

NEXT GENERATION TEXAS

# EMPOWERING TEACHERS THROUGH CLASSROOM DISCIPLINE

WRITTEN BY  
**Matthew McCormick**  
January 2025



# TABLE OF CONTENTS

**Executive Summary** | Page 3

**Glossary** | Page 5

**Introduction** | Page 5

**Section 1: Texas Disciplinary Law and History** | Page 6

**Section 2: The State of School Discipline in Texas** | Page 11

**Section 3: The Effectiveness of Alternatives to Exclusionary Discipline** | Page 21

**Section 4: School Discipline and Federal Regulation** | Page 27

**Section 5: Summary and Recommendations** | Page 28

**Recommendations** | Page 31

**References** | Page 32

# EMPOWERING TEACHERS THROUGH CLASSROOM DISCIPLINE

WRITTEN BY **Matthew McCormick**

## KEY POINTS

- **Disciplinary incidents**, including serious offenses against students and teachers, are increasing in Texas public schools.
- **This disorder is the result** of schools refusing to enforce discipline policies or suspend students.
- **Schools were pressured** to adopt these policies by the federal government and by ideologically motivated organizations.
- **Texas should reject** anti-exclusionary disciplinary reform and return to enforcing school order.
- **The Texas Legislature** can empower teachers to maintain order by giving them tools to remove students from classroom and providing transparency into school order.

## EXECUTIVE SUMMARY

Since the Texas public education system returned to normal functioning after the COVID-19 pandemic response, legislators, parents, and teachers have become increasingly concerned with the state of discipline in public schools. Shocking incidents of violence in classrooms, corroborated by official discipline statistics, illustrate the danger posed by a lack of control in schools. Education stakeholders also point out that unaddressed disruptions, even relatively minor ones, can impact learning outcomes and contribute to the attrition of qualified teachers, further diminishing the quality of the educational setting.

The recent uptick in student discipline incidents, which began before the COVID-19 pandemic, comes after almost 15 years of declining reported disciplinary actions. This decline reflected reforms in Texas statute, which offered alternatives to “zero-tolerance” codes of conduct and the elimination of Class C ticketing in schools. It also aligned with the policies promulgated by the U.S. Department of Education (DOE) and Department of Justice (DOJ) in their 2014 Dear Colleague Letter (DCL), which threatened investigations based on disproportionate suspensions of certain groups, especially racial minorities and special education students.

Beginning in the 2019-20 school year, many disciplinary statistics began to rise, including total discipline population, the rate of students assigned a disciplinary intervention, and the rate of key offenses. This trend has continued after the return to in-person schooling. Some of the most extreme offenses have risen significantly since 2018, including felonies, fighting offenses, assault on district employees, and terroristic threats. The rate at which students are assigned out-of-school suspension (the most

common form of exclusionary discipline), however, is still 45% lower in the 2022–23 school year than the 2007–08 school year.

When considering school-reported discipline statistics, it is important to recognize that reported data reflects the discipline processes at schools rather than the actual state of order. School administrators inherently control the way that disciplinary policy is enforced and reported. Officially, school districts may adopt different codes of conduct, such as when Dallas Independent School District eliminated most out of school suspensions. Unofficially, administrators may enforce codes of conduct more leniently or stringently, and differences in reported discipline data may reflect a lack of uniformity in the responses of thousands of administrators across Texas.

Over the last 15 years, several external forces have combined to pressure schools to adopt discipline policies that reduce exclusionary action against students. The DCL cited the disproportionate suspension of racial minorities, the impact on learning outcomes and attainment, and the correlation between school discipline and future involvement with the criminal justice system as reasons to reduce exclusionary discipline. The DOE then pressured schools to adopt non-exclusionary policies by launching expensive and onerous investigations into hundreds of schools, including over half of the largest 100 districts in the country. Advocacy groups at the national and state level followed their lead and pushed for the adoption of alternative disciplinary policies like restorative discipline, positive behavioral interventions and supports, and Social Emotional Learning. School administrators, faced with the threat of investigation, accusations of racism, and the opportunity for media praise, embraced these non-exclusionary policies. Over just three school years, from 2011–2014, suspensions fell 20% nationally.

Unfortunately, this experiment in alternative discipline practices has not returned strong results in terms of student behavior. The scientific research for restorative discipline, Positive Behavioral Interventions and Supports (PBIS), Social Emotional Learning

(SEL), and non-exclusionary discipline in general is mixed in terms of findings, with some studies showing declines in achievement and school climate. There is also evidence that implementing non-exclusionary policies can have catastrophic effects for school order. Examples in Syracuse, NY, St. Paul, MN, and Baton Rouge, LA, paint a concerning picture of schools descending into chaos after discipline reform. New York and Los Angeles schools practically confessed to these problems when they stopped asking questions about school climate in their surveys after they began anti-exclusionary policies.

These trends have also proliferated in Texas. Since Texas statute was amended to provide for more flexibility in discipline in 2005, some nonprofits have pushed for an end to exclusionary discipline in Texas schools. Texas schools have also been affected by the DOE's pressure campaign, with several of the state's biggest districts receiving lengthy investigations. In response to this pressure, Texas school districts adopted anti-exclusionary policies, with the state's second-largest district, Dallas ISD, eliminating most suspensions. Even the state education agency began promoting alternative disciplinary practices in the resources it provided to Texas schools and teachers, a signal that they should avoid exclusionary discipline. The pattern that has transpired nationally can be seen in Texas as well, and its effects on school discipline can be seen in the news and statewide trends.

To return discipline to classrooms, Texas must empower teachers by encouraging school administration to support their efforts to maintain an orderly learning environment. The Texas Legislature can take several steps to assist schools in implementing effective discipline policies. It should reject the faulty premises of the 2014 DCL, defend schools from coercive investigations by the DOE, and instruct the Texas Education Agency (TEA) to only collect discipline data that is federally required. The Texas Legislature should give more tools to teachers, such as strengthening the ability of teachers to remove disruptive students from the classroom. The Legislature can also give teachers a voice by funding by

funding the teaching and learning conditions survey that was enacted in 2013 but has only been funded for one biennium. Finally, the Texas Legislature should enact greater transparency measures for parents and teachers.

For its part, the TEA should also cease promoting alternative disciplinary practices like restorative discipline, PBIS, and SEL as alternatives to exclusionary discipline.

These steps will help Texas school administrators and teachers restore order to classrooms so that students can reach their educational potential.

## GLOSSARY

**District alternative education program (DAEP):** An education program for students that have been removed for disciplinary purposes from their regular instructional settings. Placements can last for several months.

**Discipline percentage:** The number of offenses committed compared to the total school enrollment. For instance, if 10 offenses are committed in a student population of 100, the discipline percentage is 10%. This metric is relevant because students can commit an offense more than once.

**Discipline population:** The number of students who have committed one or more offenses and have been subject to a disciplinary intervention. This metric tracks how many students have been assigned a particular intervention or any intervention. Students only count towards the metric once. For instance, if, out of a student population of 100, 10 students commit 15 offenses, the discipline population is 10%.

**In-school suspension (ISS):** A form of discipline in which a student is removed from their assigned classroom to a designated room on the school campus. This statistic is not formally considered exclusionary discipline and its collection is not a federal requirement, but data about ISS is collected by TEA.

**Juvenile justice alternative education program (JJAEP):** 31 counties maintain alternative education programs for students who have been expelled.

**Out-of-school suspension (OSS):** A form of discipline in which a student is excluded from school property and school activities. In Texas, a student may be suspended for no more than three days, and a student under grade 3 may not be suspended other than for weapons offenses.

## INTRODUCTION

When the parents of 5.4 million students entrust their children to the Texas public education system, those schools make two promises: 1) that their children will be given an education that will prepare them for lifelong success, and 2) that their children will be protected in an orderly and safe environment.

Unfortunately, in recent years, neither promise has been kept for too many Texas students.

Even before the disruption caused by COVID-19 resulted in years of learning loss ([TEA, 2021a](#)), half of Texas students consistently did not meet grade level standards in Reading or Mathematics. In 2019, 48% of students did not meet grade-level standards in Mathematics and 52% did not meet grade-level standards in Reading ([TEA, 2021b](#)). By 2023, 48% of Texas students were still below grade level in Reading, and an astonishing 57% of students were below grade level in Mathematics ([TEA, 2023a](#)). Job preparedness statistics are even more concerning. 12% of young adults between the ages of 18 and 24 are not in school or working ([Saldana, 2023](#)). By these metrics, Texas public schools are clearly failing to prepare students to lead productive lives after schooling.

As for the second promise, both shocking headlines (see [Longmire, 2024](#); [Elder, 2024](#)) and discipline statistics paint a worrying picture of Texas classrooms. In the 2022–23 school year, there were nearly 3,000 reported assaults on district employees, 1,000 more assaults than in 2017–18 ([TEA, n.d.-a](#)). Over that same period, incidents that rose to the level of



fighting to be worthy of a report increased by over 17%, from 44,967 fights in 2018 to 52,809 in 2022 (TEA, n.d.-a). These statistics suggest that the graphic videos of children victimizing their teachers and fellow students are not merely over-sensationalized anomalies, but a serious and pressing issue for the Texas public school system.

For teachers, parents, and students in the Texas public education system, the link between school discipline and performance is clear. Teachers cannot teach and students cannot learn if they are distracted by unruly students. In a national survey, 44% of teachers reported they spent between one and five hours a week addressing disciplinary issues, and 57% of teachers reported three or more discipline disruptions a week (McShane, 2022). The direct result of this high volume of behavioral disruptions is the suffering of student achievement.

School disorder affects student achievement systemically, as well, by driving away qualified teachers. The consensus among educational researchers is that teacher quality is the most important in-school factor for student achievement (Oppen, n.d.), but student discipline is one of the primary reasons for teachers to leave the profession. The Teacher Vacancy Task Force, formed in 2022 to offer policy recommendations to address teacher vacancies in Texas, found that 48% of teachers mentioned discipline and a safe work environment as a concern, and it was the most frequently cited concern among recently retired or resigned teachers (TEA, 2022, p. 7). These are not idle complaints, either; teachers are acting on their frustration. The 2022-23 school year faculty suffered the most attrition of any school year in the last 12 years, with 13.44% of teachers from the 2021-22 school year not returning (TEA, 2023b).

Teachers are not the only ones voting with their feet. School safety is one of the primary reasons why parents exercise school choice option. Studies from Georgia, New York, and Ohio found that safety and classroom order were the most important reasons

for choosing a private school (Butcher, 2019). In Florida, a survey of 14,000 parents participating in its tax-credit scholarship program revealed that a safe school environment was one of the top three reasons for participating in the program (Bedrick & Burke, 2018, p. 1). While Texas does not currently have a private choice program, it does have charter schools. In Michigan, 21% of parents from charter schools reported safety concerns as one of the main reasons for choosing a charter school (Mackinac Center for Public Policy, 2018). In the 2022-23 school year, 422,930 Texas students chose public charter schools, and the waitlist had 75,996 students (TEA, 2024a). Homeschooling has also exploded in Texas, increasing by 60% over the last decade to an estimated 480,000 home learners (Barba & Crusius, 2022, p. 5). Like parents in Michigan, many of these parents and students are choosing schools other than their local public school because of the school environment.

As stewards of the public education system, Texas bears a responsibility to maintain order within schools to ensure an environment of safety and learning for students. To judge the effects of discipline policies and decisions at the state and local levels in Texas public schools, this research examines the history of student discipline in Texas, the current state of order in Texas classrooms, its effect on safety and learning, and potential proposals to restore safety to Texas classrooms and hallways.

## **SECTION 1: TEXAS DISCIPLINARY LAW AND HISTORY**

### *The Structure of School Discipline in the Texas Education Code*

Modern school discipline policy in Texas began in 1995 with the passage of a sweeping education reform bill, Senate Bill 1 (SB 1, 1995). The subtitle of SB 1, dubbed the Texas Safe Schools Act, established the first 19 sections of Chapter 37 of the Texas Education Code, Discipline: Law and Order, which still serves as the statutory framework for school discipline. This framework included a scheme that described what interventions were mandated for certain offenses

and which the schools could use at their discretion. This act required school districts to adopt a student code of conduct and create on-campus alternative education programs ([SB 1 Bill Analysis, 1995, p. 32](#)). The act also requires counties with a population greater than 125,000 to develop juvenile justice alternative education programs (JJAEPs) for students found to have engaged in delinquent conduct. District alternative education programs and juvenile justice alternative education programs were intended to provide educational services to students who would otherwise remain in the classroom or be suspended or expelled. District codes of conduct would specify which violations required teachers or principals to transfer a student to an on- or off-campus alternative education program. The Texas Safe Schools Act was hailed by teacher associations as a vital protection for teacher safety ([Texas American Federation of Teachers, 2012](#)).

Another major trend in discipline during the 1990s came from the introduction of “zero tolerance” policies in schools. Zero tolerance, broadly defined, is “a policy that mandates predetermined consequences or punishments for specified offenses” ([Forgione, 1998](#)). California and New York were early adopters of zero tolerance policies, mandating expulsion for drugs, fighting, and gang-related activity ([Atkinson, 2005, p. 2](#)). Zero tolerance policies became more common after the federal Gun-Free Schools Act of 1994 required states to expel students for one year for possession of a firearm or explosive. Despite this national trend, however, the only mandatory expulsions enacted in the Texas Safe Schools Act were for possession of a firearm or for a violent crime, such as arson, aggravated assault, or a sexual offense. Suspension to an alternative education program was mandated for assault, retaliation, or use, possession, or delivery of marijuana or alcohol ([SB 1, 1995](#)).

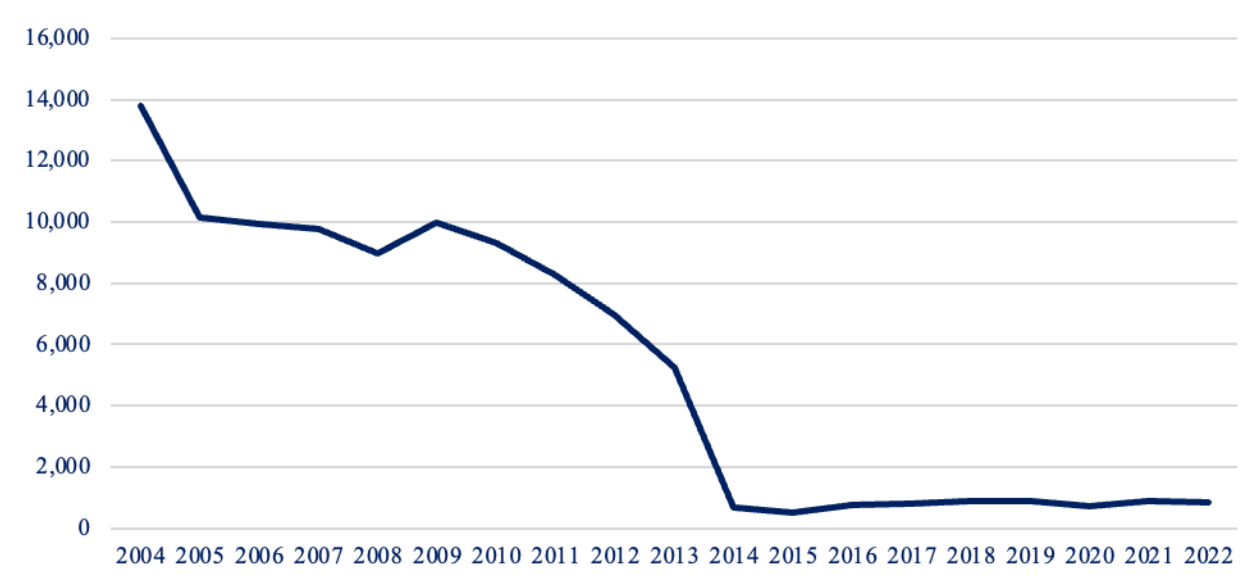
Throughout the 1990s and early 2000s, reporting on allegedly overzealous enforcement of mandatory expulsion and suspension statutes generated criticism of zero tolerance policies. Students were

punished for supposedly innocuous or inadvertent actions, such as accidentally leaving a bread knife in a car parked in the campus lot ([Siegel, 2002](#)). Opponents of zero tolerance policies argued that mandated interventions removed schools’ discretion to respond appropriately to individual circumstances and cornered them into handing out absurd punishments. For better or for worse, though, school administrators could lean on these statutes to justify their actions and deflect claims of unequal treatment or discrimination. The Texas Legislature responded to these criticisms in 2005 by amending the discipline code to allow for the consideration of mitigating factors, including self-defense, intent, disciplinary history, and the student’s capacity to understand their actions ([HB 603, 2005](#)).

Even with this relaxing of the disciplinary code, schools were still accused of enforcing zero tolerance policies. For example, a Fort Bend ISD student was suspended to an alternative education program for seven weeks after her brother left a sword in her car ([ABC13, 2009](#)). Incidents after 2005, however, suggest that the now tainted term of “zero tolerance” can be applied whenever a school administrator applies a guideline. Despite the concessions in HB 603 to allow for consideration of mitigating factors, in 2015, the Texas Legislature reiterated the discretionary power of the school by creating the designation of a campus behavior coordinator (CBC) and requiring the consideration of those mitigating factors before expulsion or placement in an alternative education setting ([SB 107, 2015](#)). These amendments mean, however, that all expulsions or suspensions to an alternative education program are, in effect, discretionary because the CBC or other administrator appointed by the district board of trustees can decide, using these factors, to downgrade an ostensibly mandatory punishment. The discipline data reported to the Texas Education Agency even tracks the number of “Mandatory Actions Not Taken,” where an offense mandating a suspension or expulsion occurred but the CBC decided to downgrade the intervention ([TEA, n.d.-b](#)).

**Figure 1**

*Education Code Cases Reported to the Texas Judicial Branch*



**Note:** Data from *Annual statistical report for the Texas judiciary– FY 2022*, by Texas Judicial Branch, 2022 (<https://www.txcourts.gov/media/1456803/ar-statistical-fy-22-final.pdf>).

