdf> [https://perma.cc/TW2D-64MY] (tracking state laws that restrict how schools can discuss homosexuality, states that require parental notification of LGBTQ-related curricula, and states that censor discussions of LGBTQ people or issues). For literature about the educational impact of these laws, see Clifford Rosky, *Don’t Say Gay: The Government’s Silence and the Equal Protection Clause*, 2022 U. ILL. L. REV. 1845, 1851–56 (2022) (discussing the Florida “Don’t Say Gay” Law’s prohibitions at various

and Joshua Weishart argue such discriminatory censorship laws are a direct “assault on inclusive classrooms and curricula” with the goal of “thwart[ing] the anti-racist aspirations that animated 2020’s global uprising for racial justice.”<sup>21</sup>

Regressive measures have also been advanced to control “non-normative bodies”<sup>22</sup> in K-12 public schools in the form of “anti-transgender legislation.”<sup>23</sup> Research by the American Civil Liberties Union indicates that between 2021 and 2023, twenty-five bills restricting gender-based bathroom access were introduced in states such as Alabama, Minnesota, Tennessee, and Virginia.<sup>24</sup> Paralleling studies of other discriminatory and anti-inclusive legislative measures, scholars engaged in this line of analysis foreground a temporal relationship between the racial justice movements of 2020 and the rise of the “anti-woke” parental rights movement and conservative right-wing authoritarian populist backlash to civil rights reforms.<sup>25</sup> Whether

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grade levels); Meredith Johnson, *The Dangerous Consequences of Florida’s ‘Don’t Say Gay’ Bill on LGBTQ+ Youth in Florida*, 23 GEO. J. GENDER & L. ONLINE (2022) (describing how instruction relating to sexual orientation or gender identity was excluded from the classroom under bills passed in 2021 and 2022); JONATHAN FEINGOLD & JOSHUA WEISHART, NAT’L EDUC. POL’Y CTR., HOW DISCRIMINATORY CENSORSHIP LAWS IMPERIL PUBLIC EDUCATION 7, 9 (2023), <https://www.nepc.colorado.edu/sites/default/files/publications/PB%20Feingold-Weishart.pdf> [https://perma.cc/9LFT-3WAM] (research brief identifying and describing “discriminatory censorship laws” aimed at curricular control in public primary education). Additionally, at the federal level, on January 20, 2025, President Trump promulgated an executive order “to recognize two sexes, male and female.” See Exec. Order No. 14,168, 90 Fed. Reg. 8615, (Jan. 20, 2025) (implementing new federal restrictions on gender identity and expression and eliminating protections for the LGBTQI+ community); Press Release, Hum. Rts. Campaign, Background on Trump Day One Executive Orders Impacting the LGBTQ+ Community (Jan. 22, 2025), <https://www.hrc.org/press-releases/background-on-trump-day-one-executive-orders-impacting-the-lgbtq-community> [https://perma.cc/ERU8-REH8]; Gillian Branstetter, *Trump’s Executive Orders Promoting Sex Discrimination, Explained*, ACLU (Jan. 22, 2025), <https://www.aclu.org/news/lgbtq-rights/trumps-executive-orders-promoting-sex-discrimination-explained> [https://perma.cc/JTA4-KZFB].

21. FEINGOLD & WEISHART, *supra* note 20, at 7.

22. Subini Annamma, *Disrupting the Carceral State Through Education Journey Mapping*, 29 INT’L J. QUALITATIVE STUD. EDUC. 1210, 1211 (2016) (presenting a Disability Critical Race Theory analysis of carceral logics in public education).

23. See 2024 Anti-Trans Bills Tracker, TRANS LEGIS. TRACKER, <https://translegislation.com/> [https://perma.cc/8BTH-HAVF] (finding that anti-transgender bills related to education represented the biggest category of anti-transgender legislation in 2024, with 207 bills considered; the number of anti-transgender bills proposed increased from 174 in 2022 to 615 and 701 in 2023 and 2024, respectively).

24. *Legislation Affecting LGBTQ Rights Across the Country*, *supra* note 6.

25. See, e.g., Athena D. Matua, *Reflections on Critical Race Theory in a Time of Backlash*, 100 DENV. L. REV. 553, 571–74 (2023) (discussing the conservative-led, anti-CRT miseducation campaign as backlash to global protests against racialized police violence in 2020); Jonathan P. Feingold, *Colorblind Capture*, 102 B.U. L. REV.

viewed individually or collectively, scholarship across the field of critical education law has drawn sharp attention to the purpose and functionality of these measures—to erase, exclude, and punish students.

However, unaccounted for within this research are parallel analyses of the simultaneous rise of regressive school discipline legislation that increases physical segregation, including through in- and out-of-school suspensions and expulsions, and embodies racial spatial dimensions of punitive practices.<sup>26</sup> This absence is striking for three reasons. First, the similarities in backlash—rhetorically and tactically—between the historical (racial integration of public schools post-*Brown v. Board of Education*) and the contemporary (civil rights reforms to exclusionary school discipline from 2000–18)<sup>27</sup> contexts.<sup>28</sup>

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1949, 1952–54 (2022) (describing the GOP’s legal and rhetorical responses to the 2020 “global uprising for racial justice” as “near-immediate” backlash).

26. See *infra* Part II. By its very definition, exclusionary school discipline—whether in state legislation or district or school policy or practice—legally separates from public school spaces students deemed to be unfit, often by employing racial threat analyses.

27. See ALYSSA RAFA, EDUC. COMM’N OF THE STATES, THE STATUS OF SCHOOL DISCIPLINE IN STATE POLICY (Jan. 14, 2019), <https://www.ecs.org/wp-content/uploads/The-Status-of-School-Discipline-in-State-Policy.pdf> [https://perma.cc/9BN2-VPMM] (noting rise of reform bills during this period).

28. We argue that no singular moment, such as a court decision, defines the contemporary retrenchment in school discipline, but rather it is a confluence of externalities and political opportunity structures over a three- to four-year period, including the rescission of Obama-era protections, guidances, and funding; school closures due to COVID-19; and anti-inclusionary tenets of the new “parental rights” movement. See FED. COMM’N ON SCH. SAFETY, FINAL REPORT OF THE FEDERAL COMMISSION ON SCHOOL SAFETY 67–72 (2018) (recommending the Obama Administration’s guidance on school discipline—including its “emphasis on tracking school disciplinary actions by race”—be rescinded); U.S. DEP’T OF EDUC. & U.S. DEP’T OF JUST., SUPPORTIVE SCHOOL DISCIPLINE INITIATIVE BRIEF (2014) (describing an Obama-era initiative which supported school discipline practices that sought to reduce the disproportionate effects of discipline on students of color and students with disabilities); *School Suspensions, Discipline Policies Ramp Up After COVID-19*, CRIME & JUST. NEWS (Sep. 13, 2023), <https://www.ncja.org/crimeandjusticenews/school-suspensions-discipline-policies-ramp-up-after-covid-19> [https://perma.cc/42Q8-WFA2] (noting the increased use of school discipline after the COVID-19 pandemic; for example, in 2022–23, suspensions were up 27% in New York City public schools); Ramon T. Flores & Daniel J. Losen, *Lost Instruction Time in California Schools: The Disparate Harm from Post-Pandemic Punitive Suspensions*, THE C.R. PROJECT (Oct. 30, 2023), <https://civilrightsproject.ucla.edu/research/k-12-education/school-discipline/lost-instruction-time-in-california-schools-the-disparate-harm-from-post-pandemic-punitive-suspensions> [https://perma.cc/Y7E7-C8A4] (demonstrating that post-COVID suspensions “have added to the pandemic’s harmful impact of instructional loss, especially for students from ‘high-needs’ groups”); Amna Nawaz & Courtney Norris, *States Push for Harsher School Discipline Practices to Address Student Misbehavior*, PBS NEWS (May 10, 2023), <https://www.pbs.org/newshour/show/states-push-for-harsher-school-discipline-practices-to-address-student-misbehavior> [https://perma.cc/8S24-QTGX] (discussing the risks presented by the post-pandemic trend towards laws that make it easier to discipline and remove students).

As we have examined in prior work, the early tropes and stereotypes of Black students requiring stringent discipline promoted by white segregationists during the first wave of exclusionary discipline laws post-*Brown* are being revived.<sup>29</sup> Second, the temporal and geographic overlap between the state legislative landscapes briefly described *supra* and new exclusionary school discipline laws. There is no state represented in this study whose legislature has not also proposed or passed anti-CRT and anti-LGBTQI+ legislation in the last five years.<sup>30</sup> Furthermore, cross-analysis confirms the co-existence of a “Parental Bill of Rights”<sup>31</sup> and a “Teacher’s Bill of Rights”<sup>32</sup> in two of the states. Third, and relatedly, there are similarities in impacted student populations. Numerous studies have demonstrated the associations of race, gender, and sexual orientation with discipline disparities. Data from the Office for Civil Rights report for the 2020–21 school year demonstrates post-school reopening disparities in exclusionary

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29. See, e.g., Kelly Welch & Allison Ann Payne, *Racial Threat and Punitive School Discipline*, 57 SOC. PROBS. 25, 29–41 (2010) (finding the operation of racial threat analyses in schools); Jason A. Okonofua & Jennifer L. Eberhardt, *Two Strikes: Race and the Disciplining of Young Students*, 26 PSYCH. SCI. 617, 620–23 (2015) (finding teachers’ racial stereotypes of Black students results in negative discipline responses); MONIQUE COUVSON, PUSHOUT: THE CRIMINALIZATION OF BLACK GIRLS IN SCHOOLS 34 (2016) (describing how exclusionary school discipline pushes Black youth, in particular Black girls, to leave school and thereby increase their risk for criminal legal system involvement); REBECCA EPSTEIN, JAMILIA J. BLAKE & THALIA GONZÁLEZ, GEO. CTR. ON POVERTY & INEQ., GIRLHOOD INTERRUPTED: THE ERASURE OF BLACK GIRLS’ CHILDHOOD 1, 8 (2017) (finding adultification bias beginning as early as age five, including the perception of Black girls as needing less care and nurturing or being hypersexualized); Russell J. Skiba et al., *Race Is Not Neutral: A National Investigation of African American and Latino Disproportionality in School Discipline*, 40 SCH. PSYCH. REV. 85, 85 (2011) (“[S]tudents from African American and Latino families are more likely than their White peers to receive expulsion or out of school suspension as consequences for the same or similar problem behavior.”).

30. *CRT Forward*, *supra* note 6 (showing that all twenty-four state legislatures have proposed or passed anti-CRT measures since 2020); *Mapping Attacks on LGBTQ Rights in U.S. State Legislatures in 2025*, ACLU (Sep. 19, 2025), <https://www.aclu.org/legislative-attacks-on-lgbtq-rights-2025> [https://perma.cc/DD5F-953V] (demonstrating that all twenty-four states introduced or adopted anti-LGBTQ legislation in 2025); *Mapping Attacks on LGBTQ Rights in U.S. State Legislatures in 2024*, ACLU (Dec. 6, 2024), <https://www.aclu.org/legislative-attacks-on-lgbtq-rights-2024> [https://perma.cc/T997-JRM7] (demonstrating that all but four of the twenty-four states introduced or adopted anti-LGBTQ legislation in 2024); *Mapping Attacks on LGBTQ Rights in U.S. State Legislatures in 2023*, ACLU (Dec. 21, 2023), <https://www.aclu.org/legislative-attacks-on-lgbtq-rights-2023> [https://perma.cc/69LB-96BA] (demonstrating that all but one of the twenty-four states, Illinois, proposed anti-LGBTQ laws in 2023).

31. H.B. 6, 2023 Leg., Reg. Sess. (Ala. 2023); H.B. 241, 2021 Leg., Reg. Sess. (Fla. 2021); H.B. 1557, 2022 Leg., Reg. Sess. (Fla. 2022).

32. S.B. 157, 2024 Leg., Reg. Sess. (Ala. 2024); H.B. 1035, 2023 Leg., Reg. Sess. (Fla. 2023).

discipline.<sup>33</sup> For example, the data shows that “Black boys were nearly two times more likely than White boys to receive an out-of-school suspension or expulsion,” and students with disabilities “were overrepresented in referrals to law enforcement and school-related arrests.”<sup>34</sup> Additionally, the 2021 National School Climate Survey found that “25.2% of LGBTQ+ students were disciplined for public affection.”<sup>35</sup>

Given such clear convergences, the absence of a systematic examination of regressive school discipline bills since 2020 obscures the fuller picture of the permissive return of physical segregation in K–12 schools. This Article aims to correct this oversight. However, this project is not intended to simply serve as an academic exposition on the permanence of anti-Blackness and white supremacy in public primary education.<sup>36</sup> It also seeks to provide a mapping for education justice attorneys and advocates to protect the rights of Black, Latiné, and American Indian and Native Alaskan children, LGBTQI+ children, and children with disabilities subjected to the structural violence<sup>37</sup> of exclusionary disciplinary practices under new education laws across the country.<sup>38</sup>

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33. U.S. DEP’T OF EDUC. OFF. FOR C.R., STUDENT DISCIPLINE AND SCHOOL CLIMATE IN U.S. PUBLIC SCHOOLS 7, 11 (2023).

34. *Id.*

35. GLSEN, THE 2021 NATIONAL SCHOOL CLIMATE SURVEY: THE EXPERIENCES OF LGBTQ+ YOUTH IN OUR NATION’S SCHOOLS xv, xviii (2022), <https://www.glsen.org/sites/default/files/2022-10/NSCS-2021-Full-Report.pdf> [<https://perma.cc/9G35-ET5H>].

36. See Benjamin Blaisdell, *Cupcakes, White Rage, and the Epistemology of Antiblackness*, 19 TABOO: J. OF CULTURE & EDUC. 70, 72 (2020) (“[S]chool-based practices that perpetuate racial disparity become normalized to such an extent that to imagine or enact access to curriculum and instruction in any other way is perceived of as impossible and to even violate the underlying norms of school space, norms which establish current spatial practices as sacrosanct.”).

37. We argue that exclusionary school discipline is a form of structural violence as it not only maintains and perpetuates disparities but also produces adverse and harmful conditions. See, e.g., Johan Galtung, *Violence, Peace, and Peace Research*, 6 J. PEACE RSCH., 167, 181 (1969) (introducing the term structural violence and describing it as systematic ways in which social structures harm or disadvantage individuals through exclusion); Paul Farmer, *An Anthropology of Structural Violence*, 45 CURRENT ANTHROPOLOGY 305, 307 (2004) (defining structural violence as oppression).

38. See *infra* notes 60–71 (decades of research has affirmed the disparate use and intent of exclusionary school discipline). Additionally, every state covered in this study has evidenced disparities in school discipline for students based on race or ethnicity, sexual orientation, and/or disability status. See, e.g., Office for Civil Rights, *Civil Rights Data Collection: Alabama*, U.S. DEP’T. OF EDUC., <https://civilrightsdata.ed.gov/profile/us/al?surveyYear=2017> [<https://perma.cc/8L3W-DNUF>] (In the Alabama 2017–18 school year, Black students comprised 74.5% of K–12 students without disabilities who received more than one out-of-school suspension, while making up only 32.8% of preschool–12 enrollment.); Office for Civil Rights, *Civil Rights Data Collection: Florida*, U.S. DEP’T. OF EDUC., <https://civilrightsdata.ed.gov/profile/us/>

To achieve its twin aims, this Article is structured as follows. While the Article proceeds with an assumption of a reader's familiarity with exclusionary school discipline in practice and policy, Part I serves as a brief primer to foreground the data and analysis presented in Parts III and IV. Part II provides an overview of the empirical context and theoretical framework of the Article and details data collection methods. Part III presents a descriptive overview of the findings from a nationwide perspective.<sup>39</sup> Part IV describes emerging data trends and aggregates state-level results into nine distinct, yet complementary, operational taxonomies, including increased authority for exclusion by teachers, new behavioral categories permitting or requiring exclusion, new forms of exclusion, and rescission of prior protections. The Article concludes by considering the growing threat of carceral logics and punitive architectures as retrenchment escalates, not only in the twenty-four states represented in the data but at the federal level.

## I. BACKGROUND

While the genealogy of exclusionary school discipline legislation<sup>40</sup> predates the decision in *Brown v. Board of Education*,<sup>41</sup> scholarship has demonstrated a distinctive relationship between the violent opposition to the court-ordered desegregation of public schools and the codification of new forms of race-neutral, yet racialized, educational segregation

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FL?surveyYear=2017 [<https://perma.cc/SUR7-XCQ8>] (In the Florida 2017–18 school year, Black students with disabilities comprised 40.9% of students with disabilities who received out-of-school suspensions, while making up 23.3% of enrollment.); Office for Civil Rights, *Civil Rights Data Collection: Idaho*, U.S. DEP’T. OF EDUC., <https://civilrightsdata.ed.gov/profile/us/ID?surveyYear=2017> [<https://perma.cc/H42Q-QD83>] (In the Idaho 2017–18 school year, American Indian or Native Alaskan students made up 3.5% of students without disabilities who received more than one out-of-school suspension, while only comprising 1.2% of enrollment.); Office for Civil Rights, *Civil Rights Data Collection: Missouri*, U.S. DEP’T. OF EDUC., <https://civilrightsdata.ed.gov/profile/us/MO?surveyYear=2017> [<https://perma.cc/XFY8-YE28>] (In the Missouri 2017–18 school year, Black students made up 15.7% of enrollment, but Black students without disabilities comprised more than half of the students who received more than one out-of-school suspension.).

39. For state-by-state findings and a description of the language, substance, and practical significance of each bill, see Appendix A.

40. See, e.g., Art. 3 § 625, 1939 Fla. Laws 730, 840 (permitting principal to “suspend a pupil for wilful [sic] disobedience, for open defiance of authority of a member of his staff, for the use of profane or obscene language, or for other misconduct”); Act of June 12, 1939, No. 237, 1939 Wis. Laws 252, 252–53 (permitting school board to suspend and expel students); Ch. 17 § 19, 1939 Miss. Sess. Laws 78, 81 (giving superintendents and principals “the power to suspend a pupil for any reason for which such pupil might be suspended, dismissed, or expelled by the board of trustees”).

41. 347 U.S. 483 (1954).

in state education law and policy.<sup>42</sup> For example, in 1963, against the backdrop of the “Children’s Crusade,” Alabama codified discretionary authority for local school boards to “prescribe rules and regulation with respect to behavior and discipline of pupils enrolled in the schools.”<sup>43</sup> As Hale and Livingston document, this allowed local school officials to determine what actions were “detrimental to the best interest and welfare of the pupils of such class as a whole” and to “categorically track students based on ‘social attitudes,’ ‘their hostility toward the school environment,’ and ‘morals.’”<sup>44</sup> A comprehensive review of exclusionary school discipline from 1940 to 1980 found that the number of states codifying exclusionary school discipline legislation rose from zero states in the 1940s to six states in the 1950s, sixteen states in the 1960s, and twenty-seven states in the 1970s. In addition to promulgating new legislation, states amended existing laws to expand the application of exclusionary school discipline.<sup>45</sup> For example, Ohio superseded procedural protections against suspension and expulsion with broad and

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42. See Janel A. George, *Deny, Defund, and Divert: The Law and American Miseducation*, 112 GEO. L.J. 509, 522–24 (2024) (evidencing Southern resistance to desegregation post-*Brown* in the enactment of 136 laws and state constitutional amendments); Cara McClellan, *Challenging Legacy Discrimination: The Persistence of School Pushout as Racial Subordination*, 105 B.U. L. REV. 641, 652 (2025) (demonstrating how the school-to-prison pipeline, and school pushout more broadly, “originated in resistance to school desegregation”); Thalia González & Will Martel, *Education Equity and Brown: Reform, Retrenchment, and Exclusionary Discipline*, 16 GEO. L.J. & MOD. CRITICAL RACE PERSP. 11, 13 (2025) (attending to the “relationship [between] *Brown*, violent resistance to integration, and the persistence of physical racialized segregation in K–12 classrooms across the country today”); Jon N. Hale & Candace Livingston, “*If You Want Police, We Will Have Them*”: Anti-Black Student Discipline in Southern Schools and the Rise of a New Carceral Logic, 1961–1975, 49 J. URB. HIST. 1035, 1037 (2022) (analyzing how policymakers at local and state levels criminalized student protest across the South in resistance to desegregation).

43. Act of Sep. 4, 1963, No. 460, § 1, 1963 Ala. Acts 995, 995 (“Any city, county, or other local public school board may prescribe rules and regulations with respect to behavior and discipline of pupils . . . and may remove, isolate, separate, or group pupils who create disciplinary problems . . . and whose presence in the class may be detrimental to the best interest and welfare of the pupils of such class as a whole.”).

44. Hale & Livingston, *supra* note 42, at 1038–39. In other Southern states, such as Louisiana, voters passed constitutional amendments enabling “the state [to use its] police powers to keep schools segregated.” See SEGREGATION IN AMERICA, EQUAL JUST. INITIATIVE 28 (2018), <https://segregationinamerica.eji.org/report.pdf> [https://perma.cc/ZJB9-259D].