### **Class C Ticketing**

A parallel form of school discipline to suspension and expulsion is the practice of ticketing. Since the 1980s, police presence has gradually increased on Texas school campuses (Mendez, 2022). The Texas School Safety Center reported that in 2020, 41% of Texas school districts contracted with local law enforcement and 32% of districts employed law enforcement officers (Martinez-Prather et al., 2020). With a police presence came the ability to issue Class C misdemeanor tickets for school misconduct (Texas Appleseed, 2010, p. 1). These tickets would require students to appear in a municipal or justice court where they may be fined anywhere from \$60 to \$500 or more.

In 2010, Texas Appleseed released a report decrying Class C ticketing, claiming that potentially 275,000 tickets were issued in schools for offenses as minor as chewing gum in class (Serrano, 2013). Students could also face escalating legal issues if they did not pay their fines after they turn 17 years old. In the 83rd Texas Legislature, several reform-minded parties (including Texas Appleseed, the Texas Public

Policy Foundation, and Chief Justice of the Supreme Court of Texas Wallace Jefferson) spoke in favor of Senate Bill 393 (SB 393 Witness List, 2013). This bill, which passed with almost unanimous support in both chambers, requires campus-based police to file a criminal complaint with a court instead of issuing a citation. The bill also prohibits law enforcement from filing a complaint for “school offenses” before a system of graduated sanctions is applied, and it allows students convicted of a Class C misdemeanor to perform community service or receive tutoring instead of paying a fine (Texas Judicial Branch, 2013). Although Texas courts do not keep a record of how many Class C misdemeanor tickets have been issued at schools, after these statutory changes, court cases in municipal and justice courts related to the Education Code sharply declined from 10,001 cases in 2009 to 683 cases in 2014, as seen in **Figure 1**, with only 853 cases in 2022 (Texas Judicial Branch, 2023)—a clear effect of the new laws. School police can still pursue Class C misdemeanor charges against students, but the requirements to submit documentation in the form of witness statements



and to work through the graduated sanctions has curtailed the practice.

### **2014 Dear Colleague Letter and Investigations**

In 2014, the U.S. Department of Education (DOE) and the U.S. Department of Justice (DOJ) under the Obama administration issued a joint Dear Colleague Letter (DCL) memo warning against discrimination in school discipline ([U.S. Department of Education, 2014a](#)). The letter informed schools that excessive exclusionary discipline, suspensions or expulsions, especially against racial minorities as a group, violated Title VI of the Civil Rights Act of 1964. The DCL presented four statements concerning school discipline:

- I. Racial minorities are disciplined more.
- II. The cause of disciplinary disparities is racial discrimination.
- III. Exclusionary discipline negatively impacts outcomes related to academic achievement, substance abuse, and involvement with the criminal justice system.
- IV. Non-exclusionary discipline is more effective.

Despite its framing as mere guidance, DOE used these assertions—which the DCL regards as incontrovertible facts—as the basis for investigations into hundreds of schools. Between 2009 and 2017, the Office of Civil Rights (OCR) within the DOE investigated at least 350 school districts for racial disparities in discipline, including 52 of the largest 100 districts in the United States serving 10 million students ([Eden, 2018](#)). These costly investigations can last for years. One FOIA request to a school district investigated by the OCR uncovered that the school had spent an estimated \$50,000 in clerical costs just to produce the responsive documents for the investigation ([Heriot & Somin, 2018, p. 484](#)). Investigations almost always end with the district signing a binding “resolution agreement” that dictates its future actions, only reaching a conclusive finding of discrimination in

eight cases ([Eden, 2018](#)). Possible actions mandated in these resolution agreements include collaboration with a consultant on policies, extensive data collection, training for staff and students, revision of procedures for SROs and law enforcement, and the assurance that the district would ensure that there would be no disparities in discipline based on illegal discrimination. If the district does not comply with the resolution agreement to the DOE’s satisfaction, the DOE reserves the right to reopen the investigation.

Although the emphasis of the 2014 DCL was on race, policies based on disability discrimination played a role as well. Because of the strict requirements that Section 504 of the Rehabilitation Act of 1973 puts on schools, the OCR conducts far more investigations based on disability than other types of discrimination. From 2010 to 2024, the OCR resolved 4,948 cases in elementary and secondary schools and 4,184 (85%) of those cases were related to disability, compared to 716 cases related to discrimination based on race and national origin ([U.S. Department of Education, n.d.-a](#)). As the 2014 DCL made clear, a disability status analysis can be combined with a race analysis. In 335 cases from 2012 to 2024, the OCR investigations cited issues related to both race and disability. In terms of the impact the federal government has on state and local discipline, the issues of race and disability discrimination are intertwined.

At the heart of the 2014 DCL is the concept of disproportionality. If Black or Hispanic students in a school district received exclusionary discipline at a rate higher than that group’s proportional representation in the district, that was prima facie evidence of racial discrimination by the school district ([Heriot & Somin, 2018, p. 524](#)). For instance, if 15% of a school district’s students are Black, and 30% of the suspensions are of Black students, this would be grounds to launch an investigation on the premise that the district is disproportionately disciplining Black students. Other factors, such as prior disciplinary history and socioeconomic status, are not considered and the DCL, though giving lip service to the idea that discipline

differences may have other causes, explicitly rejects explanations not rooted in racial discrimination (U.S. Department of Education, 2014a). Investigations can arise from a single complaint or from the OCR’s analysis of a district’s student discipline data from afar, as occurred in the case of Fort Bend ISD (Heriot & Somin, 2018, pp. 473–474). According to leaked documents from the OCR investigation policy, investigations cannot proceed solely on the basis of complaints over disciplinary statistical data (although the DOE can initiate such an investigation), but an individual complaint triggers a district-wide review of disciplinary data (Manhattan Institute, 2014). The relationship between individual complaints and broader investigations is concerning because resolution agreements require school districts to retain a consultant to advise on discipline policies, providing a powerful incentive for advocacy groups to headhunt for complainants. The OCR’s zealotry in using discipline data to identify and condemn school districts, even in the absence of specific allegations of wrongdoing, suggests the OCR’s motivation for the 2014 DCL and subsequent investigations was to reduce the incidence of suspensions and disparities, rather than a pure concern for the civil rights of students.

The notions on discipline promulgated by the 2014 DCL guidance and enforced by the Obama DOE investigations—which had been taking place long before the DCL—soon took root. Nationally, from the 2011–12 to 2013–14 school years, out-of-school suspensions dropped 20% (The Council of State Governments Justice Center, 2017, p. 1). In many states, this was achieved by eliminating categories of offenses for which out-of-school suspension could be assigned. For instance, in 2014, the California Legislature banned suspending students in kindergarten through 3rd grade for “willful defiance” (p. 7). This statutory change helps explain why total out-of-school suspensions in California dropped by 38% from the 2011–12 to 2014–15 school years (p. 2). Illinois saw a 45% decline in suspensions from 2011–12 to 2015–16, and suspensions in North Carolina and Tennessee also declined by 16% and 18% over

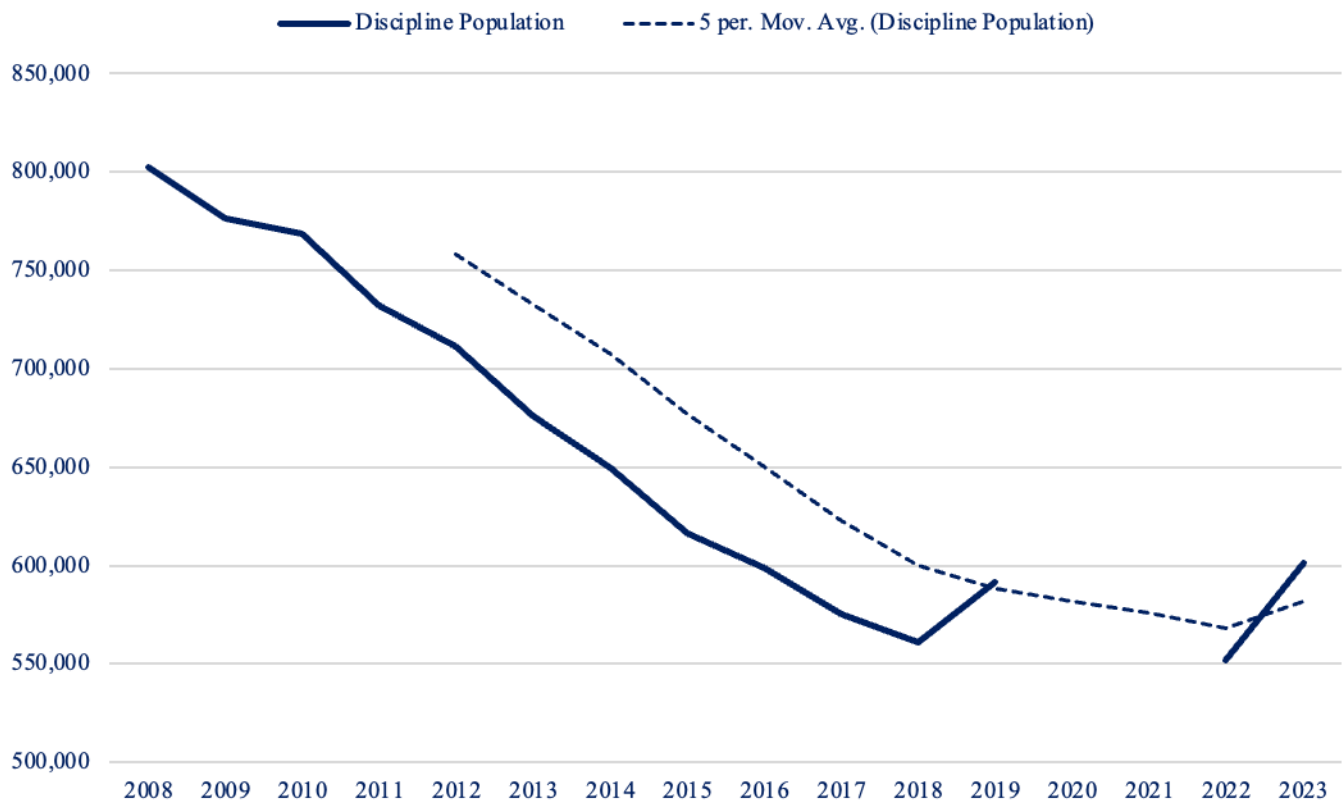
that same period (p. 3). Whether these reductions in suspensions contributed positively to academic achievement, school climate, or racial disparities in discipline will be examined in **Section 2**.

In 2018, President Trump formed the Federal Commission on School Safety, which examined 19 aspects of school safety, among them the DCL (Federal Commission on School Safety, 2018, p. 67). The report questioned the legal foundation of the Obama administration’s guidance, pointing to the Supreme Court decision *Alexander v. Sandoval*, which ruled that disparate impact did not apply to Title VI of the Civil Rights Act. The Commission also criticized the impact of the guidance on school discipline, writing that because of the focus on disciplinary data, schools “may have driven their disciplinary policies more by numbers than by teacher input” to avoid heavy-handed investigations (pp. 67–68). Days later, the DOE and DOJ issued a joint letter rescinding the 2014 DCL, saying that educational policy, including how to handle discipline and misconduct, belonged primarily to states and local districts (U.S. Department of Education, 2018a). A single line in the letter, that “the Guidance and associated documents advance policy preferences and positions not required or contemplated by Title IV or Title VI,” evinced the pointed opinion that the Obama-era guidance was less about upholding equal protections and more about browbeating schools into adopting their preferred disciplinary policies (2018a).

The Biden administration was expected to continue this back-and-forth by rescinding the 2018 guidance but did not do so until May of 2023 (U.S. Department of Education, 2023). The 2023 Dear Colleague Letter (2023 DCL) restated many of the same points as the 2014 DCL, particularly the issues related to racial disparities in discipline and the resultant academic loss from exclusionary discipline. Many progressive groups were not pleased, however, that the 2023 letter did not mention disparate impact and did not affirm discipline data as de facto proof of racial discrimination as forcefully as in the 2014 DCL (Perera

**Figure 2**

*Total State Discipline Population in Texas Public Schools with Five-Year Average Trendline*



**Note:** Data from State Level Annual Discipline Summary Data Participation Counts for School Year 2007–2008:2022–2023, by Texas Education Agency, n.d.–b (<https://tea.texas.gov/reports-and-data/student-data/discipline-data-products/discipline-reports>).

& Valant, 2023). This is not to say that the OCR under President Biden has not been active before or after the 2023 DCL. As of November 2024, there are 461 open investigations in elementary or secondary schools over Title VI claims in discipline (U.S. Department of Education, n.d.–b).

**Section 1** has provided a brief overview of the statutory history of discipline in Texas and the federal regulatory environment. **Section 2** will turn to trends in student discipline outcomes in Texas.

## SECTION 2: THE STATE OF SCHOOL DISCIPLINE IN TEXAS

### *School Discipline Trends from 2007 to 2023*

A glance at student discipline data for Texas shows a steady decline in disciplinary actions over the last decade and a half (see **Figure 2**). In 2023, Texas saw 200,946 less students disciplined than 2008, despite

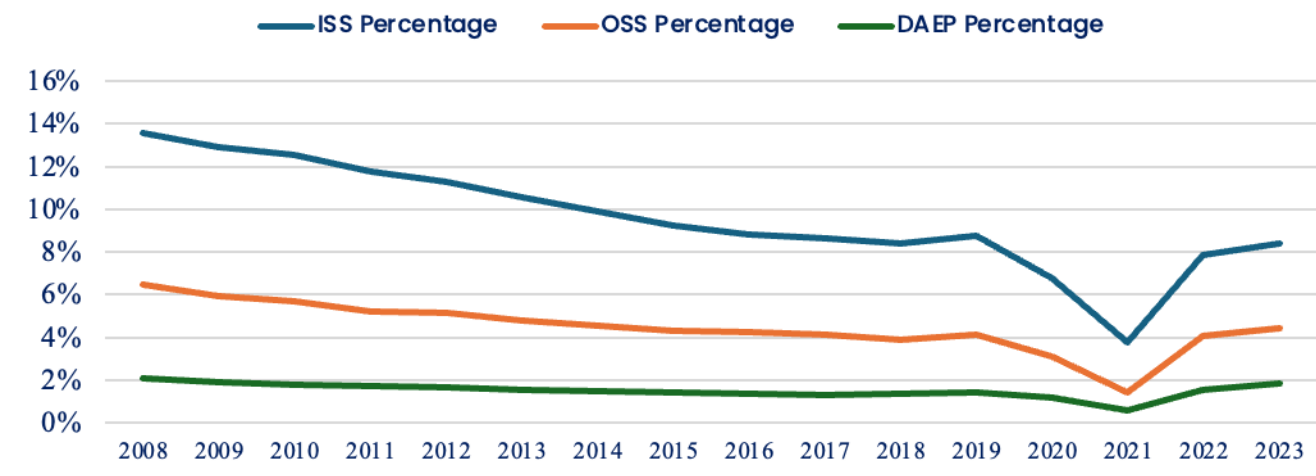
enrollment increasing by 869,748 students over this time. 16.65% of students were disciplined in 2008, compared to only 10.57% in 2023—a 36.5% decline.

The shrinking of the state discipline population seen in **Figure 2** is reflected in the reductions in each disciplinary action category. From the 2007–08 school year to the 2022–23 school year, as shown in **Figure 3**, the percentage of in school suspensions (the number of suspensions over total enrollment) fell by 18.14%, the percentage of out of school suspensions fell by 46%, DAEP placements fell by 39%, JJAEP placements fell by 65%, and expulsions fell by 50% (TEA, n.d.–a).

Disciplinary counts and actions declined dramatically in the 2019–20 and 2020–21 school years because of reduced in-school participation due to the coronavirus pandemic response. Schools were

**Figure 3**

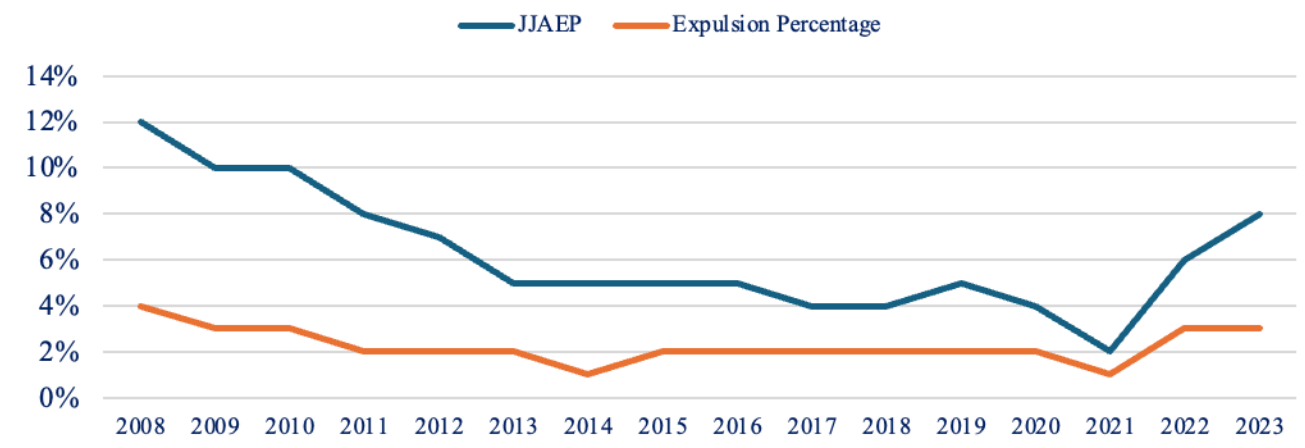
*Percentage of Students Sent to ISS, OSS, or DAEP in a School Year*



**Note:** Data from Discipline Student Counts for School Year 2007–2008:2022–2023, from Texas Education Agency, n.d.–c ([https://rptsvr1.tea.texas.gov/cgi/sas/broker?\\_service=marykay&\\_program=adhoc.download\\_static\\_DAG\\_summary.sas&district=&agg\\_level=STATE&referrer=Download\\_State\\_DAG\\_Summaries.html&test\\_flag=&\\_debug=0&school\\_yr=23&report=01&report\\_type=html&Download\\_State\\_Summary=Next](https://rptsvr1.tea.texas.gov/cgi/sas/broker?_service=marykay&_program=adhoc.download_static_DAG_summary.sas&district=&agg_level=STATE&referrer=Download_State_DAG_Summaries.html&test_flag=&_debug=0&school_yr=23&report=01&report_type=html&Download_State_Summary=Next)).

**Figure 4.**

*Percentage of Students Removed to JJAEP or Expelled, 2008–2023*



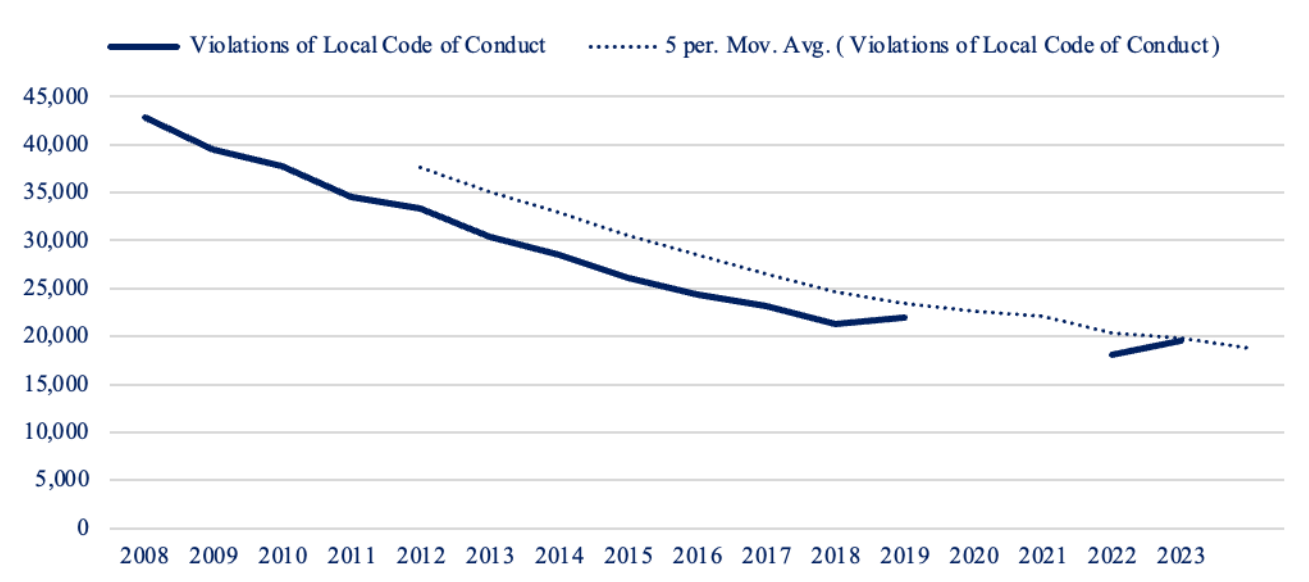
**Note:** Data from Discipline Student Counts for School Year 2007–2008: 2022–2023, from Texas Education Agency, n.d.–c ([https://rptsvr1.tea.texas.gov/cgi/sas/broker?\\_service=marykay&\\_program=adhoc.download\\_static\\_DAG\\_summary.sas&district=&agg\\_level=STATE&referrer=Download\\_State\\_DAG\\_Summaries.html&test\\_flag=&\\_debug=0&school\\_yr=23&report=01&report\\_type=html&Download\\_State\\_Summary=Next](https://rptsvr1.tea.texas.gov/cgi/sas/broker?_service=marykay&_program=adhoc.download_static_DAG_summary.sas&district=&agg_level=STATE&referrer=Download_State_DAG_Summaries.html&test_flag=&_debug=0&school_yr=23&report=01&report_type=html&Download_State_Summary=Next)).

closed statewide on March 19th, 2020, by Texas Governor Greg Abbott ([Ballotpedia](#), n.d.). About half of Texas schools reopened in the fall of 2020, and, by the end of the 2020–21 school year, most Texas schools had returned to full, in-person instruction, although the effects of these closures on discipline,

as on academic performance, are doubtless still felt. Unfortunately, the school closures render these two years unhelpful for analyzing discipline trends, and so these dates are omitted from the data in **Figures 2** through **11**. A five-year moving average trendline has been included to help supplement this gap in data.

**Figure 5**

*Violations of Local Code of Conduct Per 100,000 Students with Five-Year Average Trendline, 2008–2018*



**Note:** Data from Reason Incident Counts for School Year 2007–2008:2017–2018, from Texas Education Agency, n.d.–c ([https://rptsvr1.tea.texas.gov/cgi/sas/broker?\\_service=marykay&\\_program=adhoc.download\\_static\\_DAG\\_summary.sas&district=&agg\\_level=STATE&referrer=Download\\_State\\_DAG\\_Summaries.html&test\\_flag=&\\_debug=0&school\\_yr=23&report=01&report\\_type=html&Download\\_State\\_Summary=Next](https://rptsvr1.tea.texas.gov/cgi/sas/broker?_service=marykay&_program=adhoc.download_static_DAG_summary.sas&district=&agg_level=STATE&referrer=Download_State_DAG_Summaries.html&test_flag=&_debug=0&school_yr=23&report=01&report_type=html&Download_State_Summary=Next)).

This seeming improvement in school disruption over the last 16 school years does not tell the full story, as the number of student disciplinary incidents has been rising in recent years. The percentage of Texas public school students that received a disciplinary action reached a low point of 10.13% in 2018 and then rose the next year to 10.61%—an increase of 4.69% (TEA, n.d.-a). After the disruptions caused by the pandemic response in 2020 and 2021, the discipline population again reached 10.57% of students in 2022–23.

Several categories of disciplinary actions followed a similar pattern, reaching a record low in the 2017–18 school year, surging in 2018–19, and continuing the upward trajectory in 2022–23. The OSS percentage dropped to 7.27% in 2018, rose to 7.85% in 2019, and returned to nearly the 2019 level at 7.84% in 2023. The rate at which students were assigned to DAEP or JJAEP increased at an even more alarming rate post-COVID. After rising from a rate of 1.62% in 2018 to 1.73% in 2019, the rate at which students were assigned to DAEP in 2023 increased to 2.19%—a jump of 35.19% since 2018.

State cumulative enrollment increased by over 700,000 from the 2007–08 to 2017–18 school years,

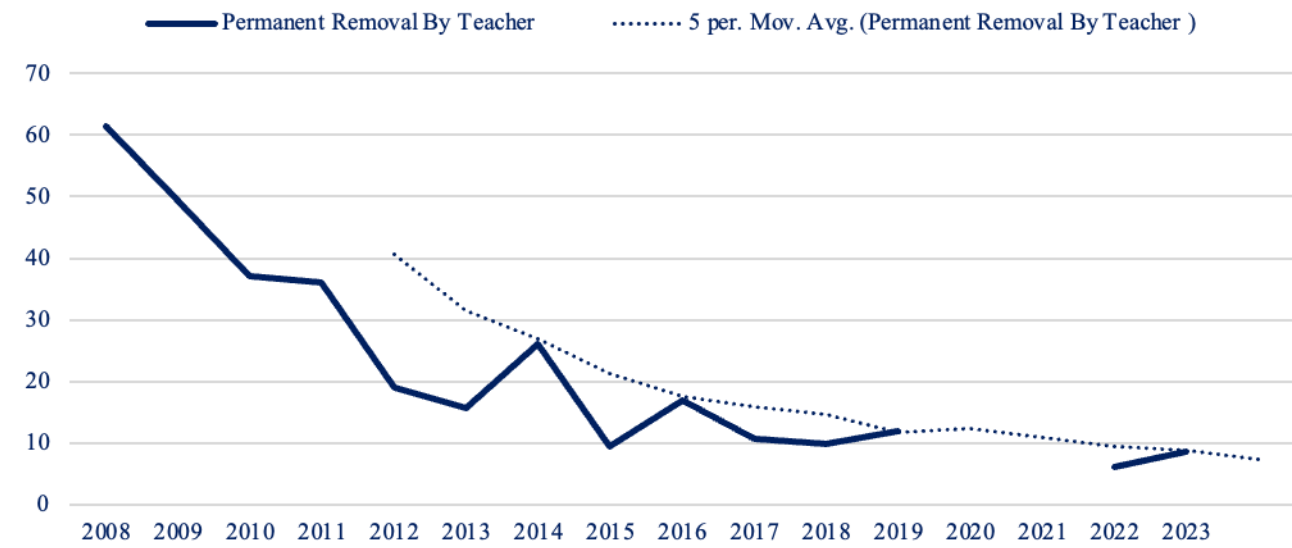
yet Texas schools took over a million less disciplinary actions at the end of that period than at the beginning. With such a steep decline in reported disciplinary actions, an important question is whether this reduction arose from an improvement in school order and safety or from a change in enforcement.

Local code of conduct violations are the offenses cited most often in disciplinary actions. This category is for offenses not otherwise identified in the discipline code but are established in the local Student Code of Conduct, rules developed locally by school districts that specify more particular school rules and consequences (TEA, n.d.-d). The specific offenses that code of conduct violations encompass are not tracked at the state level, but these offenses cover most minor school violations, such as classroom disruption. From the 2007–08 to the 2017–18 school years, the rate at which disciplinary actions were taken for code of conduct violations declined from 42,806.94 actions per 100,000 students to 21,248.82 actions per 100,000 students—a decline of 450.36% (see **Figure 5**). In absolute numbers, a whopping 2,062,940 incidents of code of conduct violations were recorded in 2007–08, and that count fell to 1,176,469 in 2017–18—a



**Figure 6**

*Permanent Removals by Teacher Per 100,000 Students with Five-Year Average Trendline, 2008–2023*



**Note:** Data from Reason Incident Counts for School Year 2007–2008:2017–2018, from Texas Education Agency, n.d.–c ([https://rptsvr1.tea.texas.gov/cgi/sas/broker?\\_service=marykay&\\_program=adhoc.download\\_static\\_DAG\\_summary.sas&district=&agg\\_level=STATE&referrer=Download\\_State\\_DAG\\_Summaries.html&test\\_flag=&\\_debug=0&school\\_yr=23&report=01&report\\_type=html&Download\\_State\\_Summary=Next](https://rptsvr1.tea.texas.gov/cgi/sas/broker?_service=marykay&_program=adhoc.download_static_DAG_summary.sas&district=&agg_level=STATE&referrer=Download_State_DAG_Summaries.html&test_flag=&_debug=0&school_yr=23&report=01&report_type=html&Download_State_Summary=Next)).

drop of over 880,000 incidents. Either Texas schools have become far, far more orderly over that decade or schools have changed the way they are enforcing or reporting discipline.

Another category that declined dramatically was the Permanent Removal by Teacher offense. A teacher may invoke the right to have a student removed from the classroom for disruptive behavior and the student may not be returned without due process. In the 2007–08 school year, teachers invoked this right 2,966 times, but this section was only used 547 times in the 2017–18 school year. Over this 11-year period, the usage of permanent removals by teachers declined from 61.55 times per 100,000 students to 9.88 times per 100,000 students—a change of –83.95% (see **Figure 6**).

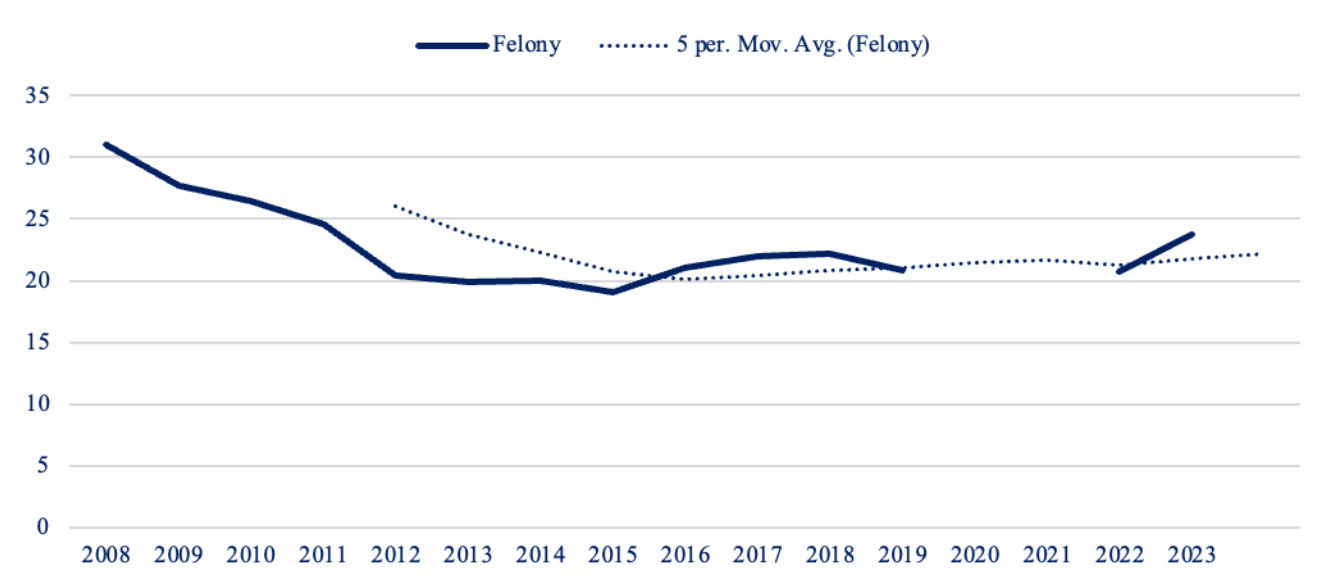
Finally, conduct punishable as a felony declined substantially. The rate at which students were disciplined for this offense fell 28.44%, from 31.04 offenses per 100,000 students to 22.22 offenses per 100,000 students (see **Figure 7**).

One significant category, however, did not decline as rapidly. The rate of fighting offenses—a bellwether for school order and safety—fell only by 17.84% (see **Figure 8**).

Unfortunately, not every significant category declined. In 2018, 3,278 assaults on district employees were reported—790 more than in 2008. The number of assaults on district employees rose from 51.53 per 100,000 students in 2008 to 59.21 per 100,000 students in 2018. This is a worrying trend because it goes against the broader trend of declining disciplinary actions. As general discipline offenses (represented by Local Code of Conduct Violations) declined, assaults on the people responsible for ensuring safety and order rose, especially after 2014. One explanation for the difference in changes in rates of discipline categories is that schools became less stringent in punishing minor infractions but continued to discipline more serious offenses.

**Figure 7**

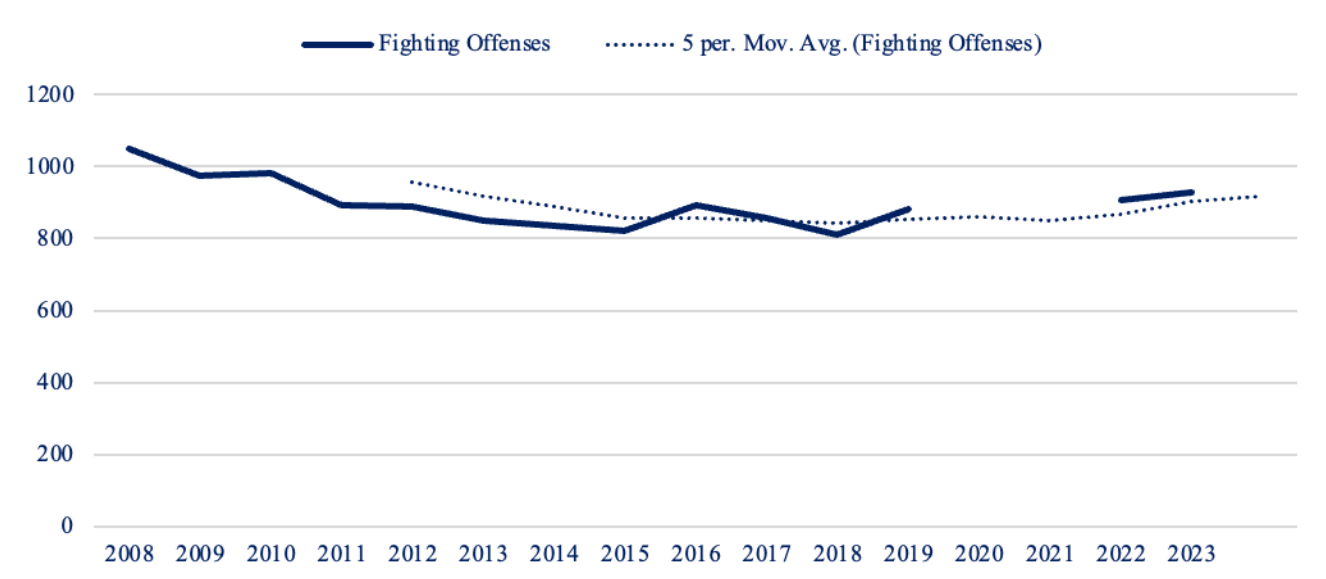
*Felonies Per 100,00 Students with Five-Year Average Trendline, 2008-2023*



**Note:** Data from Reason Incident Counts for School Year 2007-2008:2017-2018, from Texas Education Agency, n.d.-c ([https://rptsvr1.tea.texas.gov/cgi/sas/broker?\\_service=marykay&\\_program=adhoc.download\\_static\\_DAG\\_summary.sas&district=&agg\\_level=STATE&referrer=Download\\_State\\_DAG\\_Summaries.html&test\\_flag=&\\_debug=0&school\\_yr=23&report=01&report\\_type=html&Download\\_State\\_Summary=Next](https://rptsvr1.tea.texas.gov/cgi/sas/broker?_service=marykay&_program=adhoc.download_static_DAG_summary.sas&district=&agg_level=STATE&referrer=Download_State_DAG_Summaries.html&test_flag=&_debug=0&school_yr=23&report=01&report_type=html&Download_State_Summary=Next)).