45. This database of historical exclusionary school discipline laws was compiled by the authors. It is on file with the authors. In the absence of any substantial federal oversight or guidance concerning school discipline, states have enacted disciplinary laws with significant independence. See *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 37, 40 (1973) (declining to find a fundamental right to education in the federal Constitution and leaving significant control over education to the states).

definitive authority for school officials to suspend or expel students.<sup>46</sup> Other states expanded the grounds for punishment, including by amending education codes to include as grounds for suspension “immoral or disreputable conduct” and being “a menace to the school.”<sup>47</sup> Imbued with educational carceral logics<sup>48</sup> and anti-Blackness,<sup>49</sup> the imprint of such “adaptive discrimination”<sup>50</sup> and “second-generation discrimination”<sup>51</sup> has defined the experiences of students over the past four decades and into the present day.<sup>52</sup> As critical race theorists and

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46. Prior to 1957, Ohio law provided that “[n]o pupil shall be suspended from school by a superintendent or teacher except for such time as is necessary to convene the board of education, nor shall one be expelled except by a majority vote of the full membership of such board, and after the parent or guardian of the offending pupil shall have been notified of the proposed expulsion, and permitted to be heard against it.” OHIO REV. CODE ANN. § 3313.66 (West 1953). In 1957, Ohio Senate Bill 162 rewrote § 3313.66 to provide that “[t]he superintendent of schools . . . or the executive head of a local school district may suspend a pupil from school not more than ten days. Such superintendent or executive head may expel a pupil from school.” Act of June 17, 1957, Am. S.B. No. 162, 1957 Ohio Laws 104, 104.

47. Act of May 26, 1955, H.B. 177, 1955 N.C. Sess. Laws 1527, 1593. In 1959, North Carolina amended the law again to empower principals to expel students on those same grounds. *See* Act of May 21, 1959, H.B. 480, 1959 N.C. Sess. Laws 478, 480.

48. *See* Annamma, *supra* note 22, at 1211 (defining carceral logic as a “commonsense notion of society . . . to maintain safety and order through unquestioned social control”).

49. *See* Terence Fitzgerald, *Control, Punish, and Conquer: U.S. Public Schools’ Attempts to Control Black Males*, 12 CHALLENGE 1, 41 (2006) (arguing white teacher bias and stereotypes of Black male students reinforce social racism and anti-Blackness to justify control and punishment); AJMEL QUERESHI & JASON OKONOFUA, THURGOOD MARSHALL INSTITUTE, NAACP LEGAL DEF. & EDUC. FUND, *LOCKED OUT OF THE CLASSROOM: HOW IMPLICIT BIAS CONTRIBUTES TO DISPARITIES IN SCHOOL DISCIPLINE* 3–4 (2017) (documenting Black students’ disproportionate punishment for discretionary offenses); *see also* Michael J. Dumas, *Against the Dark: Antiblackness in Education Policy and Discourse*, 55 THEORY INTO PRAC. 11, 17 (2016) (“[A]ny racial disparity in education should be assumed to be facilitated, or at least exacerbated, by disdain and disregard for the Black . . . That is to say, these are all policies in which the Black is positioned on the bottom.”); Connie Wun, *Unaccounted Foundations: Black Girls, Anti-Black Racism, and Punishment in Schools*, 42 CRITICAL SOCIO. 737, 738–40 (2016) (applying theories of anti-Black racism to school discipline and the criminalization of Black girls).

50. *See* Elise C. Boddie, *Adaptive Discrimination*, 94 N.C. L. REV. 1235, 1239 (2016) (defining adaptive discrimination as discrimination [that] “adapts to the legal and social environment by mutating to evade prohibitions against intentional discrimination”).

51. *See* Susan Sturm, *Second Generation Employment Discrimination: A Structural Approach*, 101 COLUM. L. REV. 458, 468–69 (2001) (identifying the characteristics of second-generation discrimination as “subtle, interactive and structural bias”).

52. *See* Russell Skiba & Ashley White, *Ever Since Little Rock: The History of Disciplinary Disparities in America’s Schools, in DISPROPORTIONALITY AND SOCIAL JUSTICE IN EDUCATION* (Nicholas Gage et al. eds., 2022) (evidencing how exclusionary school discipline in the 1960s and 1970s is the foundation of current disparities); *see also* Kristen L. Allman & John R. Slate, *School Discipline in Public Education: A Brief Review of Current Practices*, 6 INT’L J. EDUC. LEADERSHIP PREPARATION 2 (2011) (providing history of school discipline practices); González & Martel, *supra* note 42,

critical education scholars have illuminated, underlying all forms of school punishment and exclusion is the interlocking presence of state and local surveillance policies, policing, and discipline legislation, through which tropes and stereotypes of Black<sup>53</sup> children aim to maintain white exclusivity in education.<sup>54</sup> Whether cast as “superpredators”<sup>55</sup> or juvenile delinquents,<sup>56</sup> segregationist opposition to Black children’s presence in K-12 schools fueled the carceral pathologizing of Black families and communities and justified the emergence of interlocking “zero tolerance”<sup>57</sup> policies and practices that formed an intentional

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at 21–22 (examining similarities between tropes and stereotypes used to justify exclusionary school discipline post-*Brown* and modern exclusionary school discipline); Welch & Payne, *supra* note 29, at 29–41 (empirical study testing the racial threat hypothesis and finding that, when a greater percentage of Black students are in the student population, increased punitive criminal justice policies are implemented).

53. Our naming of Black students specifically does not aim to erase the experiences of Afro-Latiné, Latiné, Indigenous, Native American, Asian Pacific Islander, or other students of color who experienced exclusion under white supremacist racial hierarchies delineating them as the non-white other. *See generally* IAN HANEY LOPEZ, *WHITE BY LAW: THE LEGAL CONSTRUCTION OF RACE* 1, 7, 9, 20 (2d. ed. 2006) (discussing the taxonomy of whiteness and oppositional construction).

54. *See* Benjamin Blaisdell & Mariama S. Gray, *Disrupting Carcerality in Schools: The Value of Racial Spatial Analysis*, LEADERSHIP & POL’Y SCH. 296, 300–01 (2024) (reviewing how anti-Blackness and privileging whiteness flow from discipline practices in classrooms).

55. *See* John DiLulio, *The Coming of the Super-Predators*, WASH. EXAM’R (Nov. 27, 1995), <https://www.washingtonexaminer.com/weekly-standard/the-coming-of-the-super-predators> [https://perma.cc/QF7J-4S2Y] (“We’re talking about kids who have absolutely no respect for human life and no sense of the future . . . And make no mistake. While the trouble will be greatest in black inner-city neighborhoods, other places are also certain to have burgeoning youth-crime problems that will spill over into upscale central-city districts, inner-ring suburbs, and even the rural heartland . . . they will do what comes ‘naturally’: murder, rape, rob, assault, burglarize, deal deadly drugs, and get high.”); *see also* Nancy A. Heitzeg, *Education or Incarceration: Zero Tolerance Policies and the School to Prison Pipeline*, 2 F. PUB. POL’Y, 1, 2–4 (2009) (connecting school-to-prison pipeline with fears about “super-predators”).

56. Hale & Livingston, *supra* note 42, at 1038–39 (historical analysis of how state and federal congressional leaders linked juvenile delinquency and lawlessness to desegregation).

57. *See* RUSSELL J. SKIBA, IND. EDUC. POL’Y CTR., *ZERO TOLERANCE, ZERO EVIDENCE: AN ANALYSIS OF SCHOOL DISCIPLINARY PRACTICE* 2, 10 (2000) (presenting the history, philosophy, and effectiveness of zero-tolerance school disciplinary strategies); ADVANCEMENT PROJECT & C.R. PROJECT AT HARVARD UNIV., *OPPORTUNITIES SUSPENDED: THE DEVASTATING CONSEQUENCES OF ZERO TOLERANCE AND SCHOOL DISCIPLINE* 2 (2000) (defining zero tolerance policies as “nondiscretionary punishment guidelines” operating under a philosophy that “embraces harsh punishment over education”); Thalia González, *Keeping Kids in Schools: Restorative Justice, Punitive Discipline, and the School to Prison Pipeline*, 41 J.L. & EDUC. 281, 281–83 (2012) (reviewing interdisciplinary literature on the negative harms of zero tolerance school policies); Richard O. Welsh & Shafiqua Little, *Caste and Control in Schools: A Systematic Review of the Pathways, Rates and Correlates of Exclusion Due to School Discipline*, 94 CHILD. & YOUTH SERVS. REV. 315, 319, 335 (2018) (systematically

school-to-prison pipeline.<sup>58</sup> Proceeding with a presumption of readers' familiarity with zero tolerance and exclusionary school discipline policies, this Article does not present a comprehensive research review. Rather, it offers the following historical data as examples to contextualize and concretize the harms that students across the country are currently facing—and will continue to face—as state and federal actions further dismantle civil rights protections and retrench exclusion.<sup>59</sup>

Beginning in 1973, Black student suspensions increased across the country, reaching a peak in the late 2000s, as the racial discipline gap not only persisted but widened.<sup>60</sup> For example, in 2004, data from the U.S. Department of Education's Office for Civil Rights estimated Black students were 2.84 times more likely to be suspended and 2.47 times more likely to be expelled than white students.<sup>61</sup> In 2011–2012, analysis by Leung-Gagné et al. found that “Black and Native American students experienced the largest and most sustained increases in suspension

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reviewing interdisciplinary literature on the relationship between school exclusion and students' short- and long-term educational and life outcomes).

58. See ADVANCEMENT PROJECT, SCHOOL-TO-PRISON PIPELINE 1 (2017) [https://advancementproject.org/wp-content/uploads/2017/11/03721750a0812a95bd\\_6im6ih8ns.pdf](https://advancementproject.org/wp-content/uploads/2017/11/03721750a0812a95bd_6im6ih8ns.pdf) [<https://perma.cc/T4VF-8K4D>] (describing the “crisis” of students being “suspended, expelled, shuffled off to disciplinary alternative schools, and even arrested for minor misbehavior or trivial actions”); *Juvenile Justice Resolution*, NAACP (2015), <https://naacp.org/resources/juvenile-justice-0> [<https://perma.cc/3MVU-CEZE>] (resolving to work with stakeholders to eliminate racial disparities in expulsion, suspension, and in-school arrests).

59. See Exec. Order No. 14,242, 90 Fed. Reg. 13679 (Mar. 20, 2025) (ordering closure of the Department of Education); Exec. Order No. 14,280, 90 Fed. Reg. 17533 (Apr. 23, 2025) (ordering revision of school discipline policies to eliminate DEI-based processes).

60. MELANIE LEUNG-GAGNÉ ET AL., LEARNING POL'Y INST., PUSHED OUT: TRENDS AND DISPARITIES IN OUT-OF-SCHOOL SUSPENSION 4 (2022). As civil rights organizations have documented, the risk of exclusion and punishment is heightened for Black and Latiné students under discretionary authority and subjective offenses as they perpetuate racial threat analyses and anti-Blackness. See, e.g., QUERESHI & OKONOFUA, *supra* note 49, at 4; ALEXANDRA BRODSKY ET AL., NAT'L WOMEN'S L. CTR., DRESS CODED: BLACK GIRLS, BODIES, AND BIAS IN D.C. SCHOOLS (2018); U.S. GOV'T ACCOUNTABILITY OFF., GAO-23-105348, K-12 EDUCATION: DEPARTMENT OF EDUCATION SHOULD PROVIDE INFORMATION ON EQUITY AND SAFETY IN SCHOOL DRESS CODES (Oct. 25, 2022).

61. Russell Skiba et al., *Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations*, 63 AM. PSYCH. 852, 855 fig.2 (2008). Discipline gaps are not solely evident in suspension rates. For example, data for the 2015–16 school year revealed consistency in a racial and gender gap between white boys and their Black, Latiné, and American Indian and Alaskan Native peers for referrals to law enforcement. See U.S. GOV'T ACCOUNTABILITY OFF., GAO-18-258, K-12 EDUCATION: DISCIPLINE DISPARITIES FOR BLACK STUDENTS, BOYS, AND STUDENTS WITH DISABILITIES 1, 7, 20 (2018); DANIEL J. LOSEN & PAUL MARTINEZ, LOST OPPORTUNITIES: HOW DISPARATE SCHOOL DISCIPLINE CONTINUES TO DRIVE DIFFERENCES IN THE OPPORTUNITY TO LEARN, 8–20 (2020).

among all groups, reaching a peak of 16% in the 2009–10 school year for Black students and 9% in 2011–12 for Native American students.”<sup>62</sup> While some states reduced school suspensions between 2011–2012 and 2017–2018, state-level analysis indicated “the Black-white gap increased in five states: Kansas, Mississippi, Nevada, North Dakota and South Carolina.”<sup>63</sup> However, the discipline gap is not simply a relic of the past. Federal data released in 2020 indicates that Black students accounted for 30.4% of non-disabled students who experienced more than one out-of-school suspension, while comprising only fifteen of the total student population.<sup>64</sup> Analysis by race and gender reveals disparities across the educational experience, beginning as early as preschool. Research has indicated that more than half of the preschoolers suspended or expelled daily were Black boys.<sup>65</sup> Intersectional examinations also reveal the disparate use of suspensions and expulsions against Black girls in early childhood education.<sup>66</sup> National data also confirm discipline disparities for students with disabilities, who are two to three times more likely to experience suspension than their non-disabled peers.<sup>67</sup> The U.S. Department of Education reported that in the 2015–16 school year, students with disabilities represented 12% of total student enrollment but 28% of students referred to law enforcement or arrested.<sup>68</sup> Consistent with racialized inequities, discrimination against disabled students is not isolated within a single academic year. Longitudinal analyses show that students with disabilities consistently experience higher rates of suspensions, expulsions, referrals to law enforcement, and school-based

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62. LEUNG-GAGNÉ ET AL., *supra* note 60, at 4.

63. LEUNG-GAGNÉ ET AL., *supra* note 60, at vii.

64. Office for Civil Rights, *Civil Rights Data Collection: National Data*, U.S. DEP’T. OF EDUC. (2020), <https://civilrightsdata.ed.gov/profile/us?surveyYear=2020> [https://perma.cc/6CVQ-SQJY]; see also U.S. GOV’T ACCOUNTABILITY OFF., *supra* note 61 (analyzing the effects of classroom discipline on K-12 students across race, gender, and disability status).

65. Sara Novak, *Half of the 250 Kids Expelled from Preschool Each Day Are Black Boys*, SCI. AM. (Jan. 12, 2023), <https://www.scientificamerican.com/article/half-of-the-250-kids-expelled-from-preschool-each-day-are-black-boys/> [https://perma.cc/ZF39-HQWJ].

66. See, e.g., EPSTEIN, BLAKE & GONZÁLEZ, *supra* note 29.

67. DANIEL LOSEN ET AL., ARE WE CLOSING THE SCHOOL DISCIPLINE GAP? 6 (2015), [https://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/are-we-closing-the-school-discipline-gap/AreWeClosingTheSchoolDisciplineGap\\_FINAL221.pdf](https://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/are-we-closing-the-school-discipline-gap/AreWeClosingTheSchoolDisciplineGap_FINAL221.pdf) [https://perma.cc/RWH9-UCCS].

68. U.S. DEP’T OF EDUC. OFF. FOR C.R., 2015–16 CIVIL RIGHTS DATA COLLECTION SCHOOL CLIMATE AND SAFETY 4 fig.3 (2019), <https://www.ed.gov/sites/ed/files/about/offices/list/ocr/docs/school-climate-and-safety.pdf> [https://perma.cc/2Y5Q-FD8K].

arrests when compared to their non-disabled peers.<sup>69</sup> Such disparities are compounded for children with identities at the intersection of race, gender, and disability. For example, in the 2017–18 school year, Black girls with disabilities “received out-of-school suspensions at almost 1.7 times the rate of Black girls without disabilities and 3.6 times the rate of White girls with disabilities.”<sup>70</sup> Black girls with disabilities also experienced the highest rates of arrests and referrals to law enforcement.<sup>71</sup>

## II. FRAMEWORK, METHODS, AND DATA

This Article builds on research examining the escalation of anti-inclusive and punitive state education measures that have been proposed and passed beginning in 2020. It contributes to the literature in two salient ways. First, it presents current data on the frequency, form, and location of the exclusionary school discipline bills proposed and passed in all fifty states and the District of Columbia over a five-year period. Second, and relatedly, it extends existing research on educational retrenchment following national COVID school closures<sup>72</sup> and “racial reckonings,”<sup>73</sup>

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69. In the 2017–18 school year, 9% of students with disabilities received out-of-school suspensions. LEUNG-GAGNÉ ET AL., *supra* note 60, at vi. Students with disabilities were at least two times more likely to be expelled, referred to law enforcement, or subjected to school related arrests as compared to their nondisabled peers. See CTR. FOR LEARNER EQUITY, STUDENTS WITH DISABILITIES, SCHOOL DISCIPLINE AND ENGAGEMENT OF LAW ENFORCEMENT 2 (2024).

70. See U.S. GOV’T ACCOUNTABILITY OFF., GAO-24-106787, K-12 EDUCATION: NATIONALLY, BLACK GIRLS RECEIVE MORE FREQUENT AND MORE SEVERE DISCIPLINE IN SCHOOL THAN OTHER GIRLS 13 (2024).

71. See U.S. GOV’T ACCOUNTABILITY OFF., GAO-24-106294, K-12 EDUCATION: DIFFERENCES IN STUDENT ARREST RATES WIDEN WHEN RACE, GENDER, AND DISABILITY STATUS OVERLAP 16 fig.3 (2024). Additionally, Native Hawaiian and Pacific Islander students with disabilities were nearly six times more likely to be subject to school-related arrests as compared to the average rates. *Id.*

72. See generally Nicole Zviedrite et al., *COVID-19-Related School Closures, United States, July 27, 2020–June 30, 2022*, 30 EMERGING INFECTIOUS DISEASES 58, 61 (2024) (analyzing data correlations between COVID-19 surveillance data and COVID-19-related school closures); U.S. EDUCATION IN THE TIME OF COVID, NAT’L CTR. FOR EDUC. STAT., <https://nces.ed.gov/surveys/annualreports/topical-studies/covid/> [https://perma.cc/UKG3-WD4E] (describing school closures at the beginning of the COVID-19 pandemic).

73. See generally Elliott C. McLaughlin, *How George Floyd’s Death Ignited a Racial Reckoning That Shows No Signs of Slowing Down*, CNN (Aug. 9, 2020, 11:31 AM), <https://www.cnn.com/2020/08/09/us/george-floyd-protests-different-why/index.html> [https://perma.cc/ML6E-QUMN] (describing the protests against police brutality that occurred following the death of George Floyd in 2020); *America’s Racial Reckoning*, NBC NEWS, <https://www.nbcnews.com/americas-racial-reckoning> [https://perma.cc/RR6X-T5BF] (cataloging various news stories on “protests, boycotts and the fight against systemic racism that is reverberating around the country”); Ailsa Chang, Rachel Martin & Eric Marrapodi,

offering further evidence of how state legislatures have operationalized the surveillance, policing, and exclusion of non-white students from school spaces. Though the laws included in this study are distinct in form—such as direct spatial segregation—from anti-CRT laws or book bans, they are united by the same normative and regulatory force: restricting access to public educational spaces based on white status.<sup>74</sup>

#### A. Theoretical Framing and Empirical Context

Situated within the discipline of critical education civil rights, this project bridges the theoretical framework of Critical Race Theory (“CRT”)<sup>75</sup> and the empirical research field of exclusionary school discipline.<sup>76</sup> For nearly three decades, CRT in educational research<sup>77</sup> has foregrounded the endemic nature of racism and anti-Blackness; intersections between racism, anti-Blackness, and other forms of subordination;<sup>78</sup> and white avoidance of “the possibility of institutional change and reorganization that might

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Summer of Racial Reckoning, NPR (Aug. 16, 2020, 9:00 AM), <https://www.npr.org/2020/08/16/902179773/summer-of-racial-reckoning-the-match-lit> [https://perma.cc/MCL5-HN87] (reporting on the American police brutality protests of 2020 as a “unique moment in the nation’s history”).

74. See Benjamin Blaisdell, *Resisting Redlining in the Classroom: A Collaborative Approach to Racial Spaces Analysis*, in CRITICAL RACE SPATIAL ANALYSIS: MAPPING TO UNDERSTAND AND ADDRESS EDUCATIONAL INEQUITY 109, 112 (Deb Morrison, Subini Ancy Annamma & Darrell D. Jackson eds., 2017) (describing schools as racial spaces where teachers draw lines rooted in segregation and whiteness).

75. CRT places race at the center of understanding American law. *Introduction*, in CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT 897, 891–92 (Kimberlé Crenshaw et al. eds., 1995); see also Kimberlé Williams Crenshaw, *Race, Reform, and Retrenchment: Transformation and Legitimation in Antidiscrimination Law*, 101 HARV. L. REV. 1331, 1336 (1988) (observing racism as a central ideological underpinning of American society).

76. See, e.g., Kathryn E. Wiley et al., *Deep Punishment and Internal Colony: A Critical Analysis of In-School Suspension Rooms Inside Two Racially “Integrated” Middle Schools*, 54 URB. REV. 576, 577–78 (2022).

77. As Angela Harris has highlighted, CRT has “mov[ed] through capillaries within and outside law.” Angela P. Harris, *Foreword: Racial Capitalism and Law*, in HISTORIES OF RACIAL CAPITALISM xiv, xiv (Destin Jenkins & Justin Leroy eds., 2021); see also Gloria Ladson-Billings, *Just What is Critical Race Theory and What’s it Doing in a Nice Field Like Education?*, 11 INT’L J. QUALITATIVE STUD. EDUC. 7, 17–21 (1998) (discussing the relevance of CRT to education); Gloria Ladson-Billings & William F. Tate IV, *Toward a Critical Race Theory of Education*, 97 TCHR. COLL. REC. 47, 47 (1995) (arguing “for a critical race theoretical perspective in education analogous to that of [C]ritical [R]ace [T]heory in legal scholarship.”).