**Figure 8**

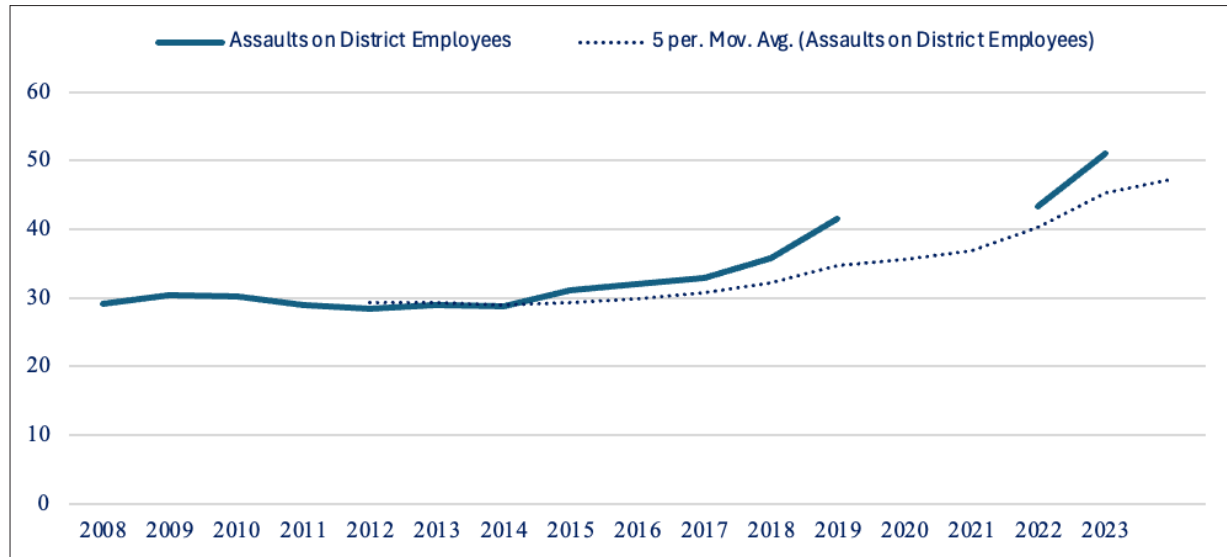
*Fighting Offenses Per 100,000 Students with Five-Year Average Trendline, 2008-2023*



**Note:** Data from Reason Incident Counts for School Year 2007-2008:2017-2018, from Texas Education Agency, n.d. ([https://rptsvr1.tea.texas.gov/cgi/sas/broker?\\_service=marykay&\\_program=adhoc.download\\_static\\_DAG\\_summary.sas&district=&agg\\_level=STATE&referrer=Download\\_State\\_DAG\\_Summaries.html&test\\_flag=&\\_debug=0&school\\_yr=23&report=01&report\\_type=html&Download\\_State\\_Summary=Next](https://rptsvr1.tea.texas.gov/cgi/sas/broker?_service=marykay&_program=adhoc.download_static_DAG_summary.sas&district=&agg_level=STATE&referrer=Download_State_DAG_Summaries.html&test_flag=&_debug=0&school_yr=23&report=01&report_type=html&Download_State_Summary=Next)).

**Figure 9**

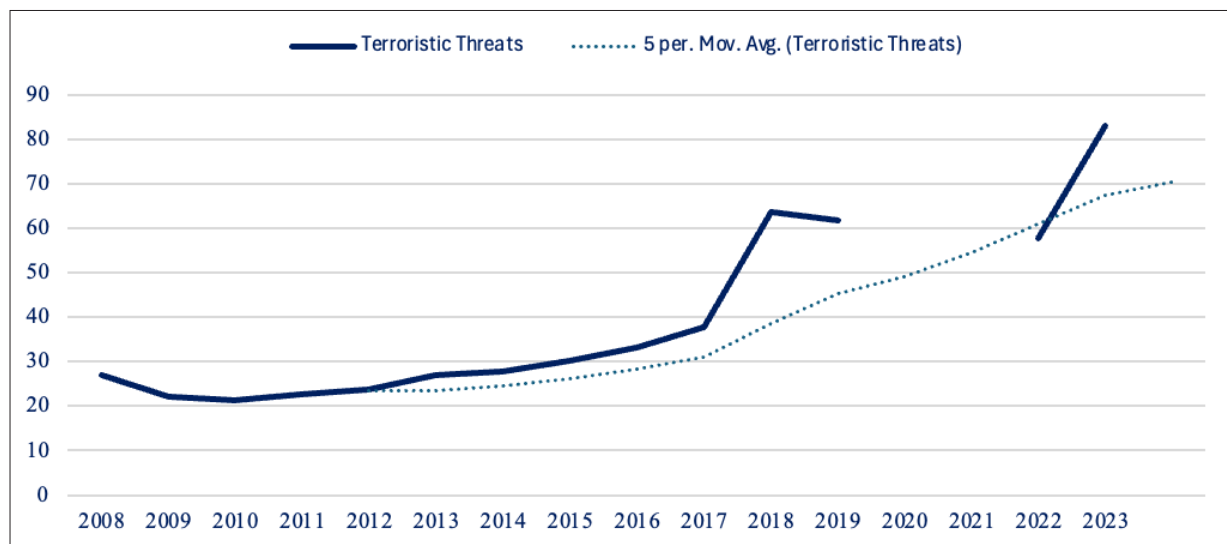
*Assaults on District Employees Per 100,000 Students with Five-Year Average Trendline, 2008–2018*



**Note:** Data from Reason Incident Counts for School Year 2007–2008:2017–2018, from Texas Education Agency, n.d.–c ([https://rptsvr1.tea.texas.gov/cgi/sas/broker?\\_service=marykay&\\_program=adhoc.download\\_static\\_DAG\\_summary.sas&district=&agg\\_level=STATE&referrer=Download\\_State\\_DAG\\_Summaries.html&test\\_flag=&\\_debug=0&school\\_yr=23&report=01&report\\_type=html&Download\\_State\\_Summary=Next](https://rptsvr1.tea.texas.gov/cgi/sas/broker?_service=marykay&_program=adhoc.download_static_DAG_summary.sas&district=&agg_level=STATE&referrer=Download_State_DAG_Summaries.html&test_flag=&_debug=0&school_yr=23&report=01&report_type=html&Download_State_Summary=Next)).

**Figure 10**

*Terroristic Threats Per 100,000 Students with Five-Year Average Trendline, 2008–2018*



**Note:** Data from Reason Incident Counts for School Year 2007–2008:2017–2018, from Texas Education Agency, n.d.–c ([https://rptsvr1.tea.texas.gov/cgi/sas/broker?\\_service=marykay&\\_program=adhoc.download\\_static\\_DAG\\_summary.sas&district=&agg\\_level=STATE&referrer=Download\\_State\\_DAG\\_Summaries.html&test\\_flag=&\\_debug=0&school\\_yr=23&report=01&report\\_type=html&Download\\_State\\_Summary=Next](https://rptsvr1.tea.texas.gov/cgi/sas/broker?_service=marykay&_program=adhoc.download_static_DAG_summary.sas&district=&agg_level=STATE&referrer=Download_State_DAG_Summaries.html&test_flag=&_debug=0&school_yr=23&report=01&report_type=html&Download_State_Summary=Next)).

Finally, disciplinary actions for terroristic threats increased by a staggering 141.92% from 2008 to 2018 (see **Figure 10**).

Unfortunately, this overall downward trend has reversed in the last five years. Around 2019,

disciplinary incidents rose across many categories, including student discipline population, the rate at which students were assigned to ISS or OSS, violations of local code of conduct, permanent removals by teacher, fighting offenses, and assaults on district employees, erasing years of progress. For instance,

the rate at which students were assigned to OSS reached a low of 3.87% in 2018 before reversing in 2019 to 4.13% (see **Figure 3**). After COVID-19, this figure continued to rise and reached a rate of 4.46% in 2023. Fighting offenses followed a similar pattern, with the incident count reaching a low point in 2018 of 812.17 incidents per 100,000 students, rising by 8.49% in 2019 and continuing to rise to 928.28 fights per 100,000 students in 2023. This figure puts the rate of fighting offenses in Texas public schools at its highest level since 2010. Most disturbingly, assaults on district employees have been creeping up steadily over the last nine years and have recently spiked. From 2011 to 2014, an average of 28.74 assaults on district employees occurred for every 100,000 students. Over the next four years, however, that average rose to 32.92 assaults per 100,000 students. Like many other categories, this offense also spiked in 2019 to 41.58 assaults per 100,000 students. In 2023, Assault on District Employee offenses surged again to 51.08 per 100,000 students—an increase of 55.16% from the 2011-2014 average. These statistics point to two conclusions: 1) school discipline is presently

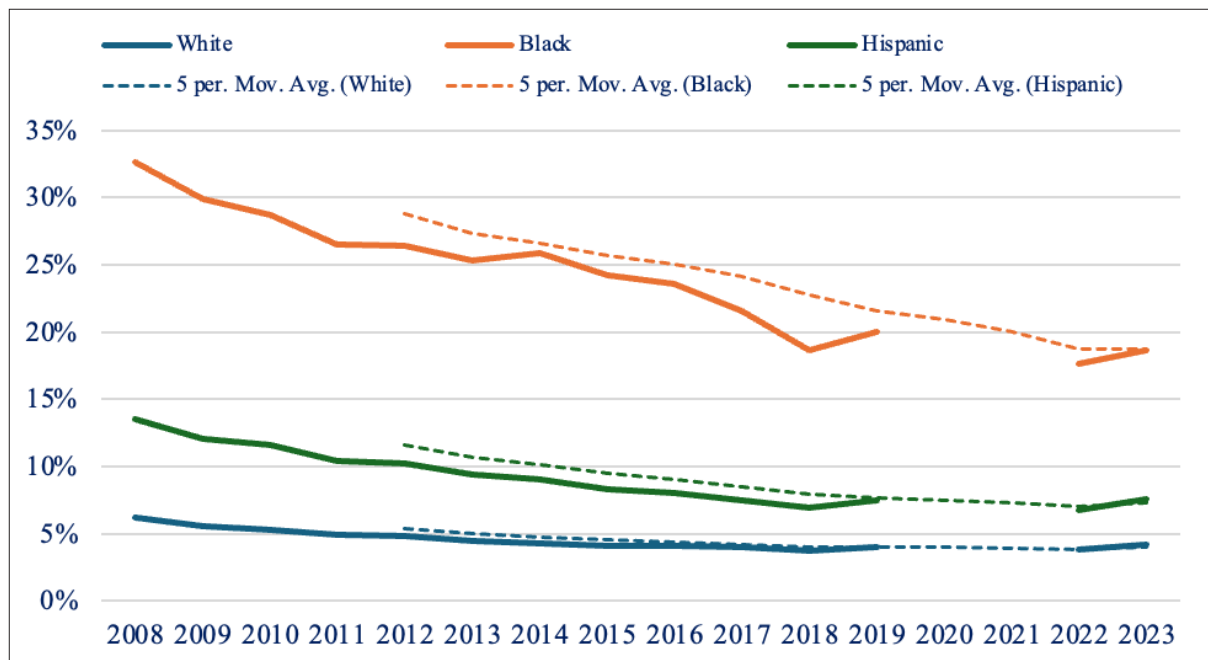
deteriorating in Texas public schools, and 2) this deterioration began before the disruption of COVID-19.

As explained in Section 1, according to the 2014 DCL, the cause of racial disparities in discipline are discriminatory practices ([U.S. Department of Education, 2014a](#)). The DCL urged schools to reduce the usage of exclusionary discipline, especially as applied to Black and Hispanic students. The overall decline of disciplinary interventions in Texas over the last 15 years provides an opportunity to test the hypothesis that a reduction in exclusionary discipline would result in a reduction in racial disparities.

Reducing exclusionary discipline has narrowed racial disciplinary disparities but appears to not be a complete remedy. On the state level, the three major racial categories in Texas (Hispanic, White, and Black) have all seen disciplinary rates fall at comparable rates from 2007-08 to 2022-23, as seen in **Figure 11** ([TEA, n.d.-b](#)). Absolutely, Black students saw the greatest reduction in OSS rate, with a decline of 13.97%, compared to a decline of

**Figure 11**

*OSS Rate by Race with Five-Year Trendline, 2008-2023*



**Note:** Data from Discipline Student Counts for School Year 2007-2008:2022-2023, from Texas Education Agency, n.d.-b (<https://tea.texas.gov/reports-and-data/student-data/discipline-data-products/discipline-reports>).

**Table 1***Change in OSS Rate by Race from 2008–08 to 2022–23*

Population	2007–08 OSS Rate	2022–23 OSS Rate	Change in Rate
All Students	13.38%	7.27%	–45.67%
Black	32.65%	18.68%	–42.79%
Hispanic	13.55%	7.58%	–44.06%
White	6.22%	4.22%	–32.15%

**Note:** Data from State Level Annual Discipline Summary 2007–2008:2022–2023, from Texas Education Agency, n.d.–b (<https://tea.texas.gov/reports-and-data/student-data/discipline-data-products/discipline-reports>).

only 2.00% for White students and 5.97% for Hispanic students (TEA, n.d.–b). Because these reductions were comparable, there was only a modest closing of the racial proportions of discipline. As seen in **Table 1**, the rate at which Black students were assigned OSS was 5.25 times higher than the rate at which White students were assigned OSS in 2007–08, and that rate had fallen to 4.43 times more in 2022–23. Similarly, the OSS rate for Hispanic students was 2.18 times higher than Whites in 2007–08 and 1.80 times higher in 2022–23 (TEA, n.d.–b). These changes suggest that the reduction in exclusionary discipline positively impacted racial disparities, but considering that the overall reduction in OSS rate from 2008 to 2023 was 31.1% and the disproportionality between White and Black students only closed by 18.6%, it is unlikely that racial disparities will be resolved only by a reduction in exclusionary discipline as currently implemented. This pattern mirrors findings in other studies and states, where disparities in discipline of certain student subpopulations remain despite significant overall reductions in exclusionary discipline (CSGJC, 2017, p. 9).

### **Limitations on Discipline Statistics**

As much as TEA, state legislators, and other public policy analysts rely on discipline statistics collected by local education agencies, several factors related to the collection of this data limit it from presenting the whole truth of the state of discipline in Texas schools.

The first limitation of discipline data is that disciplinary reports collected by TEA only indirectly reflect student discipline on Texas campuses. Incident records are created when a disciplinary action is taken (TEA, n.d.–a). This means that disciplinary reports primarily track disciplinary interventions (i.e., punishments), and the offense type is a characteristic of the intervention. As was noted in **Section 1**, Texas statute grants the CBC broad latitude in applying disciplinary actions, and they may even choose not to apply so called “mandatory” interventions based on their judgement of the circumstances (TEC, 2005/2019, Sec. 37.001(a)(4)). If an incident occurs that does not generate a disciplinary action, then no report is made to TEA. If two students engage in a hallway scuffle but the CBC decides to resolve the matter with lunch time detention or a parent conference, then, because no exclusionary intervention was taken, no disciplinary incident will be reported to TEA. Likewise, even for incidents in which a disciplinary report is generated, the disciplinary action does not necessarily correspond to the offense type in a uniform way. Texas statute mandates that students who commit the offense of assault shall be placed in DAEP (TEC, 2005/20023, Sec. 37.006(a)). According to TEA data, however, in the 2022–23 school year, 723 incidents of assault on a district employee resulted in a mandatory action not taken (TEA, n.d.–c). For this category of offense, students were assigned to ISS 547 times and OSS 2,322 times in the 2022–23 school year, although it



is unknown in how many cases this was the only or most severe intervention. One of the most striking examples of this lack of uniformity can be found in Dallas ISD, which eliminated most suspensions in the 2020–21 school year, instead using “reset centers” (cool off rooms) to address disciplinary problems (Donaldson, 2022). In the 2018–19 school year, Dallas ISD issued 13,123 out-of-school suspensions (TEA, n.d.-b). In 2020–21, this number fell to 120 out-of-school suspensions, a precipitous drop even considering the reduced attendance due to COVID-19, and this data point completely disappears for Dallas ISD in the 2022–23 school year (TEA, n.d.-b). A reduction in out-of-school suspensions would ordinarily be considered a positive, but, in this case, the disappearance of suspensions resulted from a shift in policy and not an improvement in school discipline and order. Additionally, as noted before, when no exclusionary disciplinary action is taken, it is as if no incident took place. In the 2018–19 school year, Dallas ISD reported 3,985 fighting offenses but only reported 977 fighting offenses in 2022–23.

The disappearance of disciplinary incidents does not necessarily mean an improvement to school order. This fact is not lost on teachers and administrators, and “shadow discipline,” or unreported exclusionary discipline, may be used to avoid creating a record of disciplinary interventions (Easterseals Central Texas et al., 2019). Ordinarily, sending a student home for the day would be considered an out-of-school suspension that would need to be reported, but if the school suggests to a parent that the student should be taken home for the day—a practice known as “parent pick-up”—then the school would only need to record the event in their attendance records but not their disciplinary records. Other forms of shadow discipline include sending the student to stand outside the classroom, moving a student to another classroom, and the use of “cool down” rooms. Knowing the extent that shadow discipline is practiced in Texas public schools is almost definitionally impossible, but, in a 2019 survey of 211 parents, 65% of respondents reported that one or more forms of shadow discipline was used at their child’s school (Easterseals Central Texas et al., 2019). Because of

these limitations, discipline statistics reflect more the way schools apply their discipline policies, rather than providing an objective measure of the state of school discipline.

Understanding that school administration has great influence over how discipline is reported, several factors could have affected administrators in their application of discipline policies. School administrators will adapt to both institutional forces, and, as semi-public figures, external pressures.