78. See, e.g., Wun, *supra* note 49, at 738 (focusing on the racialized and gendered subordination experienced by Black girls); Jamilia J. Blake et al., *The Role of Colorism in Explaining African American Females’ Suspension Risk*, 32 SCH. PSYCH. Q. 118, 118–30 (2017) (examining the intersection of racism and gender bias in schools).

affect them,”<sup>79</sup> given the propertied interests of whiteness.<sup>80</sup> As Gloria Ladson-Billings and William F. Tate IV acutely observed in 1995, “[w]hiteness is constructed in this society as the absence of the ‘contaminating’ influence of blackness. . . . [T]he absolute right to exclude was demonstrated initially by denying blacks access to schooling altogether.”<sup>81</sup> Furthermore, methodologically, CRT has produced expositions of a “reform-retrenchment dialectic” that has “constituted America’s legal and political history.”<sup>82</sup>

The transition from state anti-Black legislation that completely excluded non-white children from public education and created educational apartheid under formal Jim Crow regimes<sup>83</sup> to modern facially neutral exclusionary school discipline occurred following the *Brown v. Board of Education* decision<sup>84</sup> and the violent contestation over desegregation.<sup>85</sup> Since then, an expansive research record has documented the growth, disparate use, and consequences of exclusionary discipline across multiple indicators.<sup>86</sup> In brief, quantitative and qualitative studies indicate persistent and directed exclusion of Black

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79. Ladson-Billings & Tate, *supra* note 77, at 55.

80. *Id.* at 58 (applying Cheryl Harris’s seminal exposition of whiteness as property to public education).

81. *Id.* at 60.

82. Devon W. Carbado, *Critical What What?*, 43 CONN. L. REV. 1593, 1607 (2011).

83. See Thalia González & Paige Joki, *Reproducing Inequality: Racial Capitalism and the Cost of Public Education*, 65 B.C. L. REV. 317, 334–36 (2024) (describing early legislation and legal decisions excluding non-white children from accessing public education).

84. 347 U.S. 483 (1954).

85. See González & Martel, *supra* note 42, at 11 (analysis of reports, interviews, and state legislation to evidence how tropes and stereotypes of Black children justified exclusionary school discipline practices); George, *supra* note 42, at 522–24 (describing resistance to school desegregation through “deny, defund, and divert lawmaking”); McClellan, *supra* note 42, at 658–59 (discussing student pushout as resistance to desegregation and providing statistics for the racialized increase in school suspensions in the first years of desegregation).

86. See U.S. GOV’T ACCOUNTABILITY OFF., *supra* note 70 (showing that Black girls faced more and harsher forms of discipline in educational settings compared to other girls); Russell J. Skiba et al., *The Color of Discipline: Sources of Racial and Gender Disproportionality in School Punishment*, 34 URB. REV. 317, 327–30 (2002) (empirical analysis of middle school disciplinary data for an urban school district finding differential treatment for student behavior by race); DANIEL J. LOSEN & AMIR WHITAKER, UCLA C.R. PROJECT & ACLU OF S. CALIF., ELEVEN MILLION DAYS LOST: RACE, DISCIPLINE, AND SAFETY AT U.S. PUBLIC SCHOOLS (2018) (detailing how disparities in discipline between children of different races leads to inequitable access to education). As Kathryn E. Wiley argues, white students were largely exempted from exclusionary school discipline post-*Brown*, and they became the beneficiaries of the racial sequestering of Black students and educational resource hoarding. See Kathryn E. Wiley, *A Tale of Two Logics: School Discipline and Racial Disparities in a “Mostly White” Middle School*, 127 AM. J. EDUC. 163, 163 (2021) (identifying “criminalized

children—as early as preschool<sup>87</sup>—through disciplinary practices. These practices are associated with lower school achievement and graduation rates for Black and Latiné children;<sup>88</sup> significant health and mental health harms for Black, Latiné, American Indian and Native Alaskan, and LGBTQI+ children, and children with disabilities;<sup>89</sup> and juvenile system involvement, such as the school-to-prison pipeline.<sup>90</sup>

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sequestering and racial exemption” as two race discipline logics effecting racial discipline disparities in a majority white school).

87. See U.S. DEP’T OF EDUC. OFF. FOR C.R., *supra* note 33, at 5 (“Although Black preschool children accounted for 17% of preschool enrollment, they represented 31% of children who received one or more out-of-school suspensions and 25% of those expelled.”).

88. See, e.g., Kristian Lenderman & Jacqueline Hawkins, *Out of the Classroom and Less Likely to Graduate: The Relationship Between Exclusionary Discipline and Four-Year Graduation Rates in Texas*, 9 TEX. EDUC. REV. 6, 16 (2021) (finding that “students who were disciplined graduated at lower rates” and “ninth-grade students who were disciplined were more likely to be Black, Latinx, and multiracial”); Camila Cribb Fabersunne et al., *Exclusionary School Discipline and School Achievement for Middle and High School Students, by Race and Ethnicity*, 6 JAMA NETWORK OPEN 1 (2023) (suggesting categorizing exclusionary school discipline events as adverse childhood experiences due to their impact on health and reduced educational attainment, and finding racial and ethnic disparities in their prevalence).

89. See, e.g., Thalia González, Alexis Etow & Cesar De La Vega, *A Health Justice Response to School Discipline and Policing*, 71 AM. UNIV. L. REV. 1927 (2022) (advocating for a health justice response to addressing inequities in school discipline that entrench health disparities for BIPOC students and students with disabilities); Thalia González, *Race, School Policing, and Public Health*, 73 STAN. L. REV. 180, 180 (2021) (discussing racialized school policing as a public health issue that “negatively affects Black students’ mental health and physical safety”); Kathleen H. Krause et al., *Report of Unfair Discipline at School and Associations with Health Risk Behaviors and Experiences — Youth Risk Behavior Survey, United States, 2023*, 73 MORBIDITY & MORTALITY WKLY. REP. 69, 69 (2024) (utilizing Center for Disease Control data to demonstrate that “reports of unfair discipline are associated with various health risk behaviors and experiences” and have disproportionate prevalence by race and ethnicity); Mara Eyllon et al., *Exclusionary School Discipline Policies and Mental Health in a National Sample of Adolescents Without Histories of Suspension or Expulsion*, 54 YOUTH & SOC’Y 84, 84 (2022) (observing that exclusionary school policies were associated with higher levels of depressive symptoms); Catherine Duarte et al., *Punitive School Discipline as a Mechanism of Structural Marginalization with Implications for Health Inequity: A Systematic Review of Quantitative Studies in the Health and Social Sciences Literature*, 1519 ANN. N.Y. ACAD. SCI. 129, 129 (2023) (linking “punitive school discipline to greater risk for numerous health outcomes . . . with documented implications for racial health inequity”); Susanna K. Jain, Nathaniel Beers & Ryan Padrez, *School Suspension and Expulsion: Policy Statement*, 154 AM. ACAD. PEDIATRICS 1, 1 (2024) (indicating that students “affected by exclusionary school discipline are at higher risk” for experiences which “are associated with a worse profile of physical and mental health outcomes”).

90. See, e.g., Judith A.M. Scully, *Examining and Dismantling the School-to-Prison Pipeline: Strategies for a Better Future*, 68 ARK. L. REV. 959, 961 (2016) (focusing on the “impact of various school policies used to push children out of public school” and into the criminal and juvenile punishment systems).

Moreover, these disciplinary policies impose direct fiscal costs and consequences on taxpayers.<sup>91</sup>

Complementing empirical studies of the negative correlations and consequences of exclusionary school discipline, as well as transdisciplinary research on school discipline, carcerality, marginalization, and racialized space in public schools,<sup>92</sup> legal scholarship has addressed school discipline legislation in single- and multi-states studies.<sup>93</sup> However, as noted *supra*, contemporary and systematic examinations of regressive state exclusionary school discipline measures are absent from the literature. Drawing on an original dataset from twenty-four states, this Article presents results in nine categories or typologies and spanning a five-year period, revealing the heightened risk for children as young as age five of temporary and/or permanent removal from their public school classrooms.

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91. See, e.g., RUSSELL W. RUMBERGER & DANIEL J. LOSEN, UCLA C.R. PROJECT, THE HIDDEN COSTS OF CALIFORNIA'S HARSH SCHOOL DISCIPLINE: AND THE LOCALIZED ECONOMIC BENEFITS FROM SUSPENDING FEWER HIGH SCHOOL STUDENTS 4 (2017), <https://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/summary-reports/the-hidden-cost-of-californias-harsh-discipline/CostofSuspensionReportFinal-corrected-030917.pdf> [https://perma.cc/8B62-ZFBK] (studying a three-year cohort and finding that if the “suspension rate were lowered by just one percentage point, \$180 million of . . . economic losses would be averted”).

92. See, e.g., Blaisdell & Gray, *supra* note 54, at 297–98 (describing the racialization of space as a theoretical frame); Verónica N. Vélez & Daniel G. Solórzano, *Critical Race Spatial Analysis*, in *CRITICAL RACIAL SPATIAL ANALYSIS: MAPPING TO UNDERSTAND AND ADDRESS EDUCATIONAL INEQUITY* 8, 20–21 (Deb Morrison, Subini Ancy Annamma & Darrell D. Jackson eds., 2017) (providing a working definition of “critical race spatial analysis” as a framework in education); Benjamin Blaisdell, *School as Racial Spaces: Understanding and Resisting Structural Racism*, 29 INT'L J. QUAL. STUD. EDUC. 248, 252–54 (2016) (explaining how schools as racial spaces affect the provision and quality of education); Benjamin Blaisdell, *Right to the Classroom: Seeking Spatial Justice in Kindergarten*, 52 URB. REV. 151, 169 (2019) (“[F]raming educational rights around the right to the classroom can . . . lead to greater racial spatial justice.”).

93. See, e.g., Rebecca Morton, *Returning “Decision” to School Discipline Decisions: An Analysis of Recent, Anti-Zero Tolerance Legislation*, 91 WASH. U. L. REV. 757 (2014) (exploring anti-zero tolerance approaches to school discipline in legislation in Texas, North Carolina, Colorado, and Massachusetts); Jacque Phillips et al., *Colorado School Discipline Law: Gaps and Goals*, 97 DENV. L. REV. 347 (2020) (examining Colorado school discipline laws, including a comparison to other states in the Tenth Circuit); Juliana Carter, Comment, *Reimagining Pennsylvania’s School Discipline Law and Student Rights in Discipline Hearings*, 88 TEMP. L. REV. ONLINE 4 (2017) (discussing disciplinary exclusion and the need for greater legal protection for students in hearings, with a focus on reforming the Pennsylvania Administrative Code); F. CHRIS CURRAN, UNIV. FLA. EDUC. POL’Y RSCH. CTR., *THE EXPANDING PRESENCE OF LAW ENFORCEMENT IN FLORIDA SCHOOLS* 2 (2020) (reporting on the increase of law enforcement in schools after Florida’s 2018 Marjory Stoneman Douglas High School Public Safety Act).

### B. Methods and Study Data Sources

Legislative data for this study was collected through a multi-step screening and mixed-method coding of multiple databases.<sup>94</sup> Quantitative analysis was used to ascertain the frequency of legislation inclusive of a predetermined set of terms and phrases related to exclusionary school discipline, including “suspension,” “expulsion,” “suspend,” “expel,” “student discipline,” “removal,” “remove from classroom,” and “exclusion,” to isolate a preliminary class of proposed legislation. Additional terms were added based on initial categorization and review of laws. The final set of terms applied was “Teacher’s Bill of Rights” and “Teachers’ Bill of Rights.”<sup>95</sup> Data collection occurred in two phases with cross-analysis using the national legislative databases of LegiScan and Westlaw for the years 2020 to 2025.<sup>96</sup> Each search result in LegiScan and Westlaw was screened and coded against the predetermined set of terms and inclusion criteria. Each database search was conducted for all fifty states and the District of Columbia, applying the study terms and exclusions to isolate all legislation (proposed, failed, and passed) at aggregated (national) and disaggregated (state)

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94. Content analysis is a widely accepted method in legal and social science fields. See, e.g., Mark A. Hall & Ronald F. Wright, *Systematic Content Analysis of Judicial Opinions*, 96 CALIF. L. REV. 63, 121 (2008) (analyzing the history and benefits of content analysis and arguing that content analysis could form the basis for a uniquely legal empirical study); Christina L. Boyd, *In Defense of Empirical Legal Studies*, 63 BUFF. L. REV. 363, 377 (2015) (exploring the importance of empirical studies as an invaluable method of studying law); Jodi L. Short, *The Paranoid Style in Regulatory Reform*, 63 HASTINGS L.J. 633, 662–75 (2012) (conducting content analysis of nearly 1,400 law review articles); José B. Ashford, Katherine Puzauskas & Robert Dormady, *Judicial Responses to Age and Other Mitigation Evidence: An Exploratory Case Study of Juvenile Life Sentences in Pre-Miller Cases*, 112 J. CRIM. L. & CRIMINOLOGY 593, 606 (2022) (employing a mixed-methods design including content analysis to study judicial responses to mitigation evidence); Theodore Eisenberg, *Why Do Empirical Legal Scholarship?*, 41 SAN DIEGO L. REV. 1741, 1741 (2004) (empirical legal studies can “help[] inform litigants, policymakers, and society as a whole about how the legal system works”).

95. Given the scope of this study, inclusion criteria also included that the statute or bill increase or expand exclusionary school discipline. Statutes and bills that sought to limit the use of exclusionary school discipline were collected and are on files with authors. See RAFA, *supra* note 27, for examples.

96. The purpose of coding in multiple databases was to develop a comprehensive dataset of proposed and codified exclusionary school discipline legislation. LegiScan searches identified legislation proposed during the relevant timeframe, whereas Westlaw searches each state’s currently codified exclusionary school discipline laws, which can be historically traced to reveal recent changes. We applied the “Saved Search Alert” feature within the LegiScan database to generate automatic monthly “Search Reports” to supplement original search results from December 2023 to May 2024. A final review of LegiScan was completed in January 2025.

levels.<sup>97</sup> Once the final dataset was identified,<sup>98</sup> the LegiScan database was used to track any legislative changes or progress.

### III. FINDINGS

As shown in Table 1, between January 1, 2020 and May 31, 2025, twenty-four states introduced fifty-six bills that increase the scope of exclusionary school discipline within their public school systems.<sup>99</sup> As of October 2025, of the fifty-six proposed bills,<sup>100</sup> fifteen bills have

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97. Legislation adopted during the relevant interval was determined through Westlaw's "Credits" element for each relevant section of state law. Additionally, Westlaw's KeyCite feature complemented the LegiScan search process as a separate and secondary confirmation of relevant proposed laws in each jurisdiction to be included in the study.

98. For the purposes of this study, bills that related to traditional criminal behaviors (e.g., firearms, drugs, alcohol) were excluded from the dataset. For example, Ohio's H.B. 206, which proposed permitting expulsion for certain behaviors, such as bringing a gun to school, bringing a knife to school, or making a bomb threat, H.B. 206, 135th Gen. Assemb., Reg. Sess. (Ohio 2025), and Arizona's H.B. 2792, which proposed mandating expulsion for bringing a deadly weapon to school, H.B. 2792, 57th Leg., Reg. Sess. (Ariz. 2025), were not included in the dataset. Likewise, although relevant to the application of exclusionary discipline practices and policies, legislation related to disciplinary procedure or due process requirements was omitted from the set. For example, New York's A. 4314, which proposed allowing suspensions without a hearing in some circumstances, A. 4314, 2025–2026 Leg., Reg. Sess. (N.Y. 2025), was not included in the dataset.

99. Over the five-year study period, nearly three-fourths of the proposed exclusionary school discipline laws ( $n = 42$ ) were sponsored by Republican legislators. Of the fifteen remaining bills, eight were introduced by Democratic legislators, and seven were introduced with bipartisan sponsorship.

100. H.B. 214, 2020 Leg., Reg. Sess. (Ala. 2020); H.B. 260, 2021 Leg., Reg. Sess. (Ala. 2021); S.B. 157, 2024 Leg., Reg. Sess. (Ala. 2024); H.B. 356, 2025 Leg., Reg. Sess. (Ala. 2025); H.B. 85, 2025 Leg., Reg. Sess. (Ala. 2025); H.B. 2460, 56th Leg., 1st Reg. Sess. (Ariz. 2023); H.B. 2663, 57th Leg., 1st Reg. Sess. (Ariz. 2025); S.B. 725, 2025 Gen. Assemb., Jan. Sess. (Conn. 2025); H.B. 1035, 2023 Leg., Reg. Sess. (Fla. 2023); S.B. 244, 2023 Leg., Reg. Sess. (Fla. 2023); H.B. 581, 67th Leg., 2d Reg. Sess. (Idaho 2024); H.B. 349, 68th Leg., 1st Reg. Sess. (Idaho 2025); S.B. 1400, 103d Gen. Assemb., Reg. Sess. (Ill. 2023); H.B. 3600, 103d Gen. Assemb., Reg. Sess. (Ill. 2023); H.B. 1543, 123d Gen. Assemb., 1st Reg. Sess. (Ind. 2023); H.B. 1262, 123d Gen. Assemb., 2d Reg. Sess. (Ind. 2024); H.B. 538, 2023 Gen. Assemb., Reg. Sess. (Ky. 2023); S.B. 202, 2023 Gen. Assemb., Reg. Sess. (Ky. 2023); H.B. 322, 2024 Leg., Reg. Sess. (La. 2024); S.B. 358, 2024 Leg., Reg. Sess. (La. 2024); L.D. 165, 132d Leg., 1st Reg. Sess. (Me. 2025); H.B. 773, 447th Gen. Assemb., Reg. Sess. (Md. 2025); S.F. 2066, 94th Leg., Reg. Sess. (Minn. 2025); H.F. 1436, 94th Leg., Reg. Sess. (Minn. 2025); H.B. 192, 102d Gen. Assemb., 1st Reg. Sess. (Mo. 2023); S.B. 138, 69th Leg., Reg. Sess. (Mont. 2025); L.B. 149, 109th Leg., 1st Sess. (Neb. 2025); A.B. 285, 82d Leg., Reg. Sess. (Nev. 2023); A.B. 330, 82d Leg., Reg. Sess. (Nev. 2023); S.B. 152, 82d Leg., Reg. Sess. (Nev. 2023); H.B. 247, 2021–2022 Gen. Assemb., Reg. Sess. (N.C. 2021); H.B. 188, 2023–2024 Gen. Assemb., Reg. Sess. (N.C. 2023); H.B. 1027, 2023–2024 Gen. Assemb., Reg. Sess. (N.C. 2024); S.B. 271, 58th Leg., 1st Sess. (Okla. 2021); S.B. 865, 59th Leg., 1st Sess. (Okla. 2023); H.B. 3123, 59th Leg., 2d Sess. (Okla. 2024); H.B. 3348, 59th Leg., 2d Sess. (Okla. 2024); S.B. 757, 60th Leg.,

been codified into statute with legal effect<sup>101</sup> and forty-one bills failed to pass.<sup>102</sup>

Table 1. State Data

Jurisdiction	Bill Number	Status	Date proposed	Date Passed	Age
Alabama	HB 214	Failed	Feb. 2020	-	K-12
	HB 260	Failed	Feb. 2021	-	K-12
	SB 157	Passed	Feb. 2024	May 2024	K-12
	HB 356	Failed	Apr. 2025	-	K-12
	HB 85	Failed	Apr. 2025	-	K-12
Arizona	HB 2460	Passed	Jan. 2023	June 2023	K-4
	HB 2663	Failed	Feb. 2025	-	K-12
Connecticut	SB 725	Failed	Jan. 2025	-	K-12
Florida	SB 244	Failed	Feb. 2023	-	K-12
	HB 1035	Passed	Feb. 2023	May 2023	K-12
Idaho	HB 581	Passed	Feb. 2024	Mar. 2024	K-12
	HB 349	Failed	Mar. 2025	-	K-12

1st Sess. (Okla. 2025); S.B. 322, 124th Gen. Assemb., Reg. Sess. (S.C. 2021); S.B. 202, 125th Gen. Assemb., Reg. Sess. (S.C. 2023); H.B. 4864, 125th Gen. Assemb., Reg. Sess. (S.C. 2024); H.B. 16, 112th Gen. Assemb., Reg. Sess. (Tenn. 2021); S.B. 230, 112th Gen. Assemb., Reg. Sess. (Tenn. 2021); S.B. 245, 88th Leg., Reg. Sess. (Tex. 2023); H.B. 4033, 88th Leg., Reg. Sess. (Tex. 2023); S.B. 1523, 89th Leg., Reg. Sess. (Tex. 2025); H.B. 6, 89th Leg., Reg. Sess. (Tex. 2025); H.B. 5553, 89th Leg., Reg. Sess. (Tex. 2025); H.B. 1461, 2023 Gen. Assemb., Reg. Sess. (Va. 2023); H.B. 853, 2024 Gen. Assemb., Reg. Sess. (Va. 2024); H.B. 1637, 69th Leg., Reg. Sess. (Wash. 2025); H.B. 2890, 2023 Leg., Reg. Sess. (W. Va. 2023); H.B. 4776, 2024 Leg., Reg. Sess. (W. Va. 2024); S.B. 614, 2024 Leg., Reg. Sess. (W. Va. 2024); H.B. 2649, 2025 Leg., Reg. Sess. (W. Va. 2025); S.B. 199, 2025 Leg., Reg. Sess. (W. Va. 2025).

101. Ala. S.B. 157; Ariz. H.B. 2460; Fla. H.B. 1035; Idaho H.B. 581; Ill. S.B. 1400; Ky. H.B. 538; La. H.B. 322; La. S.B. 358; Nev. A.B. 285; Nev. A.B. 330; Tenn. H.B. 16; Tenn. S.B. 230; Tex. H.B. 6; W. Va. H.B. 2890; W. Va. S.B. 199.