Like any other profession, district and campus administrators seek to perform well in recognized metrics of success in their field. As education expert Robert Pondiscio explains, there are two ways for a principal or superintendent to shine: either to raise test scores or lower suspension rates (The Heritage Foundation, 2018). Unfortunately for school administrators, state testing is a highly secure process and administrators can only indirectly affect test scores (TEA, 2024). Reducing discipline statistics, however, is within the grasp of school administrators. A district or campus that reduces reported disciplinary actions, even if this reduction is the result of lenient disciplinary policies or practices, may receive glowing articles from local or even state media (McNeel, 2021; Phillips, 2019). On the other hand, public officials, including State Board of Education members and state representatives, frequently make comments showing concern for “over disciplining” (TEA, 2024; Lehrer-Small, 2024). Because praise or opprobrium for school administrators hangs largely on disciplinary statistics (especially suspensions), principals and superintendents run the risk of reifying these metrics, and the objective shifts from safe and orderly classroom to lowering suspensions, regardless of the actual state of school order (Eden, 2019a).

The shift to more lenient discipline practices is not solely a consequence of the statutory framework. A broad coalition of researchers, advocates, service providers, and governmental entities have promoted alternatives to exclusionary discipline for decades. A landmark 2011 study of discipline in Texas, *Breaking Schools’ Rules*, presaged the DOE’s 2014 DCL, reporting

disproportionate exclusionary discipline against African-American students and students with disabilities (Booth et al., 2011, pp. x-xi). The multivariate analysis also found that African American students were more likely (31%) to receive discretionary action (an intervention that is not mandatory) than Whites and Hispanics (p. x). Additionally, the study provided evidence for the theory that exclusionary discipline is associated with future contact with both the juvenile and adult justice systems and with negative academic outcomes. Over the next 15 years, several Texas-based nonprofits released research opposed to exclusionary discipline. These reports reiterate that exclusionary discipline is disproportionately applied to students of color and students with disabilities and highlighted the negative impact of this discipline on the student (Craven et al., 2017; Intercultural Development Research Association, 2023). One policy wrinkle that began to appear in the mid-2010s is the concept of “discretionary” disciplinary actions as a negative indicator. Whereas in the 1990s and early 2000s, education discipline reformers sought to eliminate zero tolerance policies to allow for more local control, after zero tolerance statutes were loosened, the narrative was flipped on its head, with any action not mandated by law characterized as unnecessary at best and vindictive at worst (Texas Appleseed, 2019). Instead of using their newfound autonomy to make prudent judgements, schools were urged to “avoid exclusionary discipline whenever possible” (p. 3).

In place of exclusionary discipline, non-governmental organizations recommended a buffet of alternatives, including restorative practices (also called restorative justice or restorative discipline), Positive Behavioral Interventions and Supports (PBIS), and Social Emotional Learning (SEL) (Easterseals Central Texas et al., 2019; CASEL, n.d.-a; TASB, n.d.). These suggestions represent the second millstone of the plan to revolutionize school discipline outlined in the 2014 DCL: after it is proven that exclusionary discipline is both unfairly applied and causes more harm than good, the refusal to adopt these proven, effective alternatives can only be viewed as willful bigotry.

Additionally, the Texas Education Agency began promoting these policies of the Obama Administration in Texas public schools. From 2012 to 2015, TEA partnered with the Institute for Restorative Justice & Restorative Dialogue (IRJRD) at The University of Texas to pilot a restorative discipline program at a San Antonio middle school (Armour, 2013). At the conclusion of this pilot, statewide trainings on restorative justice in school discipline were offered in all 20 Educational Service Centers (TEA, 2018, p. 3). In 2017, an innocuous-looking bill that initially only prohibited out-of-school suspensions for students under grade 3 smuggled many of these alternative discipline practices into statute. HB 674 created the Positive Behavior Program section of Chapter 37 of the Texas Education Code, which allowed schools to implement programs incorporating positive behavioral interventions and supports, social and emotional learning, and restorative practices (HB 674, 2017). TEA has since maintained a page on its website with restorative discipline practices resources in addition to offering training (TEA, n.d.-e).

The final and most direct reason that school administrators would adopt lenient disciplinary practices is out of fear of regulatory action, both at the state and federal level. School districts are required to report disciplinary data to TEA, and certain indicators are used to ensure that districts are maintaining adequate data collection systems and are following state law. For instance, if a school district reports that a student under the age of 10 was expelled for an offense other than bringing a firearm to school, this would be flagged as an anomaly (TEA, 2023c, p. 15). The school district would then be directed by TEA to investigate whether this anomaly was the result of incorrect reporting or an unauthorized action by the district (p. 4). Gradually, the data validation indicators have expanded to discourage exclusionary discipline, especially against minority groups. In 2007, TEA’s discipline validation introduced the High Number of Discretionary DAEP Placements indicator (TEA, 2007). TEA calculated the discretionary DAEP placement rate for a district for all students, African American students, and economically disadvantaged students. Initially, these indicators were

marked as “Report Only” for “district information and planning purpose only” (p. 4). By 2012, however, discretionary DAEP placement rate for Hispanic students had also become an indicator, and both indicators were no longer merely for planning and information but triggered as an indicator if the discretionary DAEP placement rate exceeded two times the district’s overall discretionary DAEP placement rate (TEA, 2012). Under the state’s Public School System Accountability subtitle, the TEA commissioner may conduct a special investigation based on these disciplinary indicators (Texas Education Code, 2009/2021, Sec. 39.003(a)(5)). Based on this investigation, the commissioner may take actions, including appointing an agency monitor or conservator to ensure that the school district complies with state and federal law (TEC, 2017/2021, Sec. 39A.002). TEA’s oversight of school discipline has an unfortunate interplay with federal investigations. TEA has a legitimate interest in supervising school districts to ensure that they follow state and federal law, but the use of disciplinary indicators appears similar to the illegitimate use of disparate impact tests employed by OCR. Even if TEA is more prudent in their investigations and sanctions of Texas schools, the effect of this disciplinary accountability framework is to reinforce the paradigm pushed by advocacy groups and OCR that exclusionary discipline is to be avoided.

Complaints alleging racial discrimination in discipline are typically investigated by the Office of Civil Rights (OCR) in the U.S. Department of Education (TEA, n.d.-f). The OCR’s authority stems from Title VI of the Civil Rights Act of 1964, which “prohibits discrimination based on race, color, or national origin in programs or activities that receive federal financial assistance” (U.S. Government Accountability Office, 2018, p. 10). The only official sanction that the OCR can impose upon a school district is the withdrawal of federal funds, which are 10% or more of a district’s total revenue (Eden, 2018). This has yet to happen, but, as was noted in **Section 1**, an OCR investigation incurs a tremendous amount of effort and expense (as well as negative attention) for the school district (Heriot & Somin, 2018, p. 484). With effectively no way out of the investigation other than capitulation,

school districts almost always sign resolution agreements that promise to reduce disproportionality rates in discipline (Eden, 2018). In a survey of 950 superintendents, The School Superintendents Association (AASA) found that 16% of superintendents reported that they changed their discipline policies because of the 2014 DCL, and 43% of urban superintendents (20% overall) changed their discipline policies due to pressure from the OCR (Eden, 2018). With both professional incentives, pressure from NGOs, and threats from the state and federal governments, it is little wonder that school administrators responded by dramatically decreasing exclusionary discipline.

### SECTION 3: THE EFFECTIVENESS OF ALTERNATIVES TO EXCLUSIONARY DISCIPLINE

The trend in reducing disciplinary interventions across the nation and state over the last 15 years has been pushed by proponents of alternative discipline practices. If Texas is to follow the recommendations of these reformers, assessing the evidence for the effectiveness of these alternatives and potential side effects is crucial.

Texas discipline advocates echo the three premises of the 2014 DCL:

1. Certain populations, especially African American and special education (SPED) students, receive exclusionary discipline at disproportionate rates.
2. This exclusionary discipline results in adverse results for the student affected.
3. Alternative discipline practices reduce exclusionary discipline and negative effects.

Texas advocacy groups routinely release reports detailing Texas disciplinary statistics (Texas Appleseed, n.d.). These statistics bear out the fact (as seen in **Section 2**) that African American students, special education students, and, to an extent, Hispanic students receive exclusionary discipline at a higher rate than White or non-SPED students (Texas

Appleseed, 2019b, p. 4). These findings, however, are largely descriptive and can offer little in the way of explanation. A 2011 study performed a multivariate analysis on Texas discipline data and found that, when controlling for 83 different variables, including discipline history and socioeconomic status, African-American students were 31% more likely to receive a discretionary action than White and Hispanic students (Fabelo et al., 2011, p. x). The report acknowledges several deficiencies in this analysis, however, echoing the caution that disciplinary rates are as much an indicator of school discipline processes as they are an accurate record of school disciplinary events (p. 13).

Even the complex analysis, however, did not explain why certain students are disciplined more frequently. These reports highlight “discretionary” actions for which punishment is not mandated under the law, implying that these actions are unnecessary or arbitrary (Texas Appleseed, 2019b, p. 4). The multivariate analysis also notes that there is less disparity in rates of mandatory actions among the races than in discretionary actions (Fabelo et al., 2011, p. 13). This data point is used to imply that mandatory violations are more objective than discretionary violations, and, thus, that racial disparities increase as a result of school discretion. Other reports will take this finding and use it to assert the conclusion that Black students do not misbehave more (or even misbehave less) than White and Hispanic students (U.S. Commission on Civil Rights, 2019, p. 37). Although most of these reports do not state it explicitly, these two points are made to suggest that the reason for disproportionate discipline is racial bias or otherwise denial of rights on the part of teachers and administrators. Often this accusation is sanitized as “lack of teacher preparation” or “lack of cultural competency” (Skiba, 2008, p. 854). Either way, the cause of inequities in discipline, in their view, is negligence or maliciousness.

The second point made by alternative discipline reformers is that exclusionary discipline negatively impacts student outcomes, including academic

attainment and involvement with the juvenile and adult justice systems. The 2011 Council of State Governments Texas study found that students suspended or expelled for a discretionary violation were twice as likely to repeat the grade as compared to a similar student that was not suspended or expelled (Fabelo et al., 2011, p. 59). It also found that students suspended or expelled for a discretionary violation were nearly three times as likely to be in contact with the juvenile justice system the following year (Fabelo et al., 2011, pp. xi-xii). A frequently cited report from the American Psychological Association “Zero Tolerance Task Force, which examined existing research in the subject, asserts that suspensions and expulsions negatively affect school climate and schoolwide academic achievement, predict higher future rates of misbehavior, and is associated with higher dropout rates and failure to graduate (Skiba, 2008). There is evidence that exclusionary discipline is associated with poorer outcomes, but the key question is whether exclusionary discipline causes these outcomes or is simply a correlative characteristic of at-risk students.

The final leg of the argument for alternative discipline is that alternative discipline practices are effective in increasing school discipline and student academic outcomes. Many of the reports make a recitation of disciplinary statistics before recommending limiting school and classroom removals (especially discretionary removals) and implementing an alternative disciplinary system, such as Positive Behavioral Interventions and Supports (Intercultural Development Research Association, 2021; Craven et al., 2017). The necessity of these alternatives is presented as the foregone conclusion of the preceding two points: exclusionary discipline is discriminatory and causes negative outcomes for students; therefore, policies that reduce exclusionary discipline must be implemented.

The most immediate effect of adopting these policies is the reduction of exclusionary discipline statistics, with some evidence of improved outcomes. One report that examined discipline policy for

several states touted the reduction in suspensions California (38%) and Illinois (45%) achieved after implementing several state level discipline reforms, including banning suspensions for some offenses (CSGJC, 2017). A Dallas ISD publication celebrates that the district has eliminated out-of-school suspensions, congratulating itself for its own policy (Dallas ISD, 2021). A few studies find positive benefits to reducing suspensions. An examination of Chicago Public schools from 2007–2014 found a small but statistically significant improvement in student test scores and increased attendance (Hinze-Pifer & Sartain, 2018). Similarly, a statewide analysis of California public schools found a correlation between lower suspension rates and higher student district achievement (Belway et al., 2015).

Hard evidence for the success of alternative disciplinary practices, however, is sparse (Barnum, 2017). As with the push for reduced exclusionary discipline, most reports on restorative discipline (including the TEA/University of Texas collaboration) focus on the implementation of the school program, rather than actual outcomes (Armour, 2013). Likewise, a study on the use of Positive Behavior Interventions and Supports (PBIS) in Philadelphia primarily concerned itself with the systems implemented by the school and the teachers' usage of PBIS (Gray, 2017). Other positive findings come from teacher climate surveys. In a study of the Pittsburgh Public Schools district as it implemented a program called Pursuing equitable and Restorative Communities, teachers reported improvements to the overall school climate (Augustine et al., 2018). This program did not come without cost, though, as the study also found a drop in academic outcomes.

With little evidence for the effectiveness of alternative disciplinary practices, what is the evidence against these premises?

Arguments against exclusionary discipline frequently begin with an analysis of disproportionate disciplinary actions against certain groups. The conclusion meant to be drawn from these statistics—whether explicitly

stated or implied—is that this disproportionality is the result of racism or the denial of rights. There is evidence, however, that contradicts the two underlying arguments used to make that assertion—that these student groups do not misbehave disproportionately and furthermore that the disparate treatment can be attributed to racism. A common line of reasoning examines the rates of discretionary versus mandatory infractions, with the assumption that mandatory infractions would be less subject to racial bias. As discussed above, the finding of the 2011 Texas study that there is less disproportionality in rates of mandatory infractions among racial groups has been used to argue that these groups do not misbehave at different rates (Fabelo et al., 2011; Texas Appleseed, 2019b). That was not, however, a conclusion proffered by the original research or supported by evidence. Even if this methodology is accepted as valid, the evidence is not clear-cut. In a 2002 study of one year of disciplinary results from an urban middle-school grade, Skiba et al. found slight statistical significance for race in eight of 32 categories: four for Black students and four for White students (Eden, 2019b, p. 6). The researchers then characterized the four categories associated with Black students as “subjective” and the four categories associated with White students as “objective,” suggesting that Black students were the victims of teacher discretion. Even taking that line of thinking as valid, there were 24 other categories of infractions, including “subjective” and “objective” offenses, that showed no statistical significance of racial bias. There is also evidence from student surveys that some student groups do engage in certain activities more than others. In the 2021 High School Youth Risk Behavior Survey, 28.5% of Black or African American students in Texas reported participating in a physical fight, compared to 19.7% of Hispanic or Latino students, and 19.5% of White students, as seen in **Table 2** (Centers for Disease Control and Prevention, 2021).

These statistics also do not support the premise that the higher rate of discipline for Black students is a result of race, but other independent factors account for these differences. The student's life outside



**Table 2***Behaviors of Texas High School Students by Race*

Behavior	White	Black or African American	Hispanic or Latino
Were in a Physical Fight on School Property	7.4%	15.7%	6.3%
Were in a Physical Fight	19.5%	28.5%	19.7%
Carried a Gun	3.5%	7.2%	5.5%

**Note:** Data from *Youth Risk Behavior Survey Questions*, Centers for Disease Control and Prevention, 2021 (<https://yrbs-explorer.services.cdc.gov/#/graphs?questionCode=H16&topicCode=C01&location=TX&year=2021>).

of school is certainly significant. As with so many outcomes, socioeconomic status is a strong indicator for who receives discipline (Barrett et. al., 2017). Some studies find that most, if not all, of the racial disparities in discipline can be explained by socioeconomic status (Anderson & Ritter, 2017). Perhaps most importantly, studies conducted in 2014 and 2017 showed that when accounting for the student's previous disciplinary record and other characteristics, race was not found to be statistically significant (Eden, 2019b). Moreover, other social factors, such as exposure to violence or being raised in single-parent households, are likely to contribute to disciplinary issues (Butcher & von Spakovsky, 2020).

Discipline reform advocates suggest that discipline inequities are the result of discrimination by teachers and school administrators (Texas Appleseed, 2019b). Even the studies that purport to show evidence of bias, though, come with disclaimers. The authors of the 2011 study cited in the 2014 DCL wrote that they could "only speculate about the reasons for disproportionate punishment of African Americans in school" (Rocque & Paternoster, 2011). Another 2019 report that sought to link disciplinary actions with count-level estimates of racial bias noted that "it is impossible to definitively establish the causal relationship between bias and disciplinary disparities" because of the correlational nature of the study (Riddle & Sinclair, 2019). Several studies that closely

examined teacher behavior found little evidence of teacher bias. A 2011 teacher survey on student behavior found no statistically significant difference between the perceptions of students of different races by black teachers and white teachers, and a 2010 study found no differences in the likelihood of a student receiving a referral based on the race of the teacher (Eden, 2019b, p. 6).

The final leg of the arguments against exclusionary discipline is that suspensions cause negative outcomes for affected students. The literature on this subject, as with other aspects of discipline, is mostly descriptive rather than explanatory. Suspension is correlated with a host of negative outcomes (USDOE, 2014). With regard to the school-to-prison pipeline, it is impossible to determine the direction of causality: Do disciplinary actions create negative outcomes, or do at-risk students also have poor disciplinary histories (Petrilli, 2018)? At the extreme end of the question, do disciplinary actions create future criminal offenders, or do students at-risk to criminally offend have poor disciplinary records? Studies have shown some small negative effects of exclusionary discipline on academic achievement, but these studies could not differentiate between a single suspension and multiple suspensions and could not separate the effects of the suspension itself from the effects of the misbehavior that would have existed with or without the suspension (Eden, 2019b).