102. Ala. H.B. 214; Ala. H.B. 260; Ala. H.B. 356; Ala. H.B. 85; Ariz. H.B. 2663; Conn. S.B. 725; Fla. S.B. 244; Idaho H.B. 349; Ill. H.B. 3600; Ind. H.B. 1543; Ind. H.B. 1262; Ky. S.B. 202; Me. L.D. 165; Md. H.B. 773; Minn. S.F. 2066; Minn. H.F. 1436; Mo. H.B. 192; Mont. S.B. 138; Neb. L.B. 149; Nev. S.B. 152; N.C. H.B. 247; N.C. H.B. 188; N.C. H.B. 1027; Okla. S.B. 271; Okla. S.B. 865; Okla. H.B. 3123; Okla. H.B. 3348; Okla. S.B. 757; S.C. S.B. 322; S.C. S.B. 202; S.C. H.B. 4864; Tex. S.B. 245; Tex. H.B. 4033; Tex. S.B. 1523; Tex. H.B. 5553; Va. H.B. 1461; Va. H.B. 853; Wash. H.B. 1637; W. Va. H.B. 4776; W. Va. S.B. 614; W. Va. H.B. 2649.

Jurisdiction	Bill Number	Status	Date proposed	Date Passed	Age
Illinois	SB 1400	Passed	Feb. 2023	Aug. 2024	K-12
	HB 3600	Failed	Feb. 2023	-	K-12
Indiana	HB 1543	Failed	Jan. 2023	-	K-12
	HB 1262	Failed	Jan. 2024	-	K-12
Kentucky	HB 538	Passed	Feb. 2023	Mar. 2023	K-12
	SB 202	Failed	Feb. 2023	-	K-12
Louisiana	SB 358	Passed	Mar. 2024	May 2024	6-12
	HB 322	Passed	Feb. 2024	May 2024	K-12
Maine	LD 165	Failed	May 2025	-	K-5
Maryland	HB 773	Failed	Jan. 2025	-	6-12
Minnesota	SF 2066	Failed	Feb. 2025	-	K-3
	HF 1436	Failed	Feb. 2025	-	K-3
Missouri	HB 192	Failed	Jan. 2023	-	K-12
Montana	SB 138	Failed	Jan. 2025	-	K-12
Nebraska	LB 149	Failed	Jan. 2025	-	K-2
Nevada	AB 285	Passed	Mar. 2023	June 2023	K-12
	AB 330	Passed	Mar. 2023	June 2023	K-12
	SB 152	Failed	Feb. 2023	-	K-12
North Carolina	HB 247	Failed	Mar. 2021	-	K-12
	HB 188	Failed	Feb. 2023	-	K-12
	HB 1027	Failed	May 2024	-	K-12
Oklahoma	SB 271	Failed	Feb. 2021	-	K-12
	SB 865	Failed	Feb. 2023	-	K-12
	HB 3123	Failed	Feb. 2024	-	K-12
	HB 3348	Failed	Feb. 2024	-	K-12
	SB 757	Failed	Feb. 2025	-	K-12
South Carolina	SB 322	Failed	Jan. 2021	-	K-12
	SB 202	Failed	Jan. 2023	-	K-12
	HB 4864	Failed	Jan. 2024	-	K-12
Tennessee	HB 16	Passed	Jan. 2021	Apr. 2021	K-12
	SB 230	Passed	Jan. 2021	Apr. 2021	K-12

Jurisdiction	Bill Number	Status	Date proposed	Date Passed	Age
Texas	SB 245	Failed	Jan. 2023	-	K-12
	HB 4033	Failed	Mar. 2023	-	K-12
	HB 6	Passed	Feb. 2025	June 2025	K-12
	SB 1523	Failed	Feb. 2025	-	K-12
	HB 5553	Failed	Mar. 2025	-	K-12
Virginia	HB 1461	Failed	Feb. 2023	-	K-12
	HB 853	Failed	Jan. 2024	-	K-12
Washington	HB 1637	Failed	Jan. 2025	-	K-12
West Virginia	HB 2890	Passed	Jan. 2023	May 2023	6-12
	HB 4776	Failed	Jan. 2024	-	Pre-K-5
	SB 614	Failed	Feb. 2024	-	K-6
	SB 199	Passed	Feb. 2025	Apr. 2025	K-6
	HB 2649	Failed	Feb. 2025	-	K-6

Figures 1 and 2 provide a primary overview analysis of the fifty-six identified bills.<sup>103</sup> Figure 1 presents a baseline aggregation of exclusionary school discipline bills by frequency, status, and time. In 2020, only one state bill was introduced (Alabama).<sup>104</sup> In 2021, however, six bills were introduced (Alabama, North Carolina, Oklahoma, South Carolina, Tennessee).<sup>105</sup> In 2022, no bills were introduced, but 2023 witnessed a sharp increase in exclusionary discipline legislation, with nineteen bills introduced (Arizona, Florida, Illinois, Indiana, Kentucky, Missouri, Nevada, North Carolina, Oklahoma, South Carolina, Texas, Virginia, West Virginia).<sup>106</sup> In 2024, twelve bills were proposed (Alabama, Idaho, Indiana, Louisiana, North Carolina,

103. Appendix A presents a descriptive analysis by individual state and bill.

104. Ala. H.B. 214. We hypothesize this low level of legislative activity in 2020–21 is attributable to two primary reasons. First, the closure of state legislatures due to the COVID-19 pandemic. Second, parental rights groups, such as Moms for Liberty, had not yet grown to national prominence. *See* González & Schiff, *supra* note 6, at 42 (explaining the origin and focus of Moms for Liberty); Baldwin Clark, *supra* note 6, at 2161 (discussing Moms for Liberty’s emergence in 2021).

105. Ala. H.B. 260; N.C. H.B. 247; Okla. S.B. 271; S.C. S.B. 322; Tenn. H.B. 16; Tenn. S.B. 230.

106. Ariz. H.B. 2460; Fla. H.B. 1035; Fla. S.B. 244; Ill. S.B. 1400; Ill. H.B. 3600; Ind. H.B. 1543; Ky. H.B. 538; Ky. S.B. 202; Mo. H.B. 192; Nev. A.B. 285; Nev. A.B. 330; Nev. S.B. 152; N.C. H.B. 188; Okla. S.B. 865; S.C. S.B. 202; Tex. S.B. 245; Tex. H.B. 4033; Va. H.B. 1461; W. Va. H.B. 2890.

Oklahoma, South Carolina, Virginia, West Virginia).<sup>107</sup> Legislative activity further increased in 2025—by the end of May, eighteen bills had been proposed (Alabama, Arizona, Connecticut, Idaho, Maine, Maryland, Minnesota, Montana, Nebraska, Oklahoma, Texas, Washington, West Virginia).<sup>108</sup>

Related to the temporal distribution of the bills is an apparent sequential and iterative legislative approach, often with increased severity relative to exclusion. Alabama, which codified its “Teacher’s Bill of Rights” in 2024, following prior attempts in 2020 and 2021, provides an illustrative example. The earlier Alabama bills proposed codifying a teacher’s “right to remove any persistently disruptive student” on two separate grounds.<sup>109</sup> The subsequent bill—S.B. 157, which passed—not only included additional grounds on which a teacher can exclude a student, but also defined new behaviors subject to discipline, granted teachers the authority to appeal a principal’s decision not to exclude a student, instituted mandatory punishments, and established prerequisites a student must meet before they can return to the classroom.<sup>110</sup>

Further evidence of this trend can be found in West Virginia. In 2023, the state enacted a law that exposes sixth to twelfth grade students to more severe exclusionary policies, including mandatory punishments and prerequisites for returning to the classroom.<sup>111</sup> In 2024, the legislature considered two bills that would have expanded some of these policies to pre-kindergarten through sixth grade students,<sup>112</sup> and in 2025, the state legislature ultimately enacted a law permitting the removal of K–6 students.<sup>113</sup> Though more data is needed, this trend suggests that regressive exclusionary discipline legislation is not isolated, but instead reflects a legislative priority.

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107. Ala. S.B. 157; Idaho H.B. 581; Ind. H.B. 1262; La. H.B. 322; La. S.B. 358; N.C. H.B. 1027; Okla. H.B. 3123; Okla. H.B. 3348; S.C. H.B. 4864; Va. H.B. 853; W. Va. H.B. 4776; W. Va. S.B. 614.

108. Ala. H.B. 356; Ala. H.B. 85; Ariz. H.B. 2663; Conn. S.B. 725; Idaho H.B. 349; Me. L.D. 165; Md. H.B. 773; Minn. S.F. 2066; Minn. H.F. 1436; Mont. S.B. 138; Neb. L.B. 149; Okla. S.B. 757; Tex. H.B. 5553; Tex. H.B. 6; Tex. S.B. 1523; Wash. H.B. 1637; W. Va. H.B. 2649; W. Va. S.B. 199.

109. H.B. 214, 2020 Leg., Reg. Sess. (Ala. 2020); H.B. 260, 2021 Leg., Reg. Sess. (Ala. 2021).

110. S.B. 157, 2024 Leg., Reg. Sess. (Ala. 2024).

111. H.B. 2890, 2023 Leg., Reg. Sess. (W. Va. 2023).

112. H.B. 4776, 2024 Leg., Reg. Sess. (W. Va. 2024); S.B. 614, 2024 Leg., Reg. Sess. (W. Va. 2024).

113. S.B. 199, 2025 Leg., Reg. Sess. (W. Va. 2025).

Figure 1. Frequency, form, and temporal distribution

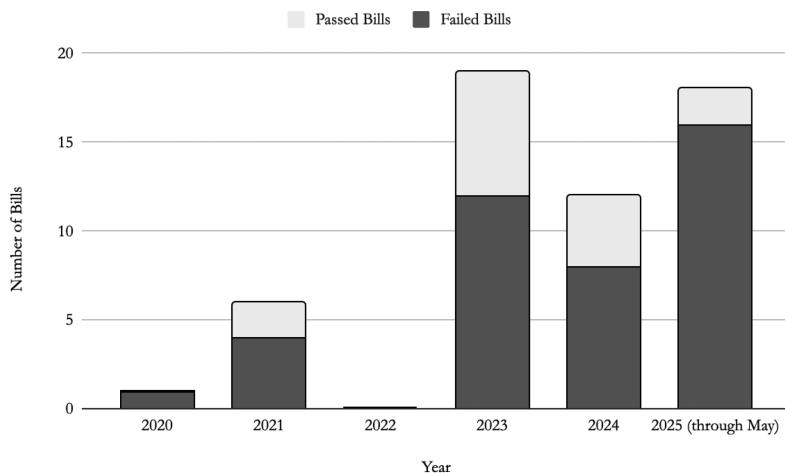


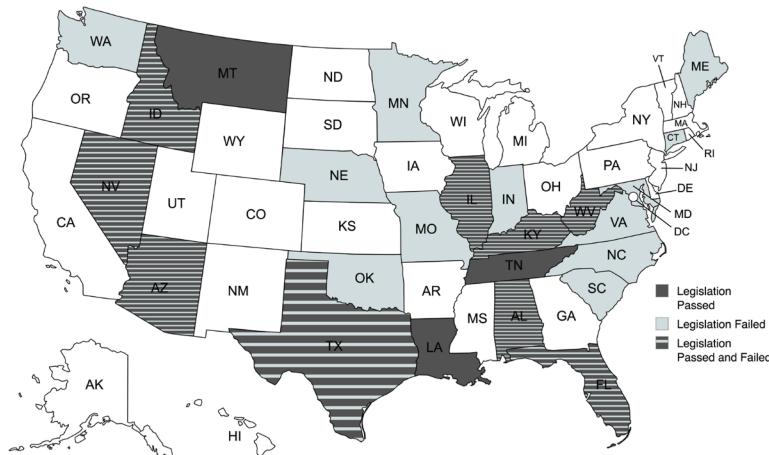
Figure 2 provides an overlay of the geographic distribution and status of the bills. As shown, the legislation is predominantly concentrated in the South and Midwest regions of the United States, but it has also spread to the West. Notably, there is some evidence that the geographic diffusion of exclusionary school discipline legislation has been accompanied by textual mimicry. For example, Alabama first proposed a “Teachers’ Bill of Rights” in 2020, followed by Oklahoma and South Carolina in 2021, and Missouri and Florida in 2023.<sup>114</sup> While the bills varied in some textual aspects, they shared many remarkable similarities—not only in their titles but also in their substantive text. Consider the Oklahoma and Florida bills, which both included identical language granting teachers the right to “[h]ave disobedient, disrespectful, violent, abusive, uncontrollable or disruptive students removed from the classroom.”<sup>115</sup> Further, the Alabama and Oklahoma bills included similar statutory definitions of “disorderly conduct” and

114. Ala. H.B. 214; S.B. 271, 58th Leg., 1st Sess. (Okla. 2021); S.B. 322, 124th Gen. Assemb., Reg. Sess. (S.C. 2021); H.B. 1035, 2023 Leg., Reg. Sess. (Fla. 2023); S.B. 244, 2023 Leg., Reg. Sess. (Fla. 2023); H.B. 192, 102d Gen. Assemb., 1st Reg. Sess. (Mo. 2023). Oklahoma’s S.B. 271 did not use the explicit label of a “Teachers’ Bill of Rights” but contained near-identical language to a later proposal that did. *See* S.B. 865, 59th Leg., 1st Sess. (Okla. 2023). Instead, S.B. 271 would have codified a teacher’s “authority,” not “right,” to have students removed. Okla. S.B. 271.

115. Okla. S.B. 271; *see also* Fla. H.B. 1035.

“disorderly behavior.”<sup>116</sup> In short, once Alabama proposed a Teacher’s Bill of Rights, other states adopted equivalent legislative initiatives—and, in the process, borrowed specific language and concepts from one another.<sup>117</sup>

Figure 2. Geographic distribution



Taken together, Figures 1 and 2 illustrate that, while the current rise of exclusionary school discipline legislation began with Alabama introducing a single bill, within five years, twenty-four states across the country have proposed similar legislation of their own.

116. S.B. 157, 2024 Leg., Reg. Sess. (Ala. 2024) (defining “disorderly conduct” as “[a]ny conduct that intentionally: (i) disrupts, disturbs, or interferes with the teaching of students; or (ii) disturbs the peace, order, or discipline at any school”); H.B. 3123, 59th Leg., 2d Sess. (Okla. 2024); H.B. 3348, 59th Leg., 2d Sess. (Okla. 2024) (defining “disorderly behavior” as “a series of actions considered to be disorderly conduct, threatening behavior, or interference in the teaching or learning processes of others”).

117. Though outside the scope of this study, we hypothesize that the proposal and adoption of Teacher's Bill of Rights may signal isomorphism. See Francisco J. Granados, *Intertwined Cultural and Relational Environments of Organizations*, 83 Soc. FORCES 883, 885 (2005) ("One mechanism leading to institutional isomorphism is mimesis by organizations that purposively model themselves on other similar organizations."). Investigation of isomorphism represents a salient area for future inquiry if additional states consider and adopt such legislation.

#### IV. TYPOLOGIES OF EXCLUSIONARY SCHOOL DISCIPLINE BILLS

The previous Section presents the study findings as to frequency, status, time, and geography over a five-year period (2020–25). This Section presents the data in aggregate form and classifies each state’s legislation into nine categories or typologies, as shown in Table 2.

In decreasing order of rate of representation, these categories are: (1) legislation defining expanded behavioral categories eligible for exclusion ( $n = 11$ ), (2) new exclusionary authority for teachers ( $n = 10$ ), (3) new punishments for “repeated behaviors” ( $n = 8$ ), (4) the rescission of prior protections ( $n = 7$ ), (5) prerequisite conditions for classroom return ( $n = 6$ ), (6) mandatory punishments ( $n = 5$ ), (7) new mechanisms of exclusion ( $n = 3$ ),<sup>118</sup> (8) statewide disciplinary policies ( $n = 3$ ), and (9) the ability of teachers to override principal decisions ( $n = 2$ ).

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118. Though outside the scope of this Article, it is relevant to note that high levels of variance exist in the definitional criteria for exclusion. For example, North Carolina provides the highest level of definitional specificity with respect to time of segregation from the learning environment, distinguishing “intermediate-term suspension” from “short-term suspension” and “long-term suspension.” *See* H.B. 1027, 2023–2024 Gen. Assemb., Reg. Sess. (N.C. 2024); N.C. GEN. STAT. ANN. §§ 115C-390.1, 115C-390.5, 115C-390.7 (2025). In Illinois, linguistic specificity is present in the context of location; out-of-school suspension is distinguished from in-school suspension. *See* H.B. 3600, 103d Gen. Assemb., Reg. Sess. (Ill. 2023). In contrast, other states, such as Nevada, broadly identify “suspension” or “expulsion” as mechanisms of punishment without further particularity. *See, e.g.*, A.B. 285, 82d Leg., Reg. Sess. (Nev. 2023); A.B. 330, 82d Leg., Reg. Sess. (Nev. 2023). In the case of Oklahoma, the state legislature has offered no specificity as to the form or length of segregation, providing only a general reference to “exclusion” or “removal.” *See* Okla. H.B. 3123; Okla. H.B. 3348.

Table 2. Typologies of Exclusionary School Discipline Bills

	New Behaviors Subject to Punishment	New Exclusionary Authority for Teachers	New Punishments for "Repeated Behavior"	Rescinding Protections	Prerequisites for Return to Classroom	Mandatory Punishments	New Mechanisms of Exclusion	New Statewide Exclusionary Discipline Policies	Teachers' Ability to Override Decision
Alabama	<b>X*</b>	<b>X*</b>	<b>X*</b>		<b>X*</b>	<b>X*</b>		<b>X*</b>	<b>X*</b>
Arizona				<b>X*</b>	<b>X</b>				
Connecticut		<b>X</b>							
Florida		<b>X*</b>							
Idaho	<b>X</b>					<b>X*</b>			
Illinois				<b>X</b>					
Indiana	<b>X</b>		<b>X</b>		<b>X</b>				
Kentucky	<b>X*</b>		<b>X*</b>						
Louisiana			<b>X*</b>		<b>X*</b>	<b>X*</b>			
Maine				<b>X</b>					
Maryland		<b>X</b>			<b>X</b>				
Minnesota				<b>X</b>					
Missouri	<b>X</b>	<b>X</b>							
Montana		<b>X</b>							
Nebraska				<b>X</b>					
Nevada	<b>X*</b>			<b>X*</b>					
North Carolina	<b>X</b>						<b>X</b>		
Oklahoma	<b>X</b>	<b>X</b>	<b>X</b>		<b>X</b>	<b>X</b>		<b>X</b>	
South Carolina			<b>X</b>						
Tennessee		<b>X*</b>							<b>X*</b>
Texas	<b>X*</b>	<b>X</b>		<b>X*</b>			<b>X*</b>		
Virginia			<b>X</b>			<b>X</b>		<b>X</b>	
Washington	<b>X</b>		<b>X</b>						
West Virginia	<b>X*</b>		<b>X*</b>			<b>X*</b>			
<b>TOTAL</b>	<b>11</b>	<b>10</b>	<b>8</b>	<b>7</b>	<b>6</b>	<b>5</b>	<b>3</b>	<b>3</b>	<b>2</b>

\*Typology included in enacted legislation

#### A. New Behaviors Subject to Punishment

Eleven states (Alabama, Idaho, Indiana, Kentucky, Missouri, Nevada, North Carolina, Oklahoma, Texas, Washington, West Virginia) sought to define new behaviors subject to exclusionary punishment in their K–12 public school systems. Legislation within this typology includes both (1) bills that appended a distinct behavioral category to an existing list of punishable conduct and (2) bills that introduced behaviors punishable by exclusion for the first time. H.B. 1543 (Indiana) represents an example of the former category; it proposed adding to the education code a new section defining an “aggressive student” as “a student who has a documented record of frequent disruptions of the traditional school learning environment despite repeated attempts . . . to modify the students’ behavior.”<sup>119</sup> The bill also would have prevented any student so labeled from returning to school until the principal developed a “classroom reintegration plan” and met with the student, the teacher, and the student’s parents.<sup>120</sup>

Also within this category, bills from Washington, North Carolina, and Idaho proposed expanding the scope of exclusionary discipline to punish specific behaviors. H.B. 1637 (Washington) would have permitted long-term suspension and expulsion for “behavior that diminishes or impedes the educational opportunity of another student.”<sup>121</sup> Under H.B. 188 and H.B. 247 (North Carolina), students would have been eligible for long-term suspension or expulsion for behavioral infractions, including inappropriate language and dress code violations.<sup>122</sup> H.B. 349 would have subjected students in Idaho to exclusion for “inappropriate online behavior.”<sup>123</sup>

Examples in the second category—first-time definitions—include S.B. 157 (Alabama) and H.B. 3121 and H.B. 3348 (Oklahoma).<sup>124</sup> S.B. 157 granted Alabama teachers new authority to exclude students for “disorderly conduct,” “obstruct[ing] the teaching or learning process,” “[w]illfully disobey[ing] an education employee,” or “us[ing] abusive or profane language.”<sup>125</sup> Previously, Alabama law delegated authority over

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119. H.B. 1543, 123d Gen. Assemb., 1st Reg. Sess. (Ind. 2023).

120. *Id.*

121. H.B. 1637, 69th Leg., Reg. Sess. (Wash. 2025).

122. H.B. 188, 2023–2024 Gen. Assemb., Reg. Sess. (N.C. 2023); H.B. 247, 2021–2022 Gen. Assemb., Reg. Sess. (N.C. 2021).

123. H.B. 349, 68th Leg., 1st Reg. Sess. (Idaho 2025).

124. S.B. 157, 2024 Leg., Reg. Sess. (Ala. 2024); H.B. 3123, 59th Leg., 2d Sess. (Okla. 2024); H.B. 3348, 59th Leg., 2d Sess. (Okla. 2024).

125. Ala. S.B. 157.

school discipline to local officials.<sup>126</sup> Similarly, Oklahoma attempted to define behavioral infractions at the state level for the first time. H.B. 3121 and H.B. 3348 would have authorized Oklahoma teachers to exclude students for “disorderly conduct,” “interfer[ing] with an orderly educational process,” “obstruct[ing] the teaching or learning process,” “willfully disobey[ing] a school employee,” or “us[ing] abusive or profane language.”<sup>127</sup> These bills would have supplanted existing Oklahoma law, which simply directs each school district board of education to “adopt a policy for the discipline of all children attending public school in that district.”<sup>128</sup>

#### *B. New Exclusionary Authority for Teachers*

Ten states (Alabama, Connecticut, Florida, Maryland, Missouri, Montana, Oklahoma, South Carolina, Tennessee, Texas) introduced bills granting new exclusionary authority to teachers.<sup>129</sup> Five states (Alabama, Florida, Missouri, Oklahoma, South Carolina) undertook this legislative initiative by proposing a “Teachers’ Bill of Rights.”<sup>130</sup> Each

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126. See ALA. CODE § 16-1-14 (2024) (“Each local board of education . . . shall adopt rules with respect to behavior and discipline of students . . . and . . . may remove, isolate, or separate students who create disciplinary problems in any classroom or other school activity and whose presence in the class may be detrimental to the best interest and welfare of the students of the class as a whole.”).

127. Okla. H.B. 3348.

128. OKLA. STAT. ANN. tit. 70, § 24-100.4 (2024). The Oklahoma state code provides statewide disciplinary standards only in relation to out-of-school suspensions, which may be imposed “by the administration of the school or district” for “violation of a school regulation.” *Id.* § 24-101.3 (2024). The law also authorizes out-of-school suspensions for “possession of an intoxicating beverage . . . or missing or stolen property” and “possession of a dangerous weapon or a controlled dangerous substance.” *Id.*

129. H.B. 214, 2020 Leg., Reg. Sess. (Ala. 2020); H.B. 260, 2021 Leg., Reg. Sess. (Ala. 2021); S.B. 157, 2024 Leg., Reg. Sess. (Ala. 2024); S.B. 725, 2025 Gen. Assemb., Jan. Sess. (Conn. 2025); H.B. 1035, 2023 Leg., Reg. Sess. (Fla. 2023); S.B. 244, 2023 Leg., Reg. Sess. (Fla. 2023); H.B. 773, 447th Gen. Assemb., Reg. Sess. (Md. 2025); H.B. 192, 102d Gen. Assemb., 1st Reg. Sess. (Mo. 2023); S.B. 138, 69th Leg., Reg. Sess. (Mont. 2025); S.B. 271, 58th Leg., 1st Sess. (Okla. 2021); S.B. 865, 59th Leg., 1st Sess. (Okla. 2023); S.B. 322, 124th Gen. Assemb., Reg. Sess. (S.C. 2021); S.B. 202, 125th Gen. Assemb., Reg. Sess. (S.C. 2023); H.B. 4864, 125th Gen. Assemb., Reg. Sess. (S.C. 2024); H.B. 16, 112th Gen. Assemb., Reg. Sess. (Tenn. 2021); S.B. 230, 112th Gen. Assemb., Reg. Sess. (Tenn. 2021); H.B. 5553, 89th Leg., Reg. Sess. (Tex. 2025).

130. Ala. H.B. 214; Fla. H.B. 1035; Fla. S.B. 244; Mo. H.B. 192; Okla. S.B. 271; Okla. S.B. 865; S.C. S.B. 322. As described *supra*, these bills evince a potential pattern of isomorphism between institutional actors. In designating and identifying measures within this category, the text of each bill was cross-referenced with existing legislation delineating control over exclusion or removal practices for state-defined behavioral categories. Additionally, review was completed of state department of education regulations under which teachers are granted general discretionary power to implement

of these bills included rights-based language that granted teachers the explicit authority to exclude students from the classroom. For example, H.B. 192 (Missouri) would have codified a teacher's right "to remove any persistently disruptive student from [the] classroom when the student's behavior prevents the orderly instruction of other students or when the student displays impudent or defiant behavior."<sup>131</sup> This would have been a significant change in authority under Missouri law, which currently permits only school boards, principals, and superintendents to remove students.<sup>132</sup>

In some states, the Teachers' Bill of Rights articulated specific categories of behavior for which teachers could exclude students. For instance, in Oklahoma, proposed S.B. 271 (2021) and S.B. 865 (2023) would have codified a teacher's right to "have disobedient, disrespectful, violent, abusive, or disruptive students removed from the classroom."<sup>133</sup> In other states, such as South Carolina, the Teachers' Bills of Rights included simply a general grant of exclusionary authority.<sup>134</sup>

Other bills in this typology would have expanded exclusionary authority without a rights-based framework. S.B. 725 (Connecticut) would have mandated that the education code be amended to "increase teacher control of classrooms."<sup>135</sup> Similarly, S.B. 138 (Montana) would have clarified that teachers have the authority to enforce the state's disciplinary statute and would have added to the state code language specifying that teachers have the power to "exercise authority over pupils in the classroom."<sup>136</sup>

Lastly, in six states (Connecticut, Florida, Montana, South Carolina, Tennessee, Texas), the bills functioned to increase or enhance existing teacher discretion,<sup>137</sup> while in four states (Alabama, Maryland,

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class management practices. Each of these analyses validated the authority set forth in these bills as a new and specific articulation of disciplinary power.

131. Mo. H.B. 192.

132. Missouri state law provides that school boards "may suspend or expel a pupil" or "may authorize the summary suspension of pupils by principals . . . and by the superintendent of schools." MO. ANN. STAT. §§ 167.161, 167.171 (2023).

133. Okla. S.B. 271 (including "uncontrollable" students in the definition); Okla. S.B. 865.

134. All three South Carolina bills proposed an identical statutory addition, which would establish a teacher's "right to . . . take appropriate disciplinary measures, including the removal of persistently disruptive students." S.C. S.B. 322; S.C. S.B. 202; S.C. H.B. 4864.

135. Conn. S.B. 725.

136. Mont. S.B. 138 (referencing MONT. CODE ANN. § 20-5-201 (2025), which sets forth the grounds upon which a student can be suspended or expelled).

137. S.B. 725, 2025 Gen. Assemb., Jan. Sess. (Conn. 2025); H.B. 1035, 2023 Leg., Reg. Sess. (Fla. 2023); S.B. 244, 2023 Leg., Reg. Sess. (Fla. 2023); S.B. 138, 69th Leg., Reg. Sess. (Mont. 2025); S.C. S.B. 322; S.C. S.B. 202; S.C. H.B. 4864; H.B. 16,

Missouri, Oklahoma), it was the first time such authority would have been given to teachers.<sup>138</sup>

### C. *New Punishments for “Repeated Behavior”*

Eight states (Alabama, Indiana, Kentucky, Louisiana, Oklahoma, Virginia, Washington, West Virginia) proposed creating new exclusionary punishments for certain behavior deemed repetitive or persistent.<sup>139</sup> For example, H.B. 853 (Virginia) would have required that a teacher “remove a student from a class if the student repeats or continues [the student’s] nonviolent disruptive behavior after the teacher provides two warnings to the student.”<sup>140</sup>

Bills exhibiting this typology could be mandatory or permissive. As an example of the former, S.B. 157 (Alabama) included a mandatory provision, which provided that a principal “shall mete out the maximum discipline” if, “[f]ollowing a student’s readmittance to the classroom . . . the student’s disruptive behavior persists[.]”<sup>141</sup> By contrast, H.B. 538 (Kentucky) provided that any student “removed from the same classroom three (3) times within thirty (30) days” for “disrupt[ing] the classroom environment” or “challeng[ing] the authority of a supervising adult” “may be suspended,”<sup>142</sup> and S.B. 358 (Louisiana) “recommend[ed] for expulsion” any student in grades six through twelve who is suspended three times during a school year.<sup>143</sup>

In six of the states included in this category (Alabama, Kentucky, Louisiana, Oklahoma, Virginia, West Virginia), the bills established

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112th Gen. Assemb., Reg. Sess. (Tenn. 2021); S.B. 230, 112th Gen. Assemb., Reg. Sess. (Tenn. 2021); H.B. 5553, 89th Leg., Reg. Sess. (Tex. 2025).

138. Alabama, Maryland, Missouri, and Oklahoma previously delegated exclusionary authority only to school boards and school administrators. *See* ALA. CODE § 16-1-14 (2024); MD. CODE ANN., EDUC. § 7-305 (West 2025); MO. ANN. STAT. §§ 167.161, 167.171 (2023); OKLA. STAT. ANN. tit. 70, § 24-100.4 (2024).

139. S.B. 157, 2024 Leg., Reg. Sess. (Ala. 2024); H.B. 1543, 123d Gen. Assemb., 1st Reg. Sess. (Ind. 2023); H.B. 538, 2023 Gen. Assemb., Reg. Sess. (Ky. 2023); S.B. 358, 2024 Leg., Reg. Sess. (La. 2024); H.B. 3123, 59th Leg., 2d Sess. (Okla. 2024); H.B. 3348, 59th Leg., 2d Sess. (Okla. 2024); H.B. 853, 2024 Gen. Assemb., Reg. Sess. (Va. 2024); H.B. 1637, 69th Leg., Reg. Sess. (Wash. 2025); H.B. 2890, 2023 Leg., Reg. Sess. (W. Va. 2023).

140. Va. H.B. 853.

141. Ala. S.B. 157.

142. Ky. H.B. 538.

143. La. S.B. 358. Existing Louisiana law authorizes suspension for a range of behaviors, including “willful disobedience,” tardiness, “unchaste or profane language,” “immoral or vicious practices,” and dress code violations. LA. ADMIN. CODE tit. 28, pt. CVX, § 1305 (2025). Only suspensions related to tardiness and dress code violations are excluded from the scope of S.B. 358, meaning multiple suspensions for “willful disobedience,” “unchaste or profane language,” or “immoral or vicious practices” are now grounds for expulsion under the new law.

a closely defined and narrow threshold for when repeated behavior warrants harsher punishments.<sup>144</sup> Notably, five of these states (Alabama, Kentucky, Louisiana, Oklahoma, West Virginia) created a time-based threshold,<sup>145</sup> including four states (Alabama, Kentucky, Oklahoma, West Virginia) that set the limit at three exclusions from the classroom within thirty days or one month.<sup>146</sup> In contrast, H.B. 1543 (Indiana) left the threshold for “repeated behavior” more loosely defined, classifying an “aggressive student” as “a student who has a documented record of frequent disruptions of the traditional school learning environment despite repeated attempts . . . to modify the student’s behavior.”<sup>147</sup> Similarly, H.B. 1637 (Washington) introduced specific punishments for any student who “repeatedly” engages in “behavior that diminishes or impedes the educational opportunity of another student.”<sup>148</sup>

#### *D. Rescinding Protections*

Seven states (Arizona, Illinois, Maine, Minnesota, Nebraska, Nevada, Texas) introduced bills that proposed rescinding previously adopted restorative discipline requirements or age- and behavior-based restrictions on suspensions and expulsions.<sup>149</sup> These bills proposed limiting the ability of teachers and local authorities to utilize non-exclusionary practices.

H.B. 2460 (Arizona) removed restrictions enacted in 2019 that prohibited the suspension of kindergarten through fourth-grade students.<sup>150</sup> The new law authorized Arizona schools to suspend K–4 students up to two days at a time for ten total days per school year and removes a requirement that the school first consider alternative behavioral interventions.<sup>151</sup> Similarly, L.D. 165 (Maine) proposed

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144. Ala. S.B. 157; Ky. H.B. 538; La. S.B. 358; Okla. H.B. 3123; Okla. H.B. 3348; Va. H.B. 853; W. Va. H.B. 2890.

145. Ala. S.B. 157; Ky. H.B. 538; La. S.B. 358; Okla. H.B. 3123; Okla. H.B. 3348; W. Va. H.B. 2890. Virginia based its threshold on the number of warnings provided by the teacher. Va. H.B. 853.

146. Ala. S.B. 157; Ky. H.B. 538; Okla. H.B. 3123; Okla. H.B. 3348; W. Va. H.B. 2890. The other state—Louisiana—set its limit at three suspensions within one school year. La. S.B. 358.

147. H.B. 1543, 123d Gen. Assemb., 1st Reg. Sess. (Ind. 2023).

148. H.B. 1637, 69th Leg., Reg. Sess. (Wash. 2025).

149. H.B. 2460, 56th Leg., 1st Reg. Sess. (Ariz. 2023); S.B. 1400, 103d Gen. Assemb., Reg. Sess. (Ill. 2023); H.B. 3600, 103d Gen. Assemb., Reg. Sess. (Ill. 2023); L.D. 165, 132d Leg., 1st Reg. Sess. (Me. 2025); S.F. 2066, 94th Leg., Reg. Sess. (Minn. 2025); H.F. 1436, 94th Leg., Reg. Sess. (Minn. 2025); L.B. 149, 109th Leg., 1st Sess. (Neb. 2025); A.B. 285, 82d Leg., Reg. Sess. (Nev. 2023); A.B. 330, 82d Leg., Reg. Sess. (Nev. 2023); H.B. 6, 89th Leg., Reg. Sess. (Tex. 2025); S.B. 1523, 89th Leg., Reg. Sess. (Tex. 2025).

150. Ariz. H.B. 2460.

151. *Id.*

reallowing suspensions and expulsions of K–5 students.<sup>152</sup> L.B. 149 (Nebraska) and H.B. 6 and S.B. 1523 (Texas) proposed reallowing suspensions of K–2 students.<sup>153</sup>

Illinois considered two bills that directly addressed laws passed by the state in 2015 and 2018. First, S.B. 1400 would have repealed the portion of the state's first comprehensive discipline reform legislation, S.B. 100 (2015), which required school officials to "limit the number and duration of expulsions and suspensions."<sup>154</sup> Second, S.B. 3600 would have repealed the portion of a 2018 law, H.B. 5786, that authorized in-school-suspension programs to focus on "non-violent conflict resolution and positive interaction."<sup>155</sup>

Nevada's A.B. 285 and A.B. 330 removed age-based restrictions and non-exclusionary (e.g., restorative justice) requirements from the existing education code.<sup>156</sup> Now, a student may be removed if they create "an ongoing threat of disrupting the academic process."<sup>157</sup> Additionally, students aged eleven or older can be expelled, and "[a] pupil who is less than 6 years of age may be suspended[.]"<sup>158</sup> Likewise, S.F. 2066 and H.F. 1436 (Minnesota) proposed removing non-exclusionary discipline requirements and/or reallowing suspensions for K–3 students.<sup>159</sup>

#### *E. Prerequisites for Return to Classroom*

Bills in six states (Alabama, Arizona, Indiana, Louisiana, Maryland, Oklahoma) set forth specific prerequisites for student reentry into the school, classroom, or both after a teacher removes a student.<sup>160</sup> First, bills in four states (Alabama, Indiana, Louisiana, Oklahoma) proposed requiring a conference involving a combination of the principal, the teacher, and the student's parent or guardian.<sup>161</sup> S.B. 157 (Alabama)

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152. Me. L.D. 165.

153. Neb. L.B. 149; Tex. H.B. 6; Tex. S.B. 1523.

154. Ill. S.B. 1400 (proposing, as introduced, to strike language from S.B. 100, 99th Gen. Assemb., Reg. Sess. (Ill. 2015)).

155. Ill. H.B. 3600 (proposing, as introduced, to strike portions of H.B. 5786, 100th Gen. Assemb., Reg. Sess. (Ill. 2018)).

156. A.B. 285, 82d Leg., Reg. Sess. (Nev. 2023); A.B. 330, 82d Leg., Reg. Sess. (Nev. 2023).

157. Nev. A.B. 285; Nev. A.B. 330.

158. Nev. A.B. 285; Nev. A.B. 330.

159. S.F. 2066, 94th Leg., Reg. Sess. (Minn. 2025); H.F. 1436, 94th Leg., Reg. Sess. (Minn. 2025).

160. S.B. 157, 2024 Leg., Reg. Sess. (Ala. 2024); H.B. 2663, 57th Leg., 1st Reg. Sess. (Ariz. 2025); H.B. 1543, 123d Gen. Assemb., 1st Reg. Sess. (Ind. 2023); H.B. 322, 2024 Leg., Reg. Sess. (La. 2024); H.B. 773, 447th Gen. Assemb., Reg. Sess. (Md. 2025); H.B. 3123, 59th Leg., 2d Sess. (Okla. 2024); H.B. 3348, 59th Leg., 2d Sess. (Okla. 2024).

161. Ala. S.B. 157; Ind. H.B. 1543; La. H.B. 322; Okla. H.B. 3123; Okla. H.B. 3348.

and H.B. 1543 (Indiana), proposed requiring that the parent or guardian meet with the principal, while H.B. 322 (Louisiana) mandates a meeting between the parent or guardian and the teacher.<sup>162</sup> Under H.B. 3123 and H.B. 3348 (Oklahoma), the principal, the teacher, and, “if possible,” the parent or guardian would have been required to meet.<sup>163</sup> In the other two states, H.B. 773 (Maryland) would have prevented a principal from returning a student to the classroom until the teacher consents to the student’s return,<sup>164</sup> whereas H.B. 2663 (Arizona) required the principal to provide the teacher with written certification authorizing the student’s return and describing the disciplinary action taken in response to the student’s behavior.<sup>165</sup>

Second, five states (Alabama, Arizona, Indiana, Maryland, Oklahoma) introduced a requirement that the teacher be involved in or notified of the disciplinary outcome before the student can return.<sup>166</sup> For instance, under H.B. 3123 and H.B. 3348 (Oklahoma), the teacher and principal would have been required to “agree on a course of discipline for the student.”<sup>167</sup> Similarly, H.B. 1543 (Indiana) would have required the principal to develop a “classroom reintegration plan” with the student’s teacher before the student could return to the classroom.<sup>168</sup> H.B. 773 (Maryland) would have simply prohibited a principal from returning a student to the classroom without the teacher’s consent.<sup>169</sup>

Lastly, the circumstances in which restrictions on a student’s return apply vary by state. The bills in Arizona, Indiana, and Maryland proposed delaying a student from returning to the classroom after removal for a single incident,<sup>170</sup> whereas in Alabama, the restrictions imposed by S.B. 157 only apply once a student is removed twice during a semester,<sup>171</sup> and in Louisiana, the restrictions imposed by H.B. 322 apply “[u]pon the third removal.”<sup>172</sup> Comparatively, the Oklahoma bills would have imposed varying prerequisites depending on the number of

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162. Indiana also proposed requiring that the student be present at this meeting. Ind. H.B. 1543.

163. Okla. H.B. 3123; Okla. H.B. 3348.

164. Md. H.B. 773.

165. Ariz. H.B. 2663.

166. Ala. S.B. 157; Ariz. H.B. 2663; Ind. H.B. 1543; Md. H.B. 773; Okla. H.B. 3123; Okla. H.B. 3348.

167. Okla. H.B. 3123; Okla. H.B. 3348.

168. Ind. H.B. 1543. Under H.B. 1543, a “classroom reintegration plan” is “a plan to place an aggressive student . . . in: (1) the aggressive student’s original class; (2) another appropriate class or placement; or (3) in school suspension; in a manner that minimizes disruptions to the traditional school learning environment.” *Id.*

169. Md. H.B. 773.

170. Ariz. H.B. 2663; Ind. H.B. 1543; Md. H.B. 773.

171. Ala. S.B. 157.

172. La. H.B. 322.

times the student has been removed: after a student is removed once, the bills require that the principal “provide[] written certification . . . that the student may be readmitted and specif[y] the type of disciplinary action, if any, that was taken.”<sup>173</sup> After a student is removed twice, the principal, the teacher, “and, if possible, the parent, guardian, or custodian” would have been required to hold “a conference to discuss the disruptive behavior patterns of the student,” and the teacher and the principal must “agree on a course of discipline for the student.”<sup>174</sup>

#### *F. Mandatory Punishments*

Five states (Alabama, Louisiana, Oklahoma, Virginia, West Virginia) proposed bills to require the imposition of exclusionary punishments for certain behaviors or events.<sup>175</sup> For example, in addition to requiring that a principal impose the “maximum punishment” on continuously disruptive students, S.B. 157 (Alabama) mandated that a student in grades six through twelve receive an in-school or out-of-school suspension or be placed in an alternative school if the student is removed on three occasions within a thirty-day period—essentially, a “three-strikes” rule.<sup>176</sup>

Oklahoma introduced two similar “three-strikes” bills, which would have required a principal to impose an in-school suspension, out-of-school suspension, or alternative learning placement upon any student in grades six through twelve who is removed from the classroom three times during one month.<sup>177</sup> With nearly identical language, a law enacted by West Virginia in 2023 obligated a principal to enforce an in-school suspension, out-of-school suspension, or alternative learning placement on a student in grades six through twelve who is removed three times in one month for “disorderly conduct,” “interfering” with the “educational process,” or “obstruct[ing] the teaching or learning process.”<sup>178</sup>

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173. Okla. H.B. 3123; Okla. H.B. 3348.