Even if the arguments against exclusionary discipline do not have significant evidence through research, that does not mean that alternative disciplinary practices—especially restorative discipline practices, positive behavior intervention and supports, and socioemotional learning—will cause negative effects if implemented. As with many other social science questions, devising a valid test for the effectiveness of these practices is challenging. Rather, certain indicators are chosen that are hoped to be correlated with the effectiveness of the program. Some of these indicators, such as suspension or arrest rates, may be affected by a phenomenon known as Campbell’s Law, which states, “The more any quantitative social indicator is used for social decision-making, the more subject it will be to corruption pressures and the more apt it will be to distort and corrupt the social process it is intended to monitor” (Eden, 2019a). In other words, because lowering suspensions is the desired outcome of these alternatives, participants are pressured to achieve (or merely report) that desired result, regardless of the actual effectiveness of the program. As the San Antonio study emphasized, fidelity to the program is essential to measuring its effectiveness, and the researchers largely rely on self-reporting to assess implementation (Armour, 2013).

Despite these limitations, recent research has shown that the three alternative discipline frameworks proposed by discipline reformers (PBIS, SEL, and Restorative Discipline) contribute to negative outcomes in schools, especially in student achievement and school climate. A 2018 study conducted by the RAND Corporation on a restorative justice program in Pittsburg Public Schools showed mixed effects, despite some attempts to portray the results in a positive light (Camera, 2019). The initial reporting by U.S. News and World Report focused on the positive ratings of school climate by teachers. A closer look at the report, however, revealed that math achievement, especially for Black students and predominantly Black schools, had suffered significantly (Eden, 2019c). Despite the teachers’ positive

reception of the program, they had more difficulty in maintaining classroom order, according to their students (Barshay, 2019). Another study from 2019 conducted in Maine found no improvement to middle schools that implemented restorative justice (Barshay, 2019). The study emphasized the difficulty of effectively implementing restorative justice, and students in the program reported low levels of contact with restorative justice. These high-quality studies show that restorative discipline programs have so far failed to produce the promised improvements to schools and, in many cases, worsened academic and disciplinary outcomes.

Positive Behavioral Interventions and Supports (PBIS) is another model of discipline reform promoted by Texas nonprofits and TEA (Texas Appleseed, 2019b, p. 9; Texas Appleseed, 2016). PBIS focuses on teaching clear expectations for behavior and then providing rewards for this behavior (Eden, 2019b). In reviewing the support for PBIS and other related programs, it is worth noting the significance of the term “evidence-based.” Evidence-based means that an activity “demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes,” or, in other words, that when a program was implemented certain indicators changed (National Center for Education Evaluation and Regional Assistance, n.d.).

As discussed in earlier sections, however, changes in reported indicators do not necessarily reflect actual positive improvements. A cynical interpretation of the results of studies in support of PBIS and other alternative discipline regimes could go like this: *Schools implemented programs that strongly suggest student behavior should improve and that there should be less disciplinary problems. Failure to achieve these improvements in behavior could be interpreted as lack of compliance with the program. Consequently, teachers reported less behavior issues.* Or, in simpler terms, we told teachers they were bad teachers if they did not report less problems, so they reported less problems. Every study proving the “evidence-based”

nature of alternative disciplinary practices must be considered with this caveat in mind, especially when the evidence depends on some action or reporting by the teacher or administration.

The Center on Positive Behavioral Interventions & Supports offers a list of studies that support PBIS's positive effect on outcomes ([Santiago-Rosario et al., 2023](#)). Unfortunately, this critique of the notion of "evidence-based" practices applies to most of the studies used to support PBIS, including reducing the use of exclusionary discipline; improvements to social, emotional, and behavioral competencies; and reducing disruptive behavior ([pp. 4–5](#)). These categories depend largely on self-reporting by teachers or on actions that are under the teacher's control, such as referrals. It cannot be discounted that corrupting pressures, both conscious and unconscious, could affect how teachers behave and report. The report acknowledges that more objective evidence for the success of PBIS (being improvement for student academic outcomes) is weaker than for social outcomes ([p. 6](#)). The Center on PBIS presents several studies that show improved academic outcomes but also concedes that other studies show no significant change. Another 2012 study that examined the effects of PBIS in 37 elementary schools showed positive effects on teacher ratings of student behavior, but the program did not reduce suspensions overall ([Eden, 2019b, p. 11](#)). A review of Wisconsin schools by the Wisconsin Institute for Law and Liberty (WILL) found a correlation between schools that used PBIS and lower reading and math scores ([Eden, 2019b, p. 11](#)). When unions asked teachers about PBIS, only 23% of teachers in Denver, CO, 13% of teachers in Madison, WI, and 13% of teachers in Charleston, SC, gave PBIS a positive review ([Eden, 2019b, p. 11](#)). PBIS is not without positive evidence, but the research is sufficiently mixed to suggest that it should not be solely relied upon to solve systemic disciplinary issues. It is also not clear which schools were under the influence of an anti-exclusionary discipline philosophy, which may have affected how teachers and administrators approached the program.

The third program recommended by Texas nonprofits and endorsed by TEA is social emotional learning (SEL), which is a framework that "focuses on building children's social and emotional coping strategies" ([CASEL, n.d.-a](#)). According to the Collaborative for Academic, Social, and Emotional Learning (CASEL), perhaps the foremost authority on SEL, social and emotional learning is the process by which people acquire the "knowledge, skills, and attitudes" that allow them to manage themselves and relationships ([CASEL, n.d.-a](#)). Like the other two types of discipline reform, the more stringent the evidentiary standard, the less the research provides positive support for SEL. A 2017 literature review by RAND Corporation evaluated 68 studies on SEL and sorted them into three tiers of rigor ([Grant et al., 2017](#)). At Tier III (the lowest level of rigor), 26 of these studies found positive results in intrapersonal indicators and 38 found positive results in interpersonal indicators, which are SEL's strongest domains ([Grant et al., 2017, p. 38](#)). In Tier I, the number of studies that found positive results in these domains shrink to four (intrapersonal) and six (interpersonal). Only one study in Tier II found a positive result for the intrapersonal domain and there were no studies supporting the interpersonal domain. The evidence for SEL's impact on disciplinary outcomes is even weaker, with only seven positive studies in Tier III, zero in Tier II, and one positive result in Tier I. Similarly, the nine promising studies in Tier III on academic achievement shrink to one study in Tier II and zero in Tier I. Proponents of SEL may point to the positive results for intrapersonal and interpersonal outcomes, but, if SEL is being touted as a solution for school discipline, it should have greater evidentiary support across all domains. Additionally, SEL, and especially CASEL, has made news for its association with the concept of equity—a neutral sounding term that engenders progressive proscriptions on race, gender, and sexuality ([CASEL, n.d.-b](#)). In 2018 the DOE under President Trump endorsed SEL, but in 2020, CASEL rolled out "transformative SEL," which appears to be Critical Race Theory by another name ([Eden, 2022](#)). The CASEL "Roadmap to Reopen Schools" provides guidance on "directly challenging

racism,” “addressing race and trauma in the classroom,” and “facilitating Circle discussions about race and identity...and the Black Lives Matter movement” (CASEL, 2021).<sup>1</sup> Considering schools in the U.S. spent an estimated \$1.725 billion on SEL instructional materials in the 2021–22 school year alone, the Texas Legislature should be concerned that schools are purchasing materials that undermine the Legislature’s efforts by promoting the harmful ideas about race and sex prohibited by SB 3 (Businesswire, 2022; SB 3, 2021). More broadly, there are concerns that SEL asks teachers to act as unlicensed therapists for their students, thus distracting from instructional time and trespassing on provinces usually reserved for family, community, and faith (Pondiscio, 2021). With these issues, school administrators, teachers, and parents should be rightly wary of the introduction of SEL to their schools.

High quality research studies are not the only evidence available regarding the school discipline reform experiment. The scientific literature does not capture the human impact of various attempts at discipline reform, which range from unimpressive to horrifying. Changes in discipline policies in Syracuse, NY, St. Paul, MN, and Baton Rouge, LA, allegedly exposed students and teachers to violence as those in charge lost control of schools (Doran, 2017; Kersten, 2017; Chawla, 2014). Washoe County, NV, saw a dramatic decline in safety survey results over four years after beginning an SEL program (Eden, 2019d). Most frighteningly, there is concern that the current flavor of discipline reform minimizes student misbehavior and allows for even the worst troublemakers to avoid serious consequences, as in the case of Parkland shooter Nikolas Cruz. Cruz had a lengthy disciplinary record and a history of concerning behavior, but the discipline philosophy of Miami-Dade County Schools appears to have played a role in the district’s mishandling Cruz, including the failure of Cruz to be matriculated into a campus for students with behavioral issues—despite a referral—and failing to report his concerning behavior to law enforcement (Travis, 2023). Such incidents illustrate

the magnitude of dangers that may be hidden in such a system.

## SECTION 4: SCHOOL DISCIPLINE AND FEDERAL REGULATION

### *The Legal Basis of Federal Disciplinary Investigations*

**Section 1** describes the tortured fallacious logic of the DOE that suspects discrimination whenever there is a disparity in discipline among certain groups. Apart from the fallaciousness of this logic, the DOE is also operating under questionable legal justifications. Firstly, as the Final Report of the Federal Commission on School Safety points out, the tenets of the 2014 DCL implicitly call for the implementation of racial quotas because it asks schools to consider race when meting out discipline (U.S. Department of Education, 2018, pp. 70–71). Schools were investigated on the basis of disproportionate disciplinary rates, and they settled with the understanding that these disproportionalities would be eliminated. The U.S. Court of Appeals for the 7th Circuit ruled in 1997, though, that racial quotas in discipline are “at war with justice” by over-punishing the innocent or under-punishing the guilty. Furthermore, the DOE’s reliance on a theory of disparate impact to enforce Title VI is questionable. A 1978 Supreme Court ruling (*Regents of the University of California v. Bakke*) said that government actors would only violate the Equal Protection Clause through intentional discrimination, not disproportionate or disparate impact. In the 2001 case *Alexander v. Sandoval*, the U.S. Supreme Court specifically noted that executive agencies do not have the authority to enforce a disparate impact theory of Title VI without evidence of intentional discrimination. Lastly, as was mentioned in the section discussing the 2014 DCL, this guidance is an attempt to impose the policy preferences of the federal government in every district, contradicting the principle of local and state control. Even the Department of Education Organization Act (from the 2018 DOE report) states that the Department should not “exercise any direction, supervision, or control” over schools (U.S. Department of Education, 2018,

<sup>1</sup> See: Critical Practice 3.4: Circle Scripts for Black Lives Matter at School.

p. 71). Based on these three points—that secondary education is a matter of state and local control, that racial quotas in discipline are discriminatory, and that disparate impact is not a relevant theory for government actors under Title IV—Texas and school districts should reject the improper claim of authority by the DOE to investigate and sanction schools with no evidence of intentional discrimination.

### *Special Education and Discipline*

Disciplinary issues related to special education students are more tightly regulated than with other students including racial minorities, because students with disabilities are protected under both Section 504 of the Rehabilitation Act of 1973 and the Individuals with Disabilities Act (IDEA) of 1975 (TEA, n.d.-g; TEA, n.d.-h). IDEA requires schools to provide an appropriate education to students with disabilities, which entails identifying students with special needs and providing services and support to these students. IDEA also requires that students be placed in the “least restrictive environment” possible (TEA, n.d.-i). Unfortunately, these regulations often result in special education students, including those with an “emotional and behavioral disability,” being placed in a general education classroom (Eden, 2019e).

Section 504 prohibits discrimination against individuals with disabilities in programs or activities that receive federal financial assistance. Because of this tighter regulation, Texas schools and administrators may be more constrained in disciplinary options for special education students. In a national poll, two-thirds of teachers said that a general education student would receive a harsher consequence than a special education student (Griffith & Tyner, 2019). Despite these limitations, schools can still apply the basic principles of effective discipline to special education students. School administrators and special education staff must ensure that they do not punish a student for behavior related to their disability, but their responsibility is still to the safety and learning environment of all students.

## **SECTION 5: SUMMARY AND RECOMMENDATIONS**

This research describes the state of school discipline in Texas and explains how these circumstances came about. This final section will offer conclusions and general recommendations for restoring order and safety to Texas classrooms.

### **School administrators hold much of the power about how discipline is enforced in local districts and campuses.**

The statutory framework provides broad discretion around how administrators respond to disciplinary events, which allows school discipline regimes to vary greatly in their strictness or leniency. Furthermore, the state discipline data reporting system revolves around disciplinary actions, meaning that if an official disciplinary action is not taken, the disciplinary event never occurred as far as the state is concerned. This research describes how these two factors play out specifically in Texas, but these are traits inherent to the system of locally controlled school districts, and so any attempts to reform reporting or to mandate certain actions would not ameliorate these issues. Legislators should realize that a top-down approach to school discipline will only lead schools and school administrators to adapt their behaviors to appear competent in the current disciplinary framework or social movement.

### **The decline of exclusionary discipline has been the result of regulatory pressure and advocacy by nongovernmental organizations.**

The figures in **Section 2** tell a story of steadily declining disciplinary actions over the last 15 years, with a rise in these interventions in recent years. The decline in disciplinary actions could be some combination of actual improvements in school climate along with the spread of anti-exclusionary attitudes. The reversal in this trend, however, coincides too well with the mass adoption of alternative discipline practices.



Over the last 15 years, as described in **Section 1** and **Section 3**, regulators, nonprofits, and other elements of civil society at the state and federal level have pressured schools to adopt non-exclusionary discipline policies and adopt alternative disciplinary practices such as restorative discipline, positive behavioral interventions and supports, and social emotional learning. These pressures combined with administrators' desire for professional advancement and recognition to produce a school environment that prioritizes the minimization of suspensions and other forms of disciplinary action over a safe and orderly school environment. At some point, Texas schools reached a tipping point, magnified by the disruptions of the COVID pandemic response, and school administrators could no longer hide the deteriorating state of school order, in both the data and the news.

Understanding that administrators hold the primary responsibility for school discipline, and that they have been influenced by groups and motivations that have aims beyond school safety, the primary objective of Texas legislators should be to remove obstacles preventing school administrators from responding to the needs of teachers, parents, and students.

**Texas legislators should work to prevent external regulatory pressure from preventing school administrators from enforcing school discipline.**

The most fearsome pressure (though not often the most immediate one) is the threat of regulatory action by the U.S. Department of Education or the Texas Education Agency. **Section 1** describes the abusive and coercive investigations the DOE has undertaken for supposedly discriminatory disciplinary practices, and **Section 4** explains the dubiousness of the DOE's legal arguments. The State of Texas cannot change how federal agencies choose to enforce laws and rules, but DOE's authority has yet to be truly tested in court. Some moral courage on the part of Texas school districts would stymie the DOE's ability to impose its policy preferences through mere

innuendo without ever having to fully show its hand. Texas can support their courage through assistance, such as intervention by the Attorney General or TEA, in the case of a data-driven DOE investigation.

TEA also contributes to this pressure to reduce exclusions. The Discipline Data Validation Indicators for Black or African American and Hispanic Discretionary DAEP Placements signal to Texas school districts that disparities in disciplinary actions are a failure of the school and, in its extreme interpretation, suggest the need for racial quotas. These indicators should be removed, or, at the very least, should be used only for data collection purposes, without the threats of sanctions. Under Texas law, TEA may conduct special investigations for "extraordinary" number of discretionary DAEP placements, but racial quotas are not mentioned ([TEC, 2009/2021, Sec. 39.003](#)). In order to reinforce the principle of local control, TEA's role in discipline data should only be to ensure that Texas law is followed.

TEA should also stop collecting data on in-school suspensions. **Section 2** describes the changes in behavior caused by the collection of discipline data, and ceasing to require reporting on in-school suspensions would allow schools to employ this relatively minor intervention without fear that this data will be used against them. The collection of data on exclusionary interventions any time the student is sent off campus is part of federal reporting requirements, but there is no need to influence the decisions of school districts any more than necessary.

TEA should cease endorsing alternative disciplinary practices such as restorative discipline, positive behavioral interventions and supports, and social emotional learning. It is not in the scope of this paper to conduct a full analysis of these programs, but research has produced enough negative results for these programs that they should not be taken as a given. Moreover, the narrative pushed by nonprofits and the DOE (*see the 2014 DCL*) is that schools have no excuse for high suspension rates when proven alternatives are available. The research presented here,

however, shows that some attempts at reform have been ineffective or strictly detrimental. Repealing the Positive Behavior Program statute ([TEC, Sec. 37.0013](#)) would be a positive symbolic gesture. The repeal of this section would not prevent school districts from implementing PBIS, SEL, or restorative discipline practices, but it would. The real change should be TEA's removal of resources promoting alternative disciplinary practices. TEA should desist from tipping the scale in a public policy debate in favor of highly ideological and unproven theories through well-produced videos filled with buzzwords and scant on direct solutions ([TEA, n.d.-j](#)).

**Finally, the Texas Legislature should consider how to allow the voices of teachers, parents, and students to provide local accountability for school climate.**

Even absent regulatory pressure and social advocacy, school administrators require a feedback mechanism from school stakeholders to respond to their concerns. Unfortunately, the current narratives on discipline muddy this feedback and encourage administrators to discount the experiences of teachers. When faced with potential regulatory action, administrators must take a “just get it done” approach. The message given by proponents of alternative disciplinary models is that suspensions are the result of a failure on the teachers’ part, and principals, and superintendents much prefer the headlines of lower reported disciplinary incidents to the task of making difficult decisions about enforcing school discipline. The previous recommendations in this section have focused on how to shield schools from undue influence, but there are also policies that can allow teachers and parents to directly influence discipline policy.

As discussed in **Section 2**, one flaw in discipline data reporting is that the intervention is initiated by the CBC. If the CBC decides that a disciplinary event requires an official action, the reason and action are both recorded. One quasi-exception to this system is the disciplinary reason Permanent Removal by

Teacher, which indicates that the teacher asked for the student to be removed from the classroom. As **Figure 6** shows, this occurrence has fallen out of favor, but used correctly, this tool allows teachers to enlist the assistance of school administrators for disruptive students even without major disciplinary infractions. The most needed improvement to [Section 37.002](#) of the Texas Education Code, Removal By Teacher, is the loosening of requirements for the documentation and repetition of disruptions before the teacher can request removal. These requirements force teachers to balance the time and effort it will take to document the disruptive behavior, thus taking away from instructional time, and, meanwhile, the student is still free to misbehave until the threshold of “repeated” disruption occurs. Teachers should always be able to ask for intervention to ensure the learning and safety of their students.