174. Okla. H.B. 3123; Okla. H.B. 3348.

175. S.B. 157, 2024 Leg., Reg. Sess. (Ala. 2024); H.B. 322, 2024 Leg., Reg. Sess. (La. 2024); H.B. 3123, 59th Leg., 2d Sess. (Okla. 2024); H.B. 3348, 59th Leg., 2d Sess. (Okla. 2024); H.B. 853, 2024 Gen. Assemb., Reg. Sess. (Va. 2024); H.B. 2890, 2023 Leg., Reg. Sess. (W. Va. 2023); S.B. 614, 2024 Leg., Reg. Sess. (W. Va. 2024). In four states (Alabama, Oklahoma, Virginia, West Virginia), mandatory punishments apply to repeated behaviors, see discussion *supra*, across a continuum of exclusions. For example, Alabama’s enacted law requires a principal to “mete out the maximum punishment” if a student continues to be disruptive after a teacher previously removed the student. Ala. S.B. 157.

176. Ala. S.B. 157.

177. Okla. H.B. 3123; Okla. H.B. 3348.

178. W. Va. H.B. 2890.

A separate bill introduced by the West Virginia Legislature in 2024 sought to extend the reach of West Virginia's mandatory punishments beyond those proposed in Alabama or Oklahoma, proposing that a student in kindergarten through sixth grade who "impedes on other students' ability to learn in a safe environment" be "suspended one to three school days" and placed in a "behavioral intervention program."<sup>179</sup> Lastly, Virginia proposed legislation in 2024 that would have required a teacher to remove a student for continued "nonviolent disruptive behavior after the teacher provides two warnings to the student."<sup>180</sup>

Louisiana's proposed bill was an outlier to the application of mandatory exclusion for repeated behaviors—it provided for mandatory punishments unrelated to repeated conduct and required teachers to remove students for *any* behavioral infraction.<sup>181</sup>

#### *G. New Mechanisms of Exclusion*

Bills in three states (Idaho, North Carolina, Texas) introduced new exclusionary methods for punishing students.<sup>182</sup> H.B. 581 (Idaho) authorized teachers to use physical force "to remove a student from the classroom" when "the student's behavior is severely disrupting the learning of other students."<sup>183</sup> H.B. 1027 (North Carolina) proposed adopting "intermediate-term suspension" and "in-school suspension" as new punitive mechanisms to supplement the state's existing exclusionary measures, which are "short-term suspension," "long-term suspension," and "expulsion."<sup>184</sup> H.B. 6 and S.B. 1523 (Texas) introduced in-school suspensions with no time limit,<sup>185</sup> and H.B. 4033 and S.B. 245 (Texas) proposed establishing an "emergency placement or expulsion," which a principal could impose based on a single behavioral incident that causes the principal to "reasonably believe[] the student's behavior is unruly, disruptive, or abusive."<sup>186</sup>

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179. W. Va. S.B. 614.

180. Va. H.B. 853.

181. La. H.B. 322.

182. H.B. 581, 67th Leg., 2d Reg. Sess. (Idaho 2024); H.B. 1027, 2023–2024 Gen. Assemb., Reg. Sess. (N.C. 2024); S.B. 245, 88th Leg., Reg. Sess. (Tex. 2023); H.B. 4033, 88th Leg., Reg. Sess. (Tex. 2023); H.B. 6, 89th Leg., Reg. Sess. (Tex. 2025); S.B. 1523, 89th Leg., Reg. Sess. (Tex. 2025).

183. The permitted physical force is "a touching or holding of the hand, wrist, arm, shoulder, or back." Idaho H.B. 581.

184. North Carolina's bill defines "intermediate-term suspension" as "exclusion for more than 20, but no more than 42, cumulative school days" and "in-school suspension" as "exclusion of a student from the classroom for disciplinary purposes while the student remains on school grounds." N.C. H.B. 1027.

185. Tex. H.B. 6; Tex. S.B. 1523.

186. Tex. S.B. 245; Tex. H.B. 4033.

#### *H. New Statewide Exclusionary Discipline Policies*

Three states (Alabama, Oklahoma, Virginia) proposed legislation limiting the discretionary authority of local decision-makers over exclusionary school discipline.<sup>187</sup> Alabama previously delegated broad authority to local school boards to “adopt rules with respect to behavior and discipline of students,”<sup>188</sup> but in 2024, the state passed a law that defined precise grounds for excluding students and delegated authority to teachers to remove students from the classroom.<sup>189</sup> The new law even explicitly defined “disorderly conduct” for punitive purposes.<sup>190</sup>

Oklahoma introduced two bills that would have defined behavioral infractions at the state level, created mandatory exclusionary punishments for certain behaviors, and codified the authority of teachers to exclude students from the classroom.<sup>191</sup> This proposed legislation sharply departed from Oklahoma’s existing state-level disciplinary policy, which simply instructs each school district to “adopt a policy for the discipline of all children attending public school in that district.”<sup>192</sup>

Virginia proposed eliminating the authority of local school boards to define “disruptive behavior” and instead confer upon the state’s Department of Education the power to establish “a uniform system of discipline for disruptive behavior and the removal of a student from a class.”<sup>193</sup> Additionally, the Virginia Legislature considered mandating statewide “[c]riteria for teachers to remove disruptive students from their classes,” which would have eliminated the existing authority of local school boards to define and punish “disruptive behavior.”<sup>194</sup>

#### *I. Teachers’ Ability to Override Decision*

In addition to delegating new exclusionary authority to teachers, as discussed *supra*, two states (Alabama and Tennessee) passed bills granting teachers a procedural mechanism to challenge a principal’s decision not to exclude a student from the classroom.<sup>195</sup> In both states, principals previously held definitive authority over whether to remove a

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187. S.B. 157, 2024 Leg., Reg. Sess. (Ala. 2024); H.B. 3123, 59th Leg., 2d Sess. (Okla. 2024); H.B. 3348, 59th Leg., 2d Sess. (Okla. 2024); H.B. 1461, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

188. ALA. CODE § 16-1-14 (2024).

189. Ala. S.B. 157.

190. *Id.*

191. Okla. H.B. 3123; Okla. H.B. 3348.

192. OKLA. STAT. ANN. tit. 70, § 24-100.4 (2024).

193. Va. H.B. 1461.

194. *Id.*

195. S.B. 157, 2024 Leg., Reg. Sess. (Ala. 2024); H.B. 16, 112th Gen. Assemb., Reg. Sess. (Tenn. 2021).

student, but the new laws abrogated this mandate. S.B. 157 (Alabama) required each local school board to “establish[] an appeal process . . . [for] the following scenarios: (1) If a principal refuses to allow a student to be excluded from the classroom[; and] (2) If a teacher believes the school principal has prematurely ended the exclusion of a student from the classroom[.]”<sup>196</sup> Similarly, H.B. 16 (Tennessee) required local school boards to “establish an appeal process” that a teacher can utilize if a principal denies the teacher’s request to remove a student.<sup>197</sup>

### CONCLUSION

Education law and policy have long been marked by cycles of reform and retrenchment across a constellation of exclusions rooted in American racism, subordination, and whiteness.<sup>198</sup> Within the current moment of education polycrisis, this dialectic relationship has manifested bidirectionally along a continuum of actions, e.g. local, state, and federal. While this article focuses on state legislative measures that function—and, in many instances, directly aim—to erase, exclude, and punish students, this is not an isolated phenomenon. For example, since January 2025, the Trump Administration has sought to eliminate civil rights protections for marginalized students, redefine discrimination under Title IV, rescind federal funding for “race-conscious” initiatives, and promote disciplinary practices and definitions unsubstantiated by education research<sup>199</sup>—all of which threaten the future of equitable access to public education. Coupled with measures by state actors, the “parental rights” movement, as noted *supra*, has also extended its reach and mobilized race and class privileges to act against empirically evidenced non-punitive and exclusionary discipline.

As regression has occurred and expanded at local, state, and federal levels since 2020, legal scholarship has tracked, examined, and named diverse forms of anti-inclusion efforts from anti-CRT measures to literacy bans to anti-gay and anti-transgender bills. However, unaccounted for within this education civil rights literature is analysis of the parallel rise of state anti-inclusion legislation that operationalizes educational carcerality and codifies (or recodifies in multiple instances)

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196. Ala. S.B. 157.

197. Tenn. H.B. 16.

198. See Derrick Bell, *Racial Realism*, 24 CONN. L. REV. 363, 369, 376 (1992) (explaining how education reforms are limited by the durability of racism).

199. While this Article focuses on state-level measures, we do not dismiss the constellation of harms that public school children are facing under the new Trump Administration including but not limited to actions to dismantle the federal Department of Education, withhold federal funds, control curriculum, and target diversity, equity, inclusion, and access policies and practices. See *supra* notes 5, 9, 16, 20, 59.

physical segregation of children from their public school classrooms. To address this gap, this study presents the first systematic analysis of regressive state exclusionary school discipline education measures proposed between 2020 and 2025. Its findings contribute to the literature in two key ways: first, by presenting a comprehensive survey of the frequency, form, and location of regressive exclusionary school discipline bills; and second, by extending the scope of the constitution of educational retrenchment. In short, whether through legislation mandating physical segregation under a “three-strikes” framework or the rescission of prior protections, the exclusivity of public education is rapidly transforming across the states, with much at stake for Black, Latiné, American Indian and Native Alaskan, and LGBTQI+ children, and children with disabilities who must attempt to learn within these (re)newed geographies of structural violence.

#### APPENDIX A

##### *A. Alabama: H.B. 214, H.B. 260, S.B. 157, H.B. 356, and H.B. 85*

In 2024, the Alabama Legislature passed S.B. 157, enacting the state’s first “Teachers’ Bill of Rights.”<sup>200</sup> S.B. 157 followed two prior proposals—H.B. 214 in 2020 and H.B. 260 in 2021—to codify a “Teachers’ Bill of Rights” that would place broad exclusionary authority with teachers rather than with local officials.<sup>201</sup> The prior bills, H.B. 214 and H.B. 260, included identical subsections to S.B. 157 that establish a teacher’s “right to remove any persistently disruptive student from his or her classroom when the behavior of the student prevents the orderly instruction of other students, or when the student displays defiant behavior.”<sup>202</sup> In addition to recognizing a right of exclusion for teachers, S.B. 157 authorizes a stricter application of exclusionary punishments for subjective behavioral infractions.<sup>203</sup> Specifically, under S.B. 157, a teacher may exclude any child in grades K–12 who:

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200. S.B. 157, 2024 Leg., Reg. Sess. (Ala. 2024). During the same legislative term in which it passed S.B. 157, the Alabama Legislature also enacted H.B. 188, which amends ALA. CODE § 16-1-14 to establish procedural due process protections for students facing long-term suspension or expulsion. H.B. 188, 2024 Leg., Reg. Sess. (Ala. 2024). Although H.B. 188 does not expand the exclusionary authority of school officials—and was therefore excluded from this study—we note that it also imposes new state school disciplinary policies.

201. H.B. 214, 2020 Leg., Reg. Sess. (Ala. 2020); H.B. 260, 2021 Leg., Reg. Sess. (Ala. 2021). Previously, Alabama law delegated authority over school discipline to local officials. *See* ALA. CODE § 16-1-14 (2024).

202. Ala. H.B. 214; Ala. H.B. 260.

203. Ala. S.B. 157.

(1) Engages in disorderly conduct; (2) Behaves in a manner that obstructs the teaching or learning process of others in the classroom; (3) Threatens, abuses, intimidates, or attempts to intimidate an education employee or another student; (4) Willfully disobeys an education employee; or (5) Uses abusive or profane language directed at an education employee.<sup>204</sup>

S.B. 157 further defines “disorderly conduct” as “[a]ny conduct that intentionally: (i) disrupts, disturbs, or interferes with the teaching of students; or (ii) disturbs the peace, order, or discipline at any school.”<sup>205</sup>

Additionally, if a teacher removes a child twice during a semester, S.B. 157 requires certain conditions to be met before the child can return to the classroom.<sup>206</sup> If a teacher determines that the child continues to be disruptive after returning to the classroom, then the principal “shall mete out the maximum punishment provided for by the student code of conduct for the infraction.”<sup>207</sup> While other provisions apply to children in kindergarten through fifth grade, if a teacher elects to remove a child from their grades six through twelve classroom, “the student may not be readmitted to the referring teacher’s classroom for at least the remainder of the school day.”<sup>208</sup> Furthermore, if a student in grades six through twelve is removed three times during a thirty-day period, S.B. 157 mandates the child “shall receive, as determined by the principal, in-school or out-of-school suspension, or may be recommended for placement in an alternative school, if one is available within the school district.”<sup>209</sup> Consistent with its “bill of rights” framing, S.B. 157 also establishes a process by which teachers can appeal a principal’s decision not to exclude the student from school.<sup>210</sup>

In 2025, the Alabama Legislature considered H.B. 356 and H.B. 85, both of which would have punished students for making

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204. *Id.*

205. *Id.*

206. *Id.* The conditions include a conference with the student’s parents or guardian, notice by the principal to the teacher of any course of discipline, and notice to the student’s parents or guardian of the course of discipline.

207. *Id.* This can include transfer to an alternative school.

208. *Id.*

209. *Id.*

210. *Id.* The bill section reads: “Beginning with the 2024-2025 school year, each local board of education shall adopt a policy establishing an appeal process that allows a teacher to appeal to the local board of education in both of the following scenarios (1) If a principal refuses to allow a student to be excluded from the classroom pursuant to this section.

(2) If a teacher believes the school principal has prematurely ended the exclusion of a student from the classroom pursuant to this section.”

“credible threats.”<sup>211</sup> Specifically, the bills would have made it a crime for a student to “credibly threaten”<sup>212</sup> to damage property if the threat “causes or intends to cause” the evacuation of any activity or the disruption of any school property.<sup>213</sup> Additionally, the bills would have required school principals to notify law enforcement officials of any statement that falls within the statute’s definition. If a student is criminally charged, they must be immediately suspended and banned from all public K–12 property for at least one year.<sup>214</sup> If the student is convicted, they are automatically expelled and must pay restitution to, among others, law enforcement and emergency medical personnel who responded to the school.<sup>215</sup>

*B. Arizona: H.B. 2460 and H.B. 2663*

In 2023, the Arizona Legislature adopted H.B. 2460,<sup>216</sup> which rescinded prior school discipline protections enacted by the state legislature in 2021. The 2021 law, H.B. 2123, prohibited suspensions and expulsions of children in grades K–4 unless five criteria were satisfied, including that the student “is seven years of age or older” and that the school district “considers and, if feasible . . . employs alternative behavioral and disciplinary interventions.”<sup>217</sup> Under the new law, H.B. 2460, school districts may now suspend any school-age child for up to two days at a time for a total of ten days per school year without applying the criteria established by the 2021 law.<sup>218</sup> As part of this amendment, school districts are no longer required to consider alternative behavioral or disciplinary interventions before implementing suspensions of such length.<sup>219</sup>

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211. H.B. 356, 2025 Leg., Reg. Sess. (Ala. 2025); H.B. 85, 2025 Leg. Reg. Sess. (Ala. 2025). The criminally charged student cannot be readmitted unless (1) all charges are disposed of, (2) the student completes any court-mandated evaluation or treatment, and (3) any other requirements set by the local board of education are met. Ala. H.B. 356; Ala. H.B. 85.

212. H.B. 356 defines “credible threat” as, *inter alia*, a threat made “with the intent to cause disruption of a school . . . activity.” Ala. H.B. 356.

213. *Id.*

214. *Id.*; Ala. H.B. 85.

215. Ala. H.B. 356; Ala. H.B. 85.

216. H.B. 2460, 56th Leg., 1st Reg. Sess. (Ariz. 2023).

217. H.B. 2123, 55th Leg., 1st Reg. Sess. (Ariz. 2021).

218. Ariz. H.B. 2460.

219. Previously, before a school district could impose a suspension of any length, Arizona law required that “the school district or charter school consider and, if feasible while maintaining the health and safety of others, in consultation with the pupil’s parent or guardian to the extent possible, employ alternative behavioral and disciplinary interventions that are available to the school district or charter school, that are appropriate to the circumstances and that are considerate of health and safety.” Ariz. H.B. 2123.

In 2025, the state legislature considered H.B. 2663, which would have established procedural prerequisites for returning a student to the classroom.<sup>220</sup> If a teacher removed a student, the principal could not return the student to the classroom until the principal provided the teacher with written certification authorizing the student's return and describing the disciplinary action taken in response to the student's behavior.<sup>221</sup>

#### *C. Connecticut: S.B. 725*

In 2025, the Connecticut Legislature considered S.B. 725.<sup>222</sup> The proposed bill is only one sentence in length and sets forth five legislative goals related to the state's education code. One of these objectives is to amend the education code to "increase teacher control of classrooms."<sup>223</sup>

#### *D. Florida: S.B. 244 and H.B. 1035*

In 2023, the Florida Legislature passed H.B. 1035, enacting a "Teachers' Bill of Rights."<sup>224</sup> The authoritative language of H.B. 1035 includes an addition to the state code codifying a teacher's "[r]ight to control the classroom."<sup>225</sup> H.B. 1035 includes, in relevant part, the authority to "have disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students removed from the classroom."<sup>226</sup> Additionally, the Florida State Senate introduced S.B. 244, an identical bill, two days after H.B. 1035 was introduced, but H.B. 1035 was eventually substituted for S.B. 244.<sup>227</sup>

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220. H.B. 2663, 57th Leg., 1st Reg. Sess. (Ariz. 2025).

221. *Id.*

222. S.B. 725, 2025 Gen. Assemb., Jan. Sess. (Conn. 2025).

223. *Id.* The bill's four other mandated amendments to the education code are to "establish school choice," "authorize parents to have access to school curricula," "reduce unnecessary unfunded state mandates on local and regional boards of education," and "raise academic standards state-wide." *Id.*

224. H.B. 1035, 2023 Leg., Reg. Sess. (Fla. 2023).

225. *Id.*

226. *Id.* H.B. 1035's effect is unclear—since 2002, a section of the Florida Education Code has conferred equal exclusionary authority to teachers with identical statutory language. *See FLA. STAT. § 1003.32 (2002).* However, the new law adds the Teachers' Bill of Rights to a different title than the Education Code—a title it shares with, as of 2024, only the Parents' Bill of Rights. *See FLA. STAT. §§ 1014.01–1015.06 (2024).*

227. *See SB 244: K-12 Teachers*, FLA. SENATE, <https://www.flsenate.gov/Session/Bill/2023/244> [<https://perma.cc/HE2V-RX5P>]; *CS/HB 1035: K-12 Teachers*, FLA. SENATE, <https://www.flsenate.gov/Session/Bill/2023/1035> [<https://perma.cc/Q29W-B7PR>].

*E. Idaho: H.B. 581 and H.B. 349*

In 2024, the Idaho Legislature enacted H.B. 581,<sup>228</sup> which amends H.B. 281, a bill passed in 2023 that limited the use of physical restraint in school discipline.<sup>229</sup> H.B. 281 prohibited physical restraint unless “a pupil’s conduct has placed himself, employees, or any other individual in imminent danger of serious bodily harm.”<sup>230</sup> H.B. 581 creates an explicit exception for “physical escort,” defined as “a temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of directing a student to a safe location.”<sup>231</sup> H.B. 581 provides that “[p]hysical escort may be used to remove a student from the classroom when it has been determined that the student’s behavior is severely disrupting the learning of other students.”<sup>232</sup> Under H.B. 581, teachers and school officials are granted legal authority to effectuate exclusionary policies with physical force.<sup>233</sup>

In 2025, the Idaho Legislature introduced H.B. 349.<sup>234</sup> H.B. 349, which died in committee by the time of publication, would have defined “inappropriate online behavior” as grounds for suspension and expulsion.<sup>235</sup> The bill punished any online communication that was deemed harassing or threatening, including any communication that harmed the “reputation” or “dignity” of school employees or other persons.<sup>236</sup>

*F. Illinois: S.B. 1400 and H.B. 3600*

In February 2023, the Illinois Legislature introduced two bills, S.B. 1400 and H.B. 3600, aimed at rescinding previously established protections against exclusionary school discipline.<sup>237</sup> As introduced, S.B. 1400 would have repealed the portion of a 2015 law that required school officials to “limit the number and duration of expulsions and

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228. H.B. 581, 67th Leg., 2d Reg. Sess. (Idaho 2024).

229. H.B. 281, 67th Leg., 1st Reg. Sess. (Idaho 2023).

230. *Id.*

231. Idaho H.B. 581.

232. *Id.*

233. Other states have introduced bills related to the general authority of teachers to use physical force, *see, e.g.*, L.B. 811, 108th Leg., 1st Sess. (Neb. 2024), but these bills were omitted from the dataset. In contrast, Idaho’s law was included because it specifically confers upon teachers a new enforcement power relative to their existing authority to exclude students from the classroom. Idaho’s physical force mandate is directly tied to removing “disruptive” students.