Understanding the needs of their teachers should be one of the primary concerns of school administrators. Luckily, there is a statutory tool that would allow Texas to directly and anonymously collect data from teachers: the Teaching and Learning Conditions Survey ([TEC, 2013/2015, Sec. 7.065](#)). Unfortunately, this survey was only funded for one biennium in 2014–15 ([TCTA, 2013](#)). The Texas Legislature should restore funding to this survey and ask every teacher in Texas to rate their perception of school discipline and their administration’s support. While no silver bullet, this survey would provide much needed transparency to Texas schools regarding safety, order, and discipline.

Other statutory changes that provide transparency would also provide administrators with feedback on school culture. Proposals for “parents bill of rights,” such as in SB 8 from the 88th Texas Legislature, would ensure that parents are notified of incidents and have access to an official grievance process if they are dissatisfied ([SB 8, 2023](#)). These would improve school disciplinary policy, and resolve disputes related to discipline, as well as instructional and library materials and sexual and mental health instruction. Teachers should be given similar protections. They should be informed of their rights

in enforcing order, including teacher removal from classroom, and receive notice of official dispositions of referrals and disciplinary measures taken. The 89th Texas Legislature should consider these and any other measure, including school choice, that provides local accountability to Texas schools. The disciplinary experiments of the past 25 years prove that discipline cannot be dictated at the state or national level. What the state must do is ensure that, along with local control, schools have local accountability. Texas legislators can accomplish this firstly by opposing the corrupt external influences such as abusive federal investigations, and ideologically motivated reformers. Secondly, Texas legislators can assist school administrators in responding to their local school community by emphasizing transparency in discipline. By accomplishing these two goals, schools will be put right side up by making student learning and safety the top priorities again.

## RECOMMENDATIONS

The Texas Legislature should take the following steps to improve discipline school in Texas schools:

- Defend school districts from investigations by the DOE based on Title VI by offering assistance from the state Attorney General's Office or the TEA.
- Enjoin the TEA from collecting disciplinary data apart from that data required by federal statute.
- Strengthen Sec. 37.002 of the Texas Education Code, "Removal By Teacher," by allowing students to be removed after a single incident of a violation of the student code of conduct and requiring a conference in which the teacher is allowed to participate before the student is allowed to return to class.
- Repeal Sec. 37.0013 of the Texas Education Code, "Positive Behavior Program," which promotes alternative theories of discipline, including Positive Behavioral Interventions and Supports (PBIS), Social Emotional Learning (SEL), and restorative discipline.
- Fund the Teacher and Learning Conditions Survey under Sec. 7.065 to collect information about teacher perceptions of school climate, safety, and administrator support.
- Protect the rights of parents and students through transparency in discipline and a clear grievance process.
- Protect teachers by ensuring that they know what disciplinary tools are available to them and ensure they receive a clear response from school administration to their requests for assistance. ■

## REFERENCES

- ABC13. (2009, March 10). *Did discipline go too far?* Retrieved October 4, 2024, from <https://abc13.com/archive/6702726/>
- American Psychological Association Zero Tolerance Task Force. (2008). Are zero tolerance policies effective in the schools? *American Psychological Association*, 63(9), 852–862. <https://www.apa.org/pubs/reports/zero-tolerance.pdf>
- Anderson, K.P., & Ritter, G. W. (2017). Disparate use of exclusionary discipline: Evidence on inequities in school discipline from a U.S. state. *Education Policy Analysis Archives*, 25(49).  
<https://epaa.asu.edu/index.php/epaa/article/view/2787>
- Armour, M. (2013). *Ed White Middle School restorative discipline evaluation: Implementation and impact, 2013/2014 sixth grade*. The Institute for Restorative Justice and Restorative Dialogue. [http://www.antonioacasella.eu/restorative/Armour\\_2013.pdf](http://www.antonioacasella.eu/restorative/Armour_2013.pdf)
- Atkinson, A. J. (2005). *Zero tolerance policies: An issue brief*. PolicyWorks, Ltd. <https://senate.texas.gov/cmtes/79/c530/092006.c530.LevinM.3.pdf>
- Augustine, C. H., Christianson, K., Engberg, J., Grimm, G. E., Joseph, A. A., Lee, E., & Wang, E. L. (2018, December 27). *Can restorative practices improve school climate and curb suspensions? An evaluation of the impact of restorative practices in a mid-sized urban school district*. RAND Corporation. [https://www.rand.org/pubs/research\\_reports/RR2840.html](https://www.rand.org/pubs/research_reports/RR2840.html)
- Ballotpedia. (n.d.). *School responses in Texas to the coronavirus (COVID-19) pandemic*. Retrieved October 24, 2024, from [https://ballotpedia.org/School\\_responses\\_in\\_Texas\\_to\\_the\\_coronavirus\\_\(COVID-19\)\\_pandemic](https://ballotpedia.org/School_responses_in_Texas_to_the_coronavirus_(COVID-19)_pandemic)
- Barba, M., & Crusius, J. (2022, August 24). *Where are they? Enrollment trends in K-12 education*. Texas Public Policy Foundation. <https://www.texaspolicy.com/where-are-they-enrollment-trends-in-k-12-education/>
- Barnum, M. (2017, May 2). *The school discipline revolution: How policy and rhetoric outstrip hard evidence*. The 74. <https://www.the74million.org/article/the-school-discipline-revolution-how-policy-and-rhetoric-outstrip-hard-evidence/>
- Barrett, N., McEachin, A., Mills, J. N., & Valant, J. (2018, January 4). *Disparities in student discipline by race and family income*. Education Research Alliance for New Orleans. <https://educationresearchalliancenola.org/files/publications/010418-Barrett-McEachin-Mills-Valant-Disparities-in-Student-Discipline-by-Race-and-Family-Income.pdf>
- Barshay, J. (2019, May 6). *The promise of 'restorative justice' starts to falter under rigorous research*. The Hechinger Report. <https://hechingerreport.org/the-promise-of-restorative-justice-starts-to-falter-under-rigorous-research/>
- Bedrick, J., & Burke, L. (2018). *Surveying Florida scholarship families*. EdChoice. <https://www.edchoice.org/wp-content/uploads/2018/10/2018-10-Surveying-Florida-Scholarship-Families-by-Jason-Bedrick-and-Lindsey-Burke.pdf>
- Belway, S., Keith, M. A. II, Losen, D. J., Hodson, C. L., & Martinez, T. E. (2015, November 23). *Closing the school discipline gap in California: Signs of progress*. The Civil Rights Project. <https://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/summary-reports/ccrr-school-to-prison-pipeline-2015>

- Business Wire (2022, November 23). *United States Social and Emotional Learning (SEL) market report 2022-2023: Social and Emotional Learning faces threats going forward*. <https://www.businesswire.com/news/home/20221123005249/en/United-States-Social-and-Emotional-Learning-SEL-Market-Report-2022-2023-Social-and-Emotional-Learning-Faces-Threats-Going-Forward---ResearchAndMarkets.com>
- Butcher, J., & von Spakovsky, H. (2020, September 29). *Misusing “disparate impact” to discriminate against students in school discipline*. The Heritage Foundation. <https://www.heritage.org/civil-rights/report/misusing-disparate-impact-discriminate-against-students-school-discipline>
- Butcher, J. (2019, January 24). *School safety is a top concern for parents*. Mackinac Center for Public Policy. <https://www.mackinac.org/school-safety-is-a-top-concern-for-parents>
- Santiago-Rosario, M. R., McIntosh, K., Izzard, S., Lissman, D. C., & Calhoun, E. (2023). *Is positive behavioral interventions and supports (PBIS) an evidence-based practice?* Center on PBIS. [https://cdn.prod.website-files.com/5d3725188825e071f1670246/651c4d7d5174726ec6da1d86\\_Is%20Positive%20Behavioral%20Interventions%20and%20Supports%20\(PBIS\)%20an%20Evidence-Based%20Practice.pdf](https://cdn.prod.website-files.com/5d3725188825e071f1670246/651c4d7d5174726ec6da1d86_Is%20Positive%20Behavioral%20Interventions%20and%20Supports%20(PBIS)%20an%20Evidence-Based%20Practice.pdf)
- Camera, L. (2019, January 4). *Study contradicts Betsy DeVos’ reason for eliminating school discipline guidance*. U.S. News & World Report. <https://www.usnews.com/news/education-news/articles/2019-01-04/study-contradicts-betsy-devos-reason-for-eliminating-school-discipline-guidance>
- Centers for Disease Control and Prevention (CDC). (n.d.). *1991-2023 High School Youth Risk Behavior Survey Data*. Retrieved on September 1, 2024, from <https://yrbs-explorer.services.cdc.gov/#/graphs?questionCode=H16&topicCode=C01&location=TX&year=2021>
- Chawla, K. (2014, April 25). *I-Team: Classrooms of fear*. WAFB9. Retrieved on September 19, 2024, from <https://www.wafb.com/story/25335469/i-team-classrooms-of-fear/>
- Collaborative for Academic, Social, and Emotional Learning (CASEL). (2021). *Roadmap to reopen schools*. Retrieved September 24, 2024, from <https://casel.org/roadmap-to-reopen-schools/#how-to-use-the-sel-roadmap>
- Collaborative for Academic, Social, and Emotional Learning (CASEL). (n.d.-a). *Fundamentals of SEL*. Retrieved August 23, 2024, from <https://casel.org/fundamentals-of-sel/>
- Collaborative for Academic, Social, and Emotional Learning (CASEL). (n.d.-b). *How does SEL support educational equity and excellence?* Retrieved September 25, 2024, from <https://casel.org/fundamentals-of-sel/how-does-sel-support-educational-equity-and-excellence/>
- Donaldson, E. (2022, May 18). *Inside Dallas schools’ attempt to eliminate most suspensions to help kids of color*. *The Dallas Morning News*. <https://www.dallasnews.com/news/education/2022/05/18/inside-dallas-schools-attempt-to-eliminate-most-suspensions-to-help-kids-of-color/>
- Doran, E. (2017, May 26). *DA: Syracuse schools must drop changes made that cut suspensions, get tough on discipline*. Syracuse.com. [https://www.syracuse.com/schools/2017/05/syracuse\\_school\\_district\\_needs\\_to\\_get\\_tougher\\_on\\_discipline\\_pledge\\_schools\\_will.html](https://www.syracuse.com/schools/2017/05/syracuse_school_district_needs_to_get_tougher_on_discipline_pledge_schools_will.html)
- DuBois, T., Flack, A., Fink, R., Gray, A., Hill, K., Morrison, K., & Sirinides, P. (2017). *Discipline in context: Suspension, climate, and PBIS in the School District of Philadelphia*. Consortium for Policy Research in Education. <https://files.eric.ed.gov/fulltext/ED586779.pdf>
- Easterseals Central Texas, Texas Appleseed, & Disability Rights Texas. (2019). *Shadow discipline in Texas schools*. <https://www.texasappleseed.org/sites/default/files/2023-05/shadowdisciplinereport-y-final.pdf>



- Eden, M. (2018, August 13). *Enforcing Classroom disorder: Trump has not called off Obama's war on school discipline*. Manhattan Institute. <https://manhattan.institute/article/enforcing-classroom-disorder-trump-has-not-called-off-obamas-war-on-school-discipline#notes>
- Eden, M. (2019a, September 3). *We need less data*. Manhattan Institute. <https://manhattan.institute/article/we-need-less-data>
- Eden, M. (2019b). *Safe and orderly schools: Updated guidance on school discipline*. Manhattan Institute. <https://media4.manhattan-institute.org/sites/default/files/R-ME-0319.pdf>
- Eden, M. (2019c, January 14). *Restorative justice isn't working, but that's not what the media is reporting*. Manhattan Institute. <https://manhattan.institute/article/restorative-justice-isnt-working-but-thats-not-what-the-media-is-reporting>
- Eden, M. (2019d, January 28). *Eden: New reports touts Social-Emotional Learning to boost school safety. But school climate surveys tell a very different story*. The 74. <https://www.the74million.org/article/eden-new-report-touts-social-emotional-learning-to-boost-school-safety-but-school-climate-surveys-tell-a-very-different-story/>
- Eden, M. (2019e, December 1). *When disruptive students are coddled, the whole class suffers*. Manhattan Institute. <https://manhattan.institute/article/when-disruptive-students-are-coddled-the-whole-class-suffers>
- Eden, M. (2022, April 6). *The trouble with Social Emotional Learning*. The American Enterprise Institute. <https://www.aei.org/research-products/testimony/the-trouble-with-social-emotional-learning/>
- Elder, J. (2024, February 29). "You don't go to work to be attacked:" Data shows more students assaulting school staff. CBS Austin. <https://cbsaustin.com/news/local/you-dont-go-to-work-to-be-attacked-data-shows-more-students-assaulting-school-staff-education-safety-people-aft-tea-teachers-government>
- Fabelo, T., Thompson, M.D., Plotkin, M., Carmichael, D., Marchbanks, M.P., & Booth, E.A. (2011, July 19). *Breaking school's rules: A statewide study of how school discipline relates to students' success and juvenile justice involvement*. Council of State Governments Justice Center. [https://csgjusticecenter.org/wp-content/uploads/2020/01/Breaking\\_Schools\\_Rules\\_Report\\_Final.pdf](https://csgjusticecenter.org/wp-content/uploads/2020/01/Breaking_Schools_Rules_Report_Final.pdf)
- Fowler, D., Lightsey, R., Monger, J., & Aseltine, E. (2010). *Texas' school-to-prison pipeline*. Texas Appleseed. <https://www.texasappleseed.org/sites/default/files/2023-05/03-stpticketingandarrests.pdf>
- Grant, S., Hamilton, L.S., Wrabel, S.L., Gomez, C.J., Whitaker, A.A., Leschitz, J.T., Unlu, F., Chavez-Herrerias, E.R., Baker, G., Barret, M., et al. (2017). *Social and Emotional Learning interventions under the Every Student Succeeds Act*. RAND Corporation. [https://www.rand.org/pubs/research\\_reports/RR2133.html](https://www.rand.org/pubs/research_reports/RR2133.html)
- Griffith, D., & Tyner, A. (2019). *Discipline reform through the eyes of teachers*. The Thomas B. Fordham Institute. <https://fordhaminstitute.org/sites/default/files/publication/pdfs/20190730-discipline-reform-through-eyes-teachers.pdf>
- HB 603. Enrolled. 79th Texas Legislature. Regular. (2005). <https://www.legis.state.tx.us/tlodocs/79R/billtext/html/HB00603F.HTM>
- Heriot, G., & Somin, A. (2018). The Department of Education's Obama-era initiative on racial disparities in school discipline: Wrong for students and teachers, wrong on the law. *Texas Review of Law & Politics*. [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3104221](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3104221)
- Hinze-Pifer, R., & Sartain, L. (2018). Rethinking universal suspension for severe student behavior. *Peabody Journal of Education*, 93(2), 228-243. <https://www.tandfonline.com/doi/full/10.1080/0161956X.2018.1435051>

- Hollingsworth, Jr., L. (2023, July 12). *Testimony of the Texas Classroom Teachers Association to the House Select Committee on Educational Opportunity and Enrichment*. Texas Classroom Teachers Association. [https://www.tcta.org/uploads/files/general/TCTA\\_SpecialCommitteeTestimony07122023.pdf](https://www.tcta.org/uploads/files/general/TCTA_SpecialCommitteeTestimony07122023.pdf)
- Institute of Education Sciences. (n.d.). *What is “evidence-based” as defined by the Every Student Succeeds Act?* Retrieved September 20, 2024, from [https://ies.ed.gov/ncee/edlabs/infographics/pdf/REL\\_SE\\_What\\_is\\_Evidence-Based\\_as\\_Defined\\_by\\_ESSA.pdf](https://ies.ed.gov/ncee/edlabs/infographics/pdf/REL_SE_What_is_Evidence-Based_as_Defined_by_ESSA.pdf)
- Intercultural Development Research Association. (2021, January 20). *Breaking the school-to-prison and school-to-deportation pipelines -- IDRA Texas priority brief*. [https://www.idra.org/education\\_policy/breaking-the-school-to-prison-and-school-to-deportation-pipelines-idra-texas-priority-brief/](https://www.idra.org/education_policy/breaking-the-school-to-prison-and-school-to-deportation-pipelines-idra-texas-priority-brief/)
- Intercultural Development Research Association. (2023, March 27). *Zero tolerance policies in Texas push black students and Latino students away from school*. [https://www.idra.org/research\\_articles/zero-tolerance-policies-texas-push-black-students-hispanic-students-away-school/](https://www.idra.org/research_articles/zero-tolerance-policies-texas-push-black-students-hispanic-students-away-school/)
- Kersten, K. (2017). *No thug left behind*. City Journal. <https://www.city-journal.org/article/no-thug-left-behind>
- Lehrer-Small, A. (2024, April 8). *HISD illegally suspended 1 in 10 homeless students last school year, new data shows*. Houston Landing. <https://houstonlanding.org/hisd-illegally-suspended-1-in-10-homeless-students-last-school-year-new-data-shows/>
- Longmire, B. (2024, September 2). *Assistant principal ‘blinded’ in one eye after being attacked by student with a wooden hanger*. People. <https://people.com/assistant-principal-blinded-one-eye-attacked-student-8705136>
- Mackinac Center for Public Policy. (2018). *Choices & voices: A survey of Michigan charter school parents*. <https://www.mackinac.org/archives/2018/SchoolChoiceSurvey2018-web.pdf>
- Manhattan Institute (2014, February 12). *OCR’s approach to the evaluation, investigation and resolution of Title VI discipline complaints*. <https://media4.manhattan-institute.org/sites/default/files/OCR-disciplineguide-2014.pdf>
- Martinez-Prather, K., Caldwell, J., White, S., & Dede-Bamfo, O. (2020). *2017–2020 District audit report: Findings on safety and security in Texas school districts*. Texas State University. <https://locker.txssc.txstate.edu/cfa9cdc12a7a1a2d662f68d1c91b1a21/2017-2020-DAR-Report.pdf>
- McNeel, B. (2021, April 27). *Dallas schools move to rewrite disciplinary rules that hit Black students hardest*. The Texas Tribune. <https://www.texastribune.org/2021/04/27/texas-dallas-schools-rules-black-students/>
- McShane, M. Q. (2022, July 5). *How do teachers spend their time?* EdChoice. <https://www.edchoice.org/research-library/?report=how-do-teachers-spend-their-time#report>
- Mendez, M. (2022, June 15). *Almost 100 Texas school districts have added their own police departments since 2017, but not everyone feels safer*. The Texas Tribune. <https://www.texastribune.org/2022/06/15/uvalde-school-officers-texas-shootings/>
- Forgione, Jr., P. D. (1998, March 18). *Violence and discipline problems in U.S. public schools: 1996–97*. National Center for Education Statistics. <https://nces.ed.gov/pressrelease/violence.asp#:~:text=%22Zero%20tolerance%20policy%22%20was%20defined,or%20punishments%20for%20specific%20offences>
- Opper, I. M. (2019, December 4). *Teachers matter: Understanding teachers’ impact on student achievement*. RAND Corporation. <https://www.rand.org/education-and-labor/projects/measuring-teacher-effectiveness/teachers-matter.html>

- Rocque, M., & Paternoster, R. (2011). Understanding the antecedents of the “school-to-jail” link: The relationship between race and school discipline. *Journal of Criminal Law and Criminology*, 101(2). <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=7398&context=jclc>
- Perera, R. M., & Valant, J. (2023, June 28). *The Biden administration’s updated school discipline guidelines fail to meet the moment*. The Brookings Institution. <https://www.brookings.edu/articles/the-biden-administrations-updated-school-discipline-guidelines-fail-to-meet-the-moment/>
- Petrilli, M. J. (2018, March 7). *A supposed discipline fix threatens school cultures*. Education Next. <https://www.educationnext.org/supposed-discipline-fix-threatens-school-cultures-forum-petrilli/>
- Phillips, C. (2019, November 21). *Here’s how San Antonio ISD plans to shift away from ‘punitive’ discipline*. Texas Public Radio. <https://www.tpr.org/education/2019-11-21/heres-how-san-antonio-isd-plans-to-shift-away-from-punitive-discipline>
- Pondiscio, R. (2021). *The unexamined rise of therapeutic education: How Social-Emotional Learning extends K-12 education’s reach into students’ lives and expands teachers’ roles*. The American Enterprise Institute. <https://www.aei.org/wp-content/uploads/2021/10/The-Unexamined-Rise-of-Therapeutic-Education.pdf?x91208>
- Riddle, T. & Sinclair, S. (2019). *Racial disparities in school-based disciplinary actions are associated with county-level rates of racial bias*. *Proceedings of the National Academy of Sciences of the United States of America*, 116(17), 8255–8260. <https://www.pnas.org/doi/full/10.1073/pnas.1808307116>
- Saldana, S. (2023, April 12). *12% of young adults in Texas are not in school or working*. Texas Standard. <https://www.texasstandard.org/stories/texas-disconnected-youth-young-adults-not-working-school/>
- SB 1 Bill Analysis. House Research Organization. 74th Texas Legislature. Regular. (1995, May). <https://hro.house.texas.gov/pdf/ba74R/SB0001.PDF>
- SB 1. Enrolled. 74th Texas Legislature. Regular. (1995). <https://capitol.texas.gov/tlodocs/74R/billtext/html/SB00001F.htm>
- SB 8. Engrossed. 88th Texas Legislature. Regular. (2023). <https://capitol.texas.gov/tlodocs/88R/billtext/pdf/SB00008E.pdf>
- SB 107. Enrolled. 84th Texas Legislature. Regular. (2015). <https://www.legis.state.tx.us/tlodocs/84R/billtext/html/SB00107F.HTM>
- SB 393. Enrolled. 83rd Texas Legislature. Regular. (2013). <https://capitol.texas.gov/tlodocs/83R/billtext/pdf/SB00393F.pdf#navpanes=0>
- Serrano, J. (2013, August 29). *School officers can no longer issue on-campus misdemeanor citations*. The Texas Tribune. [https://www.texastribune.org/2013/08/29/class-disruption-cases-head-principals-office-not-/](https://www.texastribune.org/2013/08/29/class-disruption-cases-head-principals-office-not/)
- Siegel, B. (2002, August 11). *Zero tolerance lets a student’s future hang on a knife’s edge*. *Los Angeles Times*. <https://www.latimes.com/archives/la-xpm-2002-aug-11-na-zero11-story.html>
- Texas AFT. (2012). *Texas Safe Schools Act: Your rights and responsibilities*. <https://tx.aft.org/files/12safeschoolsbrochure082812.pdf>
- Texas Appleseed. (2016). *Alternatives to school removals*. <https://www.texasdisciplinelab.org/resources/alternatives-to-school-discipline/>
- Craven, M., Fowler, D., Johnson, K., Stone, E., Wright, Y., Tegeler-Sauer, J., & Calvert, D. (2017). *Suspended childhood*. Texas Appleseed. <https://report.texasappleseed.org/suspended-childhood-updated/>

- Texas Appleseed. (2019). *Texas: The state of school discipline*. <https://www.texasappleseed.org/sites/default/files/2023-05/schooldisciplineintexas-new.pdf>
- Texas Appleseed. (n.d.). *Research & reports*. Retrieved September 5, 2024, from <https://www.texasappleseed.org/research-reports?project=All&issues=15&document-type=reports>
- Texas Association of School Boards (TASB). (n.d.). *Restorative practices*. Retrieved August 21, 2024, from <https://www.tasb.org/resources/esource/restorative-practices>
- Texas Education Agency (TEA). (2007). *2007 Discipline data validation manual*. <https://tea.texas.gov/system/files/2007DisciplineDVManual.pdf>
- Texas Education Agency (TEA). (2012). *2012 Discipline data validation manual*. <https://tea.texas.gov/system/files/2012%20Discipline%20Data%20Validation%20Manual%20Final.pdf>
- Texas Education Agency (TEA). (2018). *Building capacity for restorative discipline in Texas*. <https://tea.texas.gov/texas-schools/health-safety-discipline/rdfinalreport8.31.18ut.pdf>
- Texas Education Agency (TEA). (2021a). *Impacts of COVID-19 and accountability updates for 2022 and beyond*. <https://tea.texas.gov/texas-schools/accountability/academic-accountability/performance-reporting/2021-tac-accountability-presentation-final.pdf>
- Texas Education Agency (TEA). (2021b). *2020-21 STAAR performance (TAPR): State*. [https://rptsvr1.tea.texas.gov/cgi/sas/broker?\\_service=marykay&\\_program=perf rept.perfmast.sas&\\_debug=0&ccyy=2021&lev=S&prgopt=reports%2Ftapr%2Fpaper\\_tapr.sas](https://rptsvr1.tea.texas.gov/cgi/sas/broker?_service=marykay&_program=perf rept.perfmast.sas&_debug=0&ccyy=2021&lev=S&prgopt=reports%2Ftapr%2Fpaper_tapr.sas)
- Texas Education Agency (TEA). (2022). *Teacher Voice: An open solicitation of teacher perspectives*. <https://tea.texas.gov/system/files/teacher-voice-an-open-solicitation-of-teachers-perspectives.pdf>
- Texas Education Agency (TEA). (2023a). *2023 STAAR results*. <https://tea.texas.gov/student-assessment/reports-and-studies/2022-2023-staar-results-analysis.pdf>
- Texas Education Agency (TEA). (2023b). *Employed teacher attrition and new hires 2011-12 through 2022-23*. <https://tea.texas.gov/reports-and-data/educator-data/employed-teacher-attrition-and-new-hires.pdf>
- Texas Education Agency (TEA). (2023c). *2023 Discipline data validation manual*. <https://tea.texas.gov/student-assessment/monitoring-and-interventions/data-validation-monitoring/data-validation-monitoring-pbm/2023-discipline-dv-manual.pdf>
- Texas Education Agency (TEA). (2024a). *2023 Charter school waitlist report*. <https://tea.texas.gov/texas-schools/texas-schools-charter-schools/2023-csw-report.pdf>
- Texas Education Agency (TEA). (2024b). *Test administrator manual*. <https://tea.texas.gov/student-assessment/test-administration/2024-2025-staar-test-administrator-manual.pdf>
- Texas Education Agency (TEA). (2024c, January 31). *Committee of the full board at 12:30 PM* [Video]. AdminMonitor. [https://www.adminmonitor.com/tx/tea/committee\\_of\\_the\\_full\\_board/20240131/](https://www.adminmonitor.com/tx/tea/committee_of_the_full_board/20240131/)
- Texas Education Agency (TEA). (n.d.-a). *Statewide discipline reports*. Retrieved September 10, 2024, from [https://rptsvr1.tea.texas.gov/adhocrpt/Disciplinary\\_Data\\_Products/statewidediscipline.html](https://rptsvr1.tea.texas.gov/adhocrpt/Disciplinary_Data_Products/statewidediscipline.html)
- Texas Education Agency (TEA). (n.d.-b). *Discipline reports*. Retrieved August 27, 2024, from <https://tea.texas.gov/reports-and-data/student-data/discipline-data-products/discipline-reports>
- Texas Education Agency (TEA). (n.d.-c). *Counts of students and discipline actions by discipline action groups: PEIMS 2022-2023 data*. Retrieved August 27, 2024. [https://rptsvr1.tea.texas.gov/cgi/sas/broker?\\_service=marykay&\\_program=adhoc.download\\_static\\_DAG\\_summary.sas&district=&agg\\_level=STATE&referrer=Download\\_State\\_DAG\\_Summaries.html&test\\_flag=&\\_debug=0&school\\_yr=23&report=01&report\\_type=html&Download\\_State\\_Summary=Next](https://rptsvr1.tea.texas.gov/cgi/sas/broker?_service=marykay&_program=adhoc.download_static_DAG_summary.sas&district=&agg_level=STATE&referrer=Download_State_DAG_Summaries.html&test_flag=&_debug=0&school_yr=23&report=01&report_type=html&Download_State_Summary=Next)



Texas Education Agency (TEA). (n.d.-d). *PEIMS Discipline Data – Disciplinary action reason codes and definitions*. Retrieved October 4, 2024, from <https://tea.texas.gov/texas-schools/health-safety-discipline/chapter-37-safe-schools/peims-discipline-data-disciplinary-action-reason-codes-and-definitions-2024.pdf>

Texas Education Agency (TEA). (n.d.-e). *Restorative discipline practices in Texas*. Retrieved August 21, 2024, from <https://tea.texas.gov/texas-schools/health-safety-discipline/restorative-discipline-practices-in-texas>

Texas Education Agency (TEA). (n.d.-f). *Equal education opportunity*. Retrieved August 26, 2024, from <https://tea.texas.gov/about-tea/contact-us/general-inquiry/equal-educational-opportunity>

Texas Education Agency (TEA). (n.d.-g). *Section 504*. Retrieved August 23, 2024, from <https://tea.texas.gov/academics/special-student-populations/section-504>

Texas Education Agency (TEA). (n.d.-h). *Individuals with Disabilities Education Act. Fact sheet for families*. Retrieved October 3, 2024, from <https://tea.texas.gov/academics/special-student-populations/special-education/idea.pdf>

Texas Education Agency (TEA). (n.d.-i). *Special education rules and regulations*. Retrieved October 3, 2024, from <https://tea.texas.gov/academics/special-student-populations/special-education/programs-and-services/special-education-rules-and-regulations>

Texas Education Agency (TEA). (n.d.-j). *Restorative practices made simple*. Retrieved August 21, 2024, from <https://tea.texas.gov/texas-schools/health-safety-discipline/restorative-practices-made-simple>

Texas Education Code §37.001 (1995 & rev. 1997, 2003, 2005, 2009, 2011, 2013, 2017, 2019). <https://statutes.capitol.texas.gov/Docs/ED/pdf/ED.37.pdf>

Texas Education Code §37.001(a)(4) (2005 & rev. 2019). <https://statutes.capitol.texas.gov/Docs/ED/htm/ED.37.htm#37.001>

Texas Education Code §37.0013 (2017 & rev. 2021). <https://statutes.capitol.texas.gov/Docs/ED/pdf/ED.37.pdf>

Texas Education Code §37.002 (1995 & rev. 2019). <https://statutes.capitol.texas.gov/Docs/ED/pdf/ED.37.pdf>

Texas Education Code §37.006(a) (2005 & rev. 2023). <https://statutes.capitol.texas.gov/Docs/ED/htm/ED.37.htm#37.006>

Texas Education Code §39.003(a)(5) (2009 & rev. 2021). <https://statutes.capitol.texas.gov/Docs/ED/htm/ED.39.htm#39.003>

Texas Education Code §39A.002 (2017 & rev. 2021). <https://statutes.capitol.texas.gov/Docs/ED/htm/ED.39A.htm#39A.002>

Texas Education Code §7.065 (2013 & rev. 2015). <https://statutes.capitol.texas.gov/Docs/ED/pdf/ED.7.pdf>

Texas Judicial Branch. (2022). *Annual statistical report for the Texas judiciary. FY 2022*. <https://www.txcourts.gov/media/1456803/ar-statistical-fy-22-final.pdf>

Texas Judicial Council. (2013). *Texas judicial report. Legislative edition – 83rd Legislature*. [https://www.txcourts.gov/media/419431/83\\_leg\\_update-2-.pdf](https://www.txcourts.gov/media/419431/83_leg_update-2-.pdf)

The Council of State Governments Justice Center (CSGJC). (2017). *Realizing the full vision of school discipline reform: A framework for statewide change*. [https://csgjusticecenter.org/wp-content/uploads/2020/01/JC\\_Realizing-the-Full-Vision-of-School-Discipline-Reform\\_A-Framework-for-Statewide-Change.pdf](https://csgjusticecenter.org/wp-content/uploads/2020/01/JC_Realizing-the-Full-Vision-of-School-Discipline-Reform_A-Framework-for-Statewide-Change.pdf)



- The Heritage Foundation. (2018, March 12). *Less discipline, more disorder: The unintended consequence of federal school discipline directives* [Video]. <https://www.heritage.org/education/event/less-discipline-more-disorder-the-unintended-consequences-federal-school-discipline>
- The Hub. (2021, September 9). *Dallas ISD's alternative to suspensions addresses behavioral issues head on, instead of pushing them aside*. <https://thehub.dallasisd.org/2021/09/09/dallas-isds-alternative-to-suspensions-addresses-behavioral-issues-head-on-instead-of-pushing-them-aside/#:~:text=The%20district%20this%20school%20year,the%20disciplinary%20alternative%20education%20program>
- Travis, S. (2023, August 24). *Schools' culture of tolerance lets students like Nikolas Cruz slide*. South Florida Sun Sentinel. <https://www.sun-sentinel.com/2018/05/12/schools-culture-of-tolerance-lets-students-like-nikolas-cruz-slide/>
- U.S. Commission on Civil Rights. (2019). *Beyond suspensions: Examining school discipline policies and connections to the school-to-prison pipeline for students of color with disabilities*. <https://www.usccr.gov/files/pubs/2019/07-23-Beyond-Suspensions.pdf>
- U.S. Department of Education. (2014a, January 8). *Dear colleague letter on the nondiscriminatory administration of school discipline*. <https://www.franczek.com/wp-content/uploads/2019/07/colleague-201401-title-vi.pdf>
- U.S. Department of Education. (2014b, February 12). *OCR's approach to the evaluation, investigation and resolution of Title VI discipline complaints*. <https://media4.manhattan-institute.org/sites/default/files/OCR-disciplineguide-2014.pdf>
- U.S. Department of Education. (2018a, December 21). *"Dear Colleague" Letter*. <https://www.ed.gov/sites/ed/files/about/offices/list/ocr/letters/colleague-201812.pdf>
- U.S. Department of Education. (2018b, December 18). *Final report of the Federal Commission on School Safety*. [https://www.ed.gov/sites/ed/files/documents/school-safety/school-safety-report.pdf?utm\\_content=&utm\\_medium=email&utm\\_name=&utm\\_source=govdelivery&utm\\_term](https://www.ed.gov/sites/ed/files/documents/school-safety/school-safety-report.pdf?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term)
- U.S. Department of Education. (2023). *Resource on confronting racial discrimination on student discipline*. <https://www.ed.gov/sites/ed/files/about/offices/list/ocr/docs/tvi-student-discipline-resource-202305.pdf>
- U.S. Department of Education. (n.d.-a). *Office for Civil Rights recent resolution search*. Retrieved August 12, 2024, from <https://ocras.ed.gov/ocr-search>
- U.S. Department of Education. (n.d.-b). *Pending cases currently under investigation at elementary-secondary and post-secondary schools*. Retrieved August 12, 2024, from <https://ocras.ed.gov/open-investigations>
- U.S. Government Accountability Office. (2018). *Discipline disparities for black students, boys, and students with disabilities*. <https://www.gao.gov/assets/gao-18-258.pdf>

## ABOUT THE AUTHOR



**Matthew McCormick** is a K-12 Education Policy Analyst for the Next Generation Texas initiative at the Texas Public Policy Foundation.

Matthew recently served as a policy analyst in the Texas Senate, focusing on education legislation. He has also worked at the Texas Health and Human Services Commission in the Early Childhood Intervention Program. Before entering the public service sector, Matthew taught high school English where he saw the potential of Texas students and the need for reform.

Matthew holds a Master of Public Service and Administration from the Bush School of Government at Texas A&M University and a B.A. in Government from the University of Texas. In his free time, he enjoys reading, writing, and cooking.