234. H.B. 349, 68th Leg., 1st Reg. Sess. (Idaho 2025).

235. *Id.*

236. *Id.* The bill defines other persons as students, parents or guardians of students, and school volunteers. *Id.*

237. S.B. 1400, 103d Gen. Assemb., Reg. Sess. (Ill. 2023); H.B. 3600, 103d Gen. Assemb., Reg. Sess. (Ill. 2023).

suspensions.”<sup>238</sup> The bill proposed replacing that requirement with a permissive recommendation that school officials consider “evidence-based interventions” and “non-exclusionary discipline.”<sup>239</sup> In May 2024, the Illinois State Senate amended S.B. 1400 to retain the requirement that school officials limit the number and duration of expulsions and suspensions; the amended version of the bill passed.<sup>240</sup>

The second bill, H.B. 3600, initially sought to repeal H.B. 5786, a 2018 law that authorized in-school-suspension programs to focus on “non-violent conflict resolution and positive interaction.”<sup>241</sup> In addition to removing that language, the bill would have authorized the use of in-school-suspensions for “students guilty of gross disobedience or misconduct.”<sup>242</sup> H.B. 3600 did not pass into law.<sup>243</sup>

#### *G. Indiana: H.B. 1543 and H.B. 1262*

Since 2020, the Indiana Legislature has considered two new exclusionary school discipline bills. First, in 2023, H.B. 1543 was introduced to add a new section to the education code defining an “aggressive student” as “a student who has a documented record of frequent disruptions of the traditional school learning environment despite repeated attempts . . . to modify the student’s behavior.”<sup>244</sup> The bill also proposed amending an existing section of the code to provide that, if a student was designated as an “aggressive student” and removed from the classroom, “the principal may place the student in another appropriate class or placement or into in-school suspension.”<sup>245</sup> Additionally, once a student was removed, the principal would be prohibited from returning the student to the classroom until the principal “met with the student, the student’s teacher, and the student’s parents to determine an appropriate behavior plan for the student” and “developed an appropriate classroom reintegration plan for the student.”<sup>246</sup>

In the following legislative session, H.B. 1262 was introduced.<sup>247</sup> If passed, H.B. 1262 would have amended the grounds for suspension

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238. S.B. 100, 99th Gen. Assemb., Reg. Sess. (Ill. 2015).

239. Ill. S.B. 1400.

240. Ill. S.B. 1400 (as engrossed).

241. H.B. 5786, 100th Gen. Assemb., Reg. Sess. (Ill. 2018).

242. Ill. H.B. 3600.

243. See *Bill Status of HB3600*, ILL. GEN. ASSEMB., <https://www.ilga.gov/legislation/BillStatus.asp?DocNum=3600&GAID=17&DocTypeID=HB&SessionID=112&GA=103> [<https://perma.cc/HE2X-MG3K>?type=image].

244. H.B. 1543, 123d Gen. Assemb., 1st Reg. Sess. (Ind. 2023).

245. *Id.*

246. *Id.*

247. H.B. 1262, 123d Gen. Assemb., 2d Reg. Sess. (Ind. 2024). H.B. 1262 failed to pass into law. See *Indiana House Bill 1262*, LEGISCAN, <https://legiscan.com/IN/text/>

or expulsion to include “disruption.”<sup>248</sup> The bill would have authorized each school district<sup>249</sup> to “establish a disruption policy” permitting the removal of any student who “(1) disrupts the educational function of the classroom; or (2) challenges the authority of school [district] personnel.”<sup>250</sup> “A principal, teacher, or school staff member” would have concurrent authority to “immediately remove a disruptive student from a classroom setting.”<sup>251</sup> Any student removed for disruptive behavior three times within thirty days would be eligible for suspension and “be considered chronically disruptive.”<sup>252</sup>

#### *H. Kentucky: H.B. 538 and S.B. 202*

In 2023, the Kentucky Legislature passed H.B. 538, amending its education code to grant additional exclusionary authority to principals and school boards and enacting mandatory exclusionary punishments.<sup>253</sup> Prior Kentucky law provided a general authorization for the superintendent, principal, assistant principal, or head teacher to suspend a pupil and reserved the authority to expel students to the school board.<sup>254</sup> Under H.B. 538, a principal is specifically authorized to “permanently remove a student from the classroom for the remainder of the school year if the principal determines the student’s continued placement in the classroom will chronically disrupt the education process for other students.”<sup>255</sup> The new law further enhances the power of a principal by delegating authority to the principal to establish the procedure for removing a student from the classroom “when the student’s behavior disrupts the classroom environment and education process or the student challenges the authority of a supervising adult.”<sup>256</sup> H.B. 538 also mandates that any student removed from a classroom three times within thirty days “shall be considered chronically disruptive and may

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HB1262/id/2872981 [<https://perma.cc/P4ZZ-GDV4>].

248. Ind. H.B. 1262.

249. The bill uses the term “school corporations,” which is the nomenclature Indiana utilizes for “school districts.”

250. Ind. H.B. 1262.

251. *Id.* Once a student is removed for being disruptive, “a principal shall determine the placement of [the student],” including in an alternative or virtual program. *Id.*

252. *Id.*

253. H.B. 538, 2023 Gen. Assemb., Reg. Sess. (Ky. 2023).

254. KY. REV. STAT. ANN. § 158.150 (West 2022) (amended 2023).

255. Ky. H.B. 538. A superintendent can also place a student “into an alternative program or setting” when a student’s expulsion ends “if the superintendent determines placement of the student in his or her regular school setting is likely to substantially disrupt the education process.” *Id.*

256. *Id.* Such a student is also “subject to further discipline for the behavior.” *Id.*

be suspended.”<sup>257</sup> Additionally, H.B. 538 expands the authority of local school boards to expel students. School boards are now permitted to “extend the expulsion of any student” for behavioral violations including “willful disobedience,” “use of profanity,” and “other incorrigible bad conduct.”<sup>258</sup>

S.B. 202 was also proposed in 2023 as a separate legislative effort to expand exclusionary school discipline.<sup>259</sup> Under S.B. 202, a superintendent would have been granted the authority to place a student into an alternative program or setting when a student’s suspension ended “if the superintendent determines placement of the student in his or her regular school setting is likely to substantially disrupt the education process.”<sup>260</sup> This provision was incorporated into H.B. 538 and enacted into law.<sup>261</sup>

### *I. Louisiana: H.B. 322 and S.B. 358*

In 2024, the Louisiana Legislature passed two separate bills, H.B. 322 and S.B. 358, which expanded the scope of exclusionary school disciplinary measures in the state.<sup>262</sup> H.B. 322 amended the state’s education code to require a teacher to remove a student from the classroom “[w]hen a student’s behavior prevents the orderly instruction of other students or poses an immediate threat to the safety or physical well-being of any student or teacher or when a student violates the school’s code of conduct.”<sup>263</sup> H.B. 322 also requires the student’s parent or guardian to meet with the teacher before the student can return to the classroom.<sup>264</sup> Previously, the statute provided that the teacher “may” remove the student from the classroom and that the student’s parent or guardian “may be required” to meet with the teacher.<sup>265</sup> However, under H.B. 322, a teacher “shall have the student immediately removed,” and the student’s parent or guardian

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257. *Id.* The law explicitly states that “no other basis for suspension shall be deemed necessary.” *Id.*

258. *Id.*

259. S.B. 202, 2023 Gen. Assemb., Reg. Sess. (Ky. 2023). S.B. 202 and H.B. 538 were proposed one day apart from each other.

260. *Id.*

261. Ky. H.B. 538. S.B. 202 did not move out of committee after H.B. 538 was proposed in the House. *Kentucky Senate Bill 202*, LEGISCAN, <https://legiscan.com/KY/bill/SB202/2023> [<https://perma.cc/3FHH-53T4>].

262. S.B. 358, 2024 Leg., Reg. Sess. (La. 2024); H.B. 322, 2024 Leg., Reg. Sess. (La. 2024).

263. La. H.B. 322.

264. *Id.*

265. *Id.*

“is required” to meet with the teacher before the student can return to the classroom.<sup>266</sup>

S.B. 358 “recommend[s] for expulsion” any student in grades six through twelve “who is suspended a third time within the same school year for any offense.”<sup>267</sup> Existing Louisiana law authorizes suspension for a range of behaviors, including “willful disobedience,” tardiness, “unchaste or profane language,” “immoral or vicious practices,” and dress code violations.<sup>268</sup> Only suspensions related to tardiness and dress code violations are excluded from the scope of S.B. 358, meaning multiple suspensions for “willful disobedience,” “unchaste or profane language,” or “immoral or vicious practices” are now grounds for expulsion under the new law.<sup>269</sup>

#### *J. Maine: L.D. 165*

In 2025, the Maine Legislature considered L.D. 165, which would have removed age-based restrictions on exclusion.<sup>270</sup> Specifically, L.D. 165 would repeal L.D. 474, a 2021 law that prohibited school boards from suspending or expelling students in grade five or below in most situations.<sup>271</sup> If enacted, L.D. 165 would have permitted the suspension and expulsion of K–5 students.<sup>272</sup>

#### *K. Maryland: H.B. 773*

In 2025, Maryland considered H.B. 773, which would have increased teachers’ authority to remove students from the classroom.<sup>273</sup> The bill would permit teachers to remove a student for repeatedly interfering with the teacher’s ability to communicate or other students’ ability to learn.<sup>274</sup> Once a student was removed, the principal would not be able to return the student to the classroom without the teacher’s consent.<sup>275</sup>

#### *L. Minnesota: S.F. 2066 and H.F. 1436*

In its 2025 session, the Minnesota Legislature considered two bills, S.F. 2066 and H.F. 1436. Cumulatively, these bills would have

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266. *Id.* (emphasis added).

267. La. S.B. 358.

268. LA. ADMIN. CODE tit. 28, pt. CVX, § 1305 (2025).

269. *Id.*

270. L.D. 165, 132d Leg., 1st Reg. Sess. (Me. 2025).

271. L.D. 474, 130th Leg., 1st Spec. Sess. (Me. 2021).

272. Me. L.D. 165.

273. H.B. 773, 447th Gen. Assemb., Reg. Sess. (Md. 2025).

274. *Id.*

275. *Id.*

repealed recently enacted laws that impose non-exclusionary discipline requirements and age-based restrictions on the use of exclusionary school discipline.<sup>276</sup> S.F. 2066 and H.F. 1436 both proposed repealing portions of H.F. 33 and H.F. 2497, which were enacted in 2020 and 2023, respectively.<sup>277</sup> H.F. 33 prohibited the “dismissal”<sup>278</sup> of pre-kindergarten and kindergarten students unless non-exclusionary discipline policies and practices were exhausted.<sup>279</sup> H.F. 2497 expanded H.F. 33’s protections to K–3 students, restricted the use of “recess detention,” and required that local school board policies include “nonexclusionary disciplinary policies and practices.”<sup>280</sup>

S.F. 2066 would have removed the state’s restriction on suspending K–3 students and reallowed suspensions of K–3 students for up to three days.<sup>281</sup> H.F. 1436 would have removed the restrictions on using “recess detention” and repealed the requirement that school board policies must include non-exclusionary disciplinary policies and practices.<sup>282</sup> Both bills also proposed removing the requirement that non-exclusionary disciplinary policies and practices must be exhausted before a K–3 student is excluded or expelled.<sup>283</sup>

#### *M. Missouri: H.B. 192*

In 2023, H.B. 192, a “Teacher Bill of Rights,” was introduced in the Missouri Legislature.<sup>284</sup> Although H.B. 192 did not leave committee,<sup>285</sup> if passed, it would have codified a teacher’s right “to remove any persistently disruptive student from [the] classroom when the student’s behavior prevents the orderly instruction of other students or when the student displays impudent or defiant behavior.”<sup>286</sup> This would have been a significant change in authority under Missouri law, which explicitly delineates the authority to remove students *only* to school boards, principals,

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276. S.F. 2066, 94th Leg., Reg. Sess. (Minn. 2025); H.F. 1436, 94th Leg., Reg. Sess. (Minn. 2025).

277. H.F. 33, 91st Leg., Reg. Sess. (Minn. 2020); H.F. 2497, 93d Leg., Reg. Sess. (Minn. 2023).

278. Minnesota defines “dismissal” as “the denial of the current educational program to any pupil, including exclusion, expulsion, and suspension.” MINN. STAT. ANN. § 121A.41 (2025).

279. Minn. H.F. 33.

280. Minn. H.F. 2497.

281. Minn. S.F. 2066.

282. Minn. H.F. 1436. The bill would have also repealed a related requirement that local school board policies must emphasize preventing dismissals. *Id.*

283. Minn. S.F. 2066; Minn. H.F. 1436.

284. H.B. 192, 102d Gen. Assemb., 1st Reg. Sess. (Mo. 2023).

285. *Missouri House Bill 192*, LEGISCAN, <https://legiscan.com/MO/bill/HB192/2023> [perma.cc/GG7T-Z596].

286. Mo. H.B. 192.

and superintendents. State law provides that school boards “may suspend or expel a pupil”<sup>287</sup> or “may authorize the summary suspension of pupils by principals . . . and by the superintendent of schools.”<sup>288</sup>

*N. Montana: S.B. 138*

During its 2025 session, the Montana Legislature considered—but ultimately rejected—S.B. 138.<sup>289</sup> The bill would have amended the Montana Education Code to clarify that teachers have the authority to enforce the state’s disciplinary statute.<sup>290</sup> S.B. 138 also would have added language specifying that teachers have the power to “exercise authority over pupils in the classroom.”<sup>291</sup>

*O. Nebraska: L.B. 149*

In 2025, Nebraska considered L.B. 149, which would have rescinded age-based protections against suspensions.<sup>292</sup> The bill would have repealed L.B. 705, a 2023 provision that prohibited the suspension of K–2 students.<sup>293</sup> Thus, L.B. 149 would have reallowed suspensions for K–2 students.<sup>294</sup>

*P. Nevada: A.B. 285, A.B. 330, and S.B. 152*

In Nevada, several bills have been introduced to amend and restrict A.B. 168, a bill passed in 2019 which added age-based restrictions and restorative justice requirements and recommendations to the state’s school discipline statute.<sup>295</sup> The first bill, S.B. 152, was proposed in

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287. Mo. ANN. STAT. § 167.161 (2023). The statute further provides that the grounds for suspension or expulsion are “conduct which is prejudicial to good order and discipline in the schools or which tends to impair the morale or good conduct of the pupils.” *Id.*

288. Mo. ANN. STAT. § 167.171 (2023). Principals can be authorized to suspend students for up to ten days, and superintendents can be authorized to suspend students for up to 180 days. *Id.*

289. S.B. 138, 69th Leg., Reg. Sess. (Mont. 2025).

290. *Id.* Specifically, the bill referenced MONT. CODE. ANN. § 20-5-201 (2025), which sets forth the grounds upon which a student can be suspended or expelled.

291. Mont. S.B. 138.

292. L.B. 149, 109th Leg., 1st Sess. (Neb. 2025).

293. L.B. 705, 108th Leg., 1st. Sess. (Neb. 2023). L.B. 705 included an exception that permitted the suspension of a K–2 student who brings a deadly weapon to school. *Id.*

294. Neb. L.B. 149. Also in 2025, the Nebraska Legislature proposed L.B. 430, which would not have repealed L.B. 705 but would have added an additional carveout permitting the suspension of K–2 students for “violent behavior capable of causing physical harm.” L.B. 430, 109th Leg., 1st Sess. (Neb. 2025).

295. A.B. 168, 80th Leg., Reg. Sess. (Nev. 2019).

February 2023.<sup>296</sup> In April 2023, S.B. 152 was replaced by A.B. 285 and A.B. 330, which proposed amendments identical to those in S.B. 152.<sup>297</sup> A.B. 285 and A.B. 330 were enacted in June 2023.<sup>298</sup>

There are several effects of A.B. 285 and A.B. 330. First, the laws include a policy directive to the Nevada Education Department regarding restorative practices. Under the prior law, A.B. 168, the Nevada Education Department was to develop requirements and methods for restorative disciplinary practices.<sup>299</sup> However, under A.B. 285 and A.B. 330, the Nevada Education Department is only required to develop “*recommendations* for restorative disciplinary practices.”<sup>300</sup>

Second, the laws eliminate restrictions on excluding students from the classroom that were previously included in A.B. 168. Now, a student “may be temporarily removed from [the] classroom,” without the prior application of a restorative justice plan, if the student “seriously interferes with the ability of the teacher to teach . . . and with the ability of the other pupils to learn or with the ability of the staff member to discharge his or her duties.”<sup>301</sup>

Third, A.B. 285 and A.B. 330 remove the requirement that a principal establish a “restorative” disciplinary plan, thereby eliminating the mandate that a disciplinary plan provide for “restorative disciplinary practices.”<sup>302</sup> Fourth, a student “who poses . . . an ongoing threat of disrupting the academic process” may now be removed from school.<sup>303</sup> Removal includes suspension, expulsion, and permanent expulsion.<sup>304</sup> Students aged eleven or older can be expelled or permanently expelled, while students younger than six can be suspended.<sup>305</sup> Fifth, the new laws remove an age-based restriction that had prevented students aged eleven or younger from being suspended or expelled once they were deemed a “habitual disciplinary problem.”<sup>306</sup>

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296. S.B. 152, 82d Leg., Reg. Sess. (Nev. 2023).

297. A.B. 285, 82d Leg., Reg. Sess. (Nev. 2023); A.B. 330, 82d Leg. Reg. Sess. (Nev. 2023).

298. *Nevada Assembly Bill 285*, LEGISCAN, <https://legiscan.com/NV/bill/AB285/2023> [<https://perma.cc/X5JJ-4QHJ>]; *Nevada Assembly Bill 330*, LEGISCAN, <https://legiscan.com/NV/bill/AB330/2023> [<https://perma.cc/225T-P9QL>].

299. Nev. A.B. 168.

300. Nev. A.B. 285 (emphasis added).

301. *Id.*; Nev. A.B. 330.

302. Nev. A.B. 285; Nev. A.B. 330.

303. Nev. A.B. 285; Nev. A.B. 330.

304. Nev. A.B. 285; Nev. A.B. 330.

305. Nev. A.B. 285; Nev. A.B. 330.

306. Nev. A.B. 285; Nev. A.B. 330. Any student who suffers five “significant suspensions” is labelled a “habitual disciplinary problem.” Nev. A.B. 285; Nev. A.B. 330.

*Q. North Carolina: H.B. 1027, H.B. 247, and H.B. 188*

In 2024, North Carolina introduced H.B. 1027, a bill that would have established new mechanisms of exclusion.<sup>307</sup> Currently, North Carolina law defines three forms of exclusionary punishment: “short-term suspension,”<sup>308</sup> “long-term suspension,”<sup>309</sup> and “expulsion.”<sup>310</sup> H.B. 1027 would have added “intermediate-term suspension” and “in-school suspension” to the list of available exclusionary measures in North Carolina public schools.<sup>311</sup> “Intermediate-term suspension” was defined as “[t]he exclusion for more than twenty, but no more than forty-two, cumulative school days of a student from school attendance for disciplinary purposes” and would have been permitted as punishment for “any student who willfully engages in conduct that violates a provision of the Code of Student Conduct.”<sup>312</sup> The bill defined “in-school suspension” as “[t]he exclusion of a student from the classroom for disciplinary purposes while the student remains on school grounds” and would have permitted its imposition for up to five consecutive school days and forty cumulative days per school year.<sup>313</sup> H.B. 1027 failed to pass into law.<sup>314</sup>

In 2021 and 2023, the North Carolina General Assembly considered H.B. 247 (2021) and H.B. 188 (2023).<sup>315</sup> These bills would have expanded the behaviors subject to long-term suspension and expulsion by amending an existing statute that specifies certain conduct does not meet the criteria for a “serious violation” and therefore does not subject a student to long-term suspension or expulsion.<sup>316</sup> The two bills would have removed “inappropriate or disrespectful language, noncompliance with a staff directive, dress code violations, and minor physical altercations that do not involve weapons or injury” as “examples of

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307. H.B. 1027, 2023–2024 Gen. Assemb., Reg. Sess. (N.C. 2024).

308. N.C. GEN. STAT. ANN. § 115C-390.5 (2023). Short-term suspension is defined as “[t]he exclusion of a student from school attendance for disciplinary purposes for up to 10 school days.” *Id.* § 115C-390.1.

309. *Id.* § 115C-390.7. Long-term suspension is defined as “[t]he exclusion for more than 10 school days of a student from school attendance for disciplinary purposes,” including up to the remainder of the school year and the first semester of the following school year. *Id.* § 115C-390.1.

310. *Id.* § 115C-390.1. Expulsion is defined as “The indefinite exclusion of a student from school enrollment for disciplinary purposes.” *Id.*

311. N.C. H.B. 1027.

312. *Id.*

313. *Id.*

314. *House Bill 1027*, N.C. GEN. ASSEMB., <https://www.ncleg.gov/BillLookUp/2023/H1027> [<https://perma.cc/9SG7-Y7WH>].

315. H.B. 247, 2021–2022 Gen. Assemb., Reg. Sess. (N.C. 2021); H.B. 188, 2023–2024 Gen. Assemb., Reg. Sess. (N.C. 2023).

316. N.C. GEN. STAT. ANN. § 115C-390.2 (2023).

conduct that would not be deemed to be a serious violation.”<sup>317</sup> Under both bills, long-term suspension or expulsion would have become a permissible punishment for behaviors as minor as dress code violations and inappropriate language.<sup>318</sup>

*R. Oklahoma: H.B. 3123, H.B. 3348, S.B. 865, S.B. 271, and S.B. 757*

In its 2024 session, the Oklahoma Legislature considered two bills that would have—for the first time in the state—defined behavioral infractions at the state level, created mandatory exclusionary punishments for certain behaviors, and codified the authority of teachers to exclude students from the classroom.<sup>319</sup> The bills, H.B. 3123 and H.B. 3348, proposed identical revisions to the Oklahoma state code but were considered separately.<sup>320</sup> The bills would have defined “disorderly behavior” as “a series of actions considered to be disorderly conduct, threatening behavior, or interference in the teaching or learning processes of others” and would have authorized a teacher to exclude any student who:

[1] is guilty of disorderly conduct, [2] in any manner [that] interferes with an orderly educational process, [3] behaves in a manner that obstructs the teaching or learning process of others . . . [4] threatens, abuses, or otherwise intimidates or attempts to intimidate a school employee or a student, [5] willfully disobeys a school employee, or [6] uses abusive or profane language directed at a school employee.<sup>321</sup>

Under the failed bills, if a teacher had excluded a student, the student would have remained out of the classroom until the principal “provide[d] written certification to the teacher . . . that the student may be readmitted and specific[d] the type of disciplinary action, if any, that was taken.”<sup>322</sup> A student removed twice in one semester would have been excluded until the principal, teacher, and, if possible, the student’s parent or guardian met “to discuss the disruptive behavior patterns of

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317. N.C. H.B. 247; N.C. H.B. 188.

318. N.C. H.B. 247; N.C. H.B. 188. Neither bill passed. *See North Carolina House Bill 188*, LEGISCAN, <https://legiscan.com/NC/bill/H188/2023> [<https://perma.cc/HZ8U-YFZU>]; *North Carolina House Bill 247*, LEGISCAN, <https://legiscan.com/NC/bill/H247/2021> [<https://perma.cc/6YKM-MX4K>].

319. H.B. 3123, 59th Leg., 2d Sess. (Okla. 2024); H.B. 3348, 59th Leg., 2d Sess. (Okla. 2024).

320. Okla. H.B. 3123; Okla. H.B. 3348.

321. Okla. H.B. 3123; Okla. H.B. 3348.

322. Okla. H.B. 3123; Okla. H.B. 3348.

the student” and the teacher and the principal “agree[d] on a course of discipline for the student.”<sup>323</sup>

Additionally, H.B. 3123 and H.B. 3348 would have enacted mandatory exclusionary punishments for students. Specifically, if a grade six through twelve teacher “determine[d] that the behavior of the student is disorderly conduct, is interfering with an orderly educational process, or obstructs the teaching or learning process of others in the classroom,” the teacher could have excluded the student.<sup>324</sup> The student would have been excluded from the classroom “for at least the remainder of the instructional day.”<sup>325</sup> If a student were removed three times in one month, the bills would have required the principal to impose “an in-school suspension [or] an out-of-school suspension, or [consider placing the student] in an alternative education program or a cooperative education.”<sup>326</sup> At present, Oklahoma law simply directs each school district board of education to “adopt a policy for the discipline of all children attending public school in that district.”<sup>327</sup> The state code provides statewide disciplinary standards only in relation to out-of-school suspensions, which may be imposed “by the administration of the school or district” for a “violation of a school regulation.”<sup>328</sup>

H.B. 3123 and H.B. 3348 do not represent the first time that Oklahoma has sought to authorize teachers to remove students on specific behavioral grounds. In 2023, the state legislature considered S.B. 865, which would have enacted Oklahoma’s version of a “Teachers’ Bill of Rights.”<sup>329</sup> S.B. 865 would have added a section to the state code codifying a teacher’s right to “have disobedient, disrespectful, violent, abusive, or disruptive students removed from the classroom.”<sup>330</sup> In 2021,

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323. Okla. H.B. 3123; Okla. H.B. 3348. “[I]f the student’s disruptive behavior persist[ed],” the principal would have been authorized to “transfer the student to another setting, including but not limited to, isolating students or placing them in alternative education programs or academies.” Okla. H.B. 3123; Okla. H.B. 3348.

324. Okla. H.B. 3123; Okla. H.B. 3348.

325. Okla. H.B. 3123; Okla. H.B. 3348.

326. Okla. H.B. 3123; Okla. H.B. 3348.

327. OKLA. STAT. ANN. tit. 70, § 24-100.4 (2024).

328. *Id.* § 24-101.3. The law also authorizes out-of-school suspensions for “possession of an intoxicating beverage . . . or missing or stolen property” and “possession of a dangerous weapon or a controlled dangerous substance.” *Id.*

329. S.B. 865, 59th Leg., 1st Sess. (Okla. 2023). Oklahoma previously proposed a “Teachers’ Bill of Rights” in 2017. H.B. 1508, 56th Leg., 1st Sess. (Okla. 2017). Notably, this bill made no mention of a teacher’s right to exclude students from the classroom, instead focusing primarily on teachers’ freedom of religious expression. *Id.*

330. Okla. H.B. 865.

the legislature considered S.B. 271, a similar bill that proposed a nearly identical statutory addition.<sup>331</sup>

In 2025, the Oklahoma Legislature considered S.B. 757, which would have further expanded the application of exclusionary discipline.<sup>332</sup> S.B. 757 would have added “threatening behavior” as grounds for suspension.<sup>333</sup> Additionally, if a student’s “threatening behavior” was directed towards a teacher, the student would not be permitted to return to the classroom without the teacher’s approval.<sup>334</sup>

#### *S. South Carolina: S.B. 322, S.B. 202, and H.B. 4864*

In two legislative sessions,<sup>335</sup> South Carolina has made three separate attempts—S.B. 322, S.B. 202, and H.B. 4864—to enact a “Teacher Bill of Rights” that would, for the first time, codify a teacher’s authority to remove a student.<sup>336</sup> All three bills have proposed an identical statutory addition, which would establish a teacher’s “right to . . . take appropriate disciplinary measures, including the removal of persistently disruptive students.”<sup>337</sup> All three attempts to codify this language have failed.<sup>338</sup>

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331. S.B. 271, 58th Leg., 1st Sess. (Okla. 2021). In comparison to the 2023 bill, this bill did not propose a “Teachers’ Bill of Rights.” *Id.* Thus, the proposed language would have codified a teacher’s “authority” to have students removed, rather than a teacher’s “right” to have students removed. *Id.*

332. S.B. 757, 60th Leg., 1st Sess. (Okla. 2025).

333. *Id.* The state’s education code defines “threatening behavior” as “any verbal threat . . . which indicates potential for future harm to students, school personnel or school property.” OKLA. STAT. ANN. tit. 70, § 24-100.8 (2025).

334. Okla. S.B. 757.

335. South Carolina first proposed enacting a “Teacher Bill of Rights” in 2019. *See* S.B. 244, 123d Gen. Assemb., Reg. Sess. (S.C. 2019). This attempt failed. *See South Carolina Senate Bill 244*, LEGISCAN, <https://legiscan.com/SC/bill/S0244/2019> [https://perma.cc/HZE8-TXS4].

336. S.B. 322, 124th Gen. Assemb., Reg. Sess. (S.C. 2021); S.B. 202, 125th Gen. Assemb., Reg. Sess. (S.C. 2023); H.B. 4864, 125th Gen. Assemb., Reg. Sess. (S.C. 2024). Currently, South Carolina law permits a school board to “order the expulsion, suspension, or transfer of any pupil” or give a school administrator “the authority to suspend a pupil,” but the state code is silent as to a teacher’s authority to remove a student. S.C. CODE ANN. §§ 59-63-210, 59-63-220 (2024).

337. S.C. S.B. 322; S.C. S.B. 202; S.C. H.B. 4864.

338. *See South Carolina Senate Bill 322*, LEGISCAN, <https://legiscan.com/SC/bill/S0322/2021> [https://perma.cc/EJ2A-FGZY]; *South Carolina Senate Bill 202*, LEGISCAN, <https://legiscan.com/SC/bill/S0202/2023> [https://perma.cc/TW9N-68RF]; *South Carolina House Bill 4864*, LEGISCAN, <https://legiscan.com/SC/bill/H4864/2023> [https://perma.cc/H6AU-NVEG].

*T. Tennessee: H.B. 16 and S.B. 230*

In 2021, Tennessee enacted H.B. 16, which established a process for teachers to “remove a student who repeatedly or substantially interferes with the teacher’s ability to communicate effectively with the class or the ability of the student’s classmates to learn.”<sup>339</sup> The teacher can “submit a written request to the principal . . . to remove a student,” and the principal “shall respect the professional judgment of a teacher requesting to remove a student” and “take an action consistent with the student discipline policy,” including “suspending the student.”<sup>340</sup> H.B. 16 also requires local school boards to “establish an appeal process,” which a teacher can utilize if a principal denies the teacher’s request to remove a student.<sup>341</sup>

*U. Texas: S.B. 245, H.B. 4033, H.B. 6, S.B. 1523, and H.B. 5553*

In 2025, Texas introduced three bills—H.B. 6, S.B. 1523, and H.B. 5553—all of which contemplated rescinding restrictions against exclusionary discipline and expanding certain exclusionary practices.<sup>342</sup> H.B. 6 and S.B. 1523 proposed two similar amendments. First, the bills removed protections for K–2 students enacted by H.B. 674 in 2017, which prohibited suspensions of K–2 students except in cases involving weapons-related and drug-related offenses.<sup>343</sup> H.B. 6 and S.B. 1523 also proposed new exceptions allowing the suspension of K–2 students for “conduct that results in repeated or significant disruption to the classroom.”<sup>344</sup> Second, H.B. 6 and S.B. 1523 introduced in-school suspensions as a new disciplinary mechanism.<sup>345</sup> Notably, the bills permitted in-school suspensions to be used for an indefinite period of time.<sup>346</sup> Although S.B. 1523 failed to make it out of committee,<sup>347</sup> H.B. 6 was passed into law.<sup>348</sup>

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339. H.B. 16, 112th Gen. Assemb., Reg. Sess. (Tenn. 2021). The Tennessee Legislature also proposed and approved the same amendments to the state code by introducing and advancing S.B. 230, 112th Gen. Assemb., Reg. Sess. (Tenn. 2021). Ultimately, the legislature substituted H.B. 16 for S.B. 230 and chaptered H.B. 16.

340. Tenn. H.B. 16.

341. *Id.*

342. H.B. 6, 89th Leg., Reg. Sess. (Tex. 2025); S.B. 1523, 89th Leg., Reg. Sess. (Tex. 2025); H.B. 5553, 89th Leg., Reg. Sess. (Tex. 2025).

343. H.B. 674, 85th Leg., Reg. Sess. (Tex. 2017).

344. Tex. H.B. 6; Tex. S.B. 1523.

345. Tex. H.B. 6; Tex. S.B. 1523.

346. Tex. H.B. 6; Tex. S.B. 1523.

347. See *Texas Senate Bill 1523*, LEGISCAN, <https://legiscan.com/TX/bill/SB1523/2025> [<https://perma.cc/4KZ4-K9MM>].

348. See *Texas House Bill 6*, LEGISCAN, <https://legiscan.com/TX/bill/HB6/2025> [<https://perma.cc/5RBS-XGZF>].

H.B. 5553, the third bill introduced in 2025, would have removed the existing requirement that a suspended student receive a conference by the third day of their suspension and eliminated the requirement that each school establish a three-member committee with the power to override a teacher’s refusal to allow a student back into the classroom.<sup>349</sup> Both amendments would have eliminated provisions of the Texas Education Code that have been codified since at least 1995.<sup>350</sup> Additionally, H.B. 5553 would have abolished the “campus behavior coordinator” position<sup>351</sup>—a mandatory campus position established by S.B. 1267 in 2015.<sup>352</sup> When a teacher removes a student, the campus behavior coordinator is tasked with “employ[ing] alternative discipline management techniques, including any progressive interventions[.]”<sup>353</sup> Under H.B. 5553, that disciplinary authority would have shifted to school principals, and references to “alternative discipline management” and “progressive interventions” would have been removed.<sup>354</sup>

In 2023, Texas considered two bills—S.B. 245 and its companion, H.B. 4033—that would have lowered the threshold for teachers and principals to remove students from the classroom and set forth mandatory exclusionary punishments.<sup>355</sup> First, the bills proposed amendments to the state code permitting a teacher to remove a student “based on a single incident” in which the student “interfere[d] with the teacher’s ability to communicate effectively with the students in the class or with the ability of the student’s classmates to learn.”<sup>356</sup> Second, S.B. 245 and H.B. 4033 would have required that a student be “removed from class and placed in a disciplinary alternative education program” if the student engaged in the same disruptive behavior after the teacher previously removed the student for that conduct.<sup>357</sup> In conjunction, these proposed changes would have authorized a teacher to permanently remove a student to a “disciplinary alternative education program” after

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349. Tex. H.B. 5553.

350. S.B. 1, 74th Leg., Reg. Sess. (Tex. 1995).

351. Tex. H.B. 5553.

352. S.B. 107, 84th Leg., Reg. Sess. (Tex. 2015).

353. TEX. EDUC. CODE ANN. § 37.002 (West 2023).

354. Tex. H.B. 5553.

355. S.B. 245, 88th Leg., Reg. Sess. (Tex. 2023); H.B. 4033, 88th Leg., Reg. Sess. (Tex. 2023). Neither bill passed—both died in committee during the 2023 legislative session. *See Texas House Bill 4033*, LEGISCAN, <https://legiscan.com/TX/bill/HB4033/2023> [https://perma.cc/HR6V-8EQE]; *Texas Senate Bill 245*, LEGISCAN, <https://legiscan.com/TX/bill/SB245/2023> [https://perma.cc/7RZA-DVRY]. Because neither bill passed, Texas law still requires a teacher to determine that a student “repeatedly” disrupted the classroom before the teacher can remove the student. TEX. EDUC. CODE ANN. § 37.002 (West 2023).

356. Tex. S.B. 245; Tex. H.B. 4033.

357. Tex. S.B. 245; Tex. H.B. 4033.

just *two instances* of disruptive behavior.<sup>358</sup> Lastly, the bills proposed revisions to the Texas Education Code permitting a principal to “order the emergency placement or expulsion of a student . . . based on a single incident of behavior” that causes the principal to “reasonably believe[] the student’s behavior is unruly, disruptive, or abusive and interferes with a teacher’s ability to communicate effectively with the students in a class, with the ability of the student’s classmates to learn, or with the operation of school or a school-sponsored activity.”<sup>359</sup>

#### V. Virginia: H.B. 1461 and H.B. 853

Beginning in 2023, the Virginia General Assembly introduced legislation to define disruptive behavior at the state level and to mandate the removal of disruptive students. H.B. 1461, introduced in 2023, would have eliminated the authority of local school boards to define “disruptive behavior” and instead conferred upon the Department of Education the power to establish “a uniform system of discipline for disruptive behavior and the removal of a student from a class.”<sup>360</sup> H.B. 1461 did not advance in the 2023 legislative session,<sup>361</sup> but a similar bill was introduced in the 2024 session.<sup>362</sup> H.B. 853 not only included identical amendments as its predecessor regarding the authority to define “disruptive behavior,” but it also would have mandated that a teacher “remove a student from a class if the student repeats or continues [the student’s] nonviolent disruptive behavior after the teacher provides two warnings to the student.”<sup>363</sup> H.B. 853 also failed to pass.<sup>364</sup>

#### W. Washington: H.B. 1637

In 2025, the Washington State Legislature considered H.B. 1637, which would have amended the state’s education code to permit “long-term suspension”<sup>365</sup> or expulsion for “behavior that diminishes or impedes

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358. Tex. S.B. 245; Tex. H.B. 4033.

359. Tex. S.B. 245; Tex. H.B. 4033. The bills also would have removed the requirement that the student’s behavior “seriously” interfere with the teacher’s ability to teach. Tex. S.B. 245; Tex. H.B. 4033.

360. H.B. 1461, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

361. See *Virginia House Bill 1461*, LEGISCAN, <https://legiscan.com/VA/bill/HB1461/2023> [https://perma.cc/84JZ-9VF8].

362. H.B. 853, 2024 Gen. Assemb., Reg. Sess. (Va. 2024).

363. *Id.*

364. See *Virginia House Bill 853*, LEGISCAN, <https://legiscan.com/VA/bill/HB853/2024> [https://perma.cc/44S9-58F6].

365. Washington state law defines “long-term suspension” as a suspension lasting longer than ten consecutive school days. WASH. REV. CODE ANN. § 28A.600.010 (West 2025).

the educational opportunity of another student.”<sup>366</sup> Furthermore, the bill would have required a principal to consider long-term suspension or expulsion if a student “repeatedly” engages in such behavior.<sup>367</sup>

*X. West Virginia: H.B. 2890, H.B. 4776, S.B. 614, H.B. 2649, and  
S.B. 199*

Between 2023 and 2025, West Virginia introduced five bills to enhance the exclusionary power of teachers and/or impose compulsory exclusionary punishments on students as young as kindergarten.<sup>368</sup> In 2023, the state passed H.B. 2890, which authorizes a teacher to remove any student “who behaves in a manner that obstructs the teaching or learning process of others in the classroom.”<sup>369</sup> This new authority supplements teachers’ existing authority to exclude any student “who is guilty of disorderly conduct; who in any manner interferes with an orderly educational process; . . . who willfully disobeys a school employee; or who uses abusive or profane language directed at a school employee.”<sup>370</sup> Additionally, under H.B. 2890, when a grade six to twelve teacher “determines that the behavior of the student is disorderly conduct, is interfering with an orderly educational process, or obstructs the teaching or learning process of others in the classroom,” the teacher can exclude the student, who may not return for the remainder of the day.<sup>371</sup> If a student is removed three times in one month on these grounds, the principal must impose an in- or out-of-school suspension or place the student in an alternative learning center.<sup>372</sup> As introduced, H.B. 2890 would have applied to students of *all ages* and *required an out-of-school suspension* for students removed three times in one month,<sup>373</sup> but the amended version was ultimately adopted.<sup>374</sup>

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366. H.B. 1637, 69th Leg., Reg. Sess. (Wash. 2025). The existing statute only permits long-term suspension and expulsion for serious behavior, such as firearms offenses, drug offenses, violent offenses, sex offenses, and gang-related activity. WASH. REV. CODE ANN. § 28A.600.015 (West 2025).

367. Wash. H.B. 1637.

368. H.B. 2890, 2023 Leg., Reg. Sess. (W. Va. 2023); H.B. 4776, 2024 Leg., Reg. Sess. (W. Va. 2024); S.B. 614, 2024 Leg., Reg. Sess. (W. Va. 2024); H.B. 2649, 2025 Leg., Reg. Sess. (W. Va. 2025); S.B. 199, 2025 Leg., Reg. Sess. (W. Va. 2025).

369. W. Va. H.B. 2890.

370. W. VA. CODE ANN. § 18A-5-1 (West 2022).

371. W. Va. H.B. 2890.

372. *Id.*

373. *Id.* (as introduced), available at [https://www.wvlegislature.gov/Bill\\_Status/bills\\_text.cfm?billdoc=hb2890%20intr.htm&yr=2023&sesstype=RS&billtype=B&houseorig=H&i=2890](https://www.wvlegislature.gov/Bill_Status/bills_text.cfm?billdoc=hb2890%20intr.htm&yr=2023&sesstype=RS&billtype=B&houseorig=H&i=2890) [https://perma.cc/9ZFV-MTW8].

374. *Id.* (as enrolled), available at [https://www.wvlegislature.gov/Bill\\_Status/bills\\_text.cfm?billdoc=hb2890%20sub%20enr.htm&yr=2023&sesstype=RS&billtype=B&houseorig=H&i=2890](https://www.wvlegislature.gov/Bill_Status/bills_text.cfm?billdoc=hb2890%20sub%20enr.htm&yr=2023&sesstype=RS&billtype=B&houseorig=H&i=2890) [https://perma.cc/9APC-UTB6].

Two bills considered during the 2024 legislative session would have expanded the scope of H.B. 2890 and mandated exclusionary interventions for pre-kindergarten to sixth-grade students. Specifically, H.B. 4776 would have allowed a teacher to remove a pre-K to fifth-grade student if “the student’s behavior is repeatedly interfering with the teacher’s instruction and classmates’ ability to learn” or “if the teacher determines that the student has consistently shown unruly, disruptive, or abusive behavior and affects his or her classmates’ abilities to learn.”<sup>375</sup> S.B. 614 would have mandated that a kindergarten to sixth-grade student be “suspended one to three school days” and placed in a “behavioral intervention program” if the student “impedes on other students’ ability to learn in a safe environment.”<sup>376</sup> Neither bill passed into law.<sup>377</sup>

In 2025, the West Virginia Legislature proposed two bills—H.B. 2649 and S.B. 199—both of which again attempted to expand the scope of H.B. 2890 to younger students. H.B. 2649 proposed simply amending the statute so that it would “apply to children enrolled in elementary schools in th[e] state.”<sup>378</sup> S.B. 199 proposed permitting the removal of a K–6 student for conduct that “impedes on other students’ ability to learn in a safe environment.”<sup>379</sup> Such a student would not be permitted to return to the classroom until a school official establishes a behavioral health plan for the student.<sup>380</sup> If the student does not “show adequate progress” after two weeks, the student can be permanently removed from the school and placed in a “behavioral intervention program.”<sup>381</sup> S.B. 199 passed into law in April 2025.<sup>382</sup>

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375. H.B. 4776, 2024 Leg., Reg. Sess. (W. Va. 2024).

376. S.B. 614, 2024 Leg., Reg. Sess. (W. Va. 2024).

377. See *West Virginia House Bill 4776*, LEGISCAN, <https://legiscan.com/WV/bill/HB4776/2024> [<https://perma.cc/5XRF-SPHA>]; *West Virginia Senate Bill 614*, LEGISCAN, <https://legiscan.com/WV/bill/SB614/2024> [<https://perma.cc/W768-EEUA>].

378. H.B. 2649, 2025 Leg., Reg. Sess. (W. Va. 2025).

379. S.B. 199, 2025 Leg., Reg. Sess. (W. Va. 2025).

380. *Id.*

381. *Id.*

382. See *West Virginia Senate Bill 199*, LEGISCAN, <https://legiscan.com/WV/bill/SB199/2025> [<https://perma.cc/2B8R-TV2L>].