

Foster Care & Education

Q&A

SCHOOL DISCIPLINE & YOUTH IN FOSTER CARE: HOW NEW FEDERAL GUIDANCE FROM THE U.S. DEPARTMENTS OF EDUCATION AND JUSTICE CAN HELP

Q: Why should schools avoid harsh disciplinary practices, especially for children in foster care?

A: Youth in the child welfare system are disproportionately suspended, expelled, and placed in separate disciplinary school or programs. This occurs for many reasons. A history of abuse or neglect and removal from the home can traumatize children and negatively affect their school behavior. Frequent school and placement changes, social stigma, and missing educational supports can increase the likelihood of acting out. Disciplinary actions taken against children in care can often have far more significant consequences than intended for other students—impacting their permanency goals. In contrast, supportive and non-exclusionary approaches to dealing with disruptive behavior can help these young people stay in school and improve their educational outcomes. These approaches also benefit all students.

Q: What does federal law say about school discipline?

A: Federal law prohibits public school districts from discriminating in the administration of student discipline based on race, color, national origin, language, sex, religion, and disability. The Department of Education's Office for Civil Rights (OCR) and the Department of Justice have the responsibility for enforcing these laws. The Departments investigate complaints about possible discrimination in student discipline practices at particular schools.

Q: What is the goal of the new Guidance?

A: In January 2014, the Departments of Justice and Education issued new Guidance designed to assist states, districts, and schools in developing and implementing policies and strategies that improve school climate and comply with federal law, <http://www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf>. Research shows that schools can effectively ensure school safety when the school climate is positive and the discipline is non-discriminatory, fair, and consistent. In contrast, exclusionary practices like suspensions and expulsions rob students of classroom time and lead to disengagement and dropping out. Moreover, nationwide data shows racial disparities in school discipline; for example, African American students are suspended or expelled at three times the rate of their white peers.

Q: What does the Guidance say?

A: The federal Guidance urges school districts to change their discipline policies to eliminate these disparities and other negative consequences. It also provides resources for creating safe and positive school environments, boosting student academic success, and closing widening achievement gaps. Specifically, the Guidance urges schools to:

- Use exclusionary discipline **only as a last resort**. If students are removed from class, they should receive “meaningful instruction, and their return to the classroom should be prioritized.” See, Guidance, Principle 2, 14-16.
- Reduce the number of suspensions, expulsions, and arrests by providing **targeted supports and**



interventions with a proven track record of success (like restorative practices and Positive Behavioral Interventions and Supports).

- Provide students with enhanced/increased access to counselors, school psychologists, and school nurses.
- Establish clear **parameters for school and local police**; they should not be involved in “routine” school discipline matters.
- Collect and maintain **disaggregated data** on school discipline and report it publicly.

Q: How can schools effectively implement the Guidance for children in care?

A: Children in care often have special challenges that make implementation of the Guidance especially difficult. For example, the Guidance notes that a prerequisite of a good school climate is trusting relationships with adults in the school. Because of their past traumas, young people in the child welfare system often find it difficult to form trusting relationships, and they often lack caring adults to advocate for them in school discipline and other matters. Some solutions include:

- Schools to designate a trained “**single point of contact**” staff member who can, among other things, identify preventive educational or behavioral health supports.
- **Cross-systems coordination** is needed to ensure that the help provided by the child welfare agency complements the help provided at school.
- Especially for children in care, **make sure that each child has an engaged decision maker** – a parent, a surrogate parent, or other legally authorized person to advocate for the child in the school discipline process and to make sure that students’ rights are protected.
- **Be vigilant about the special needs of youth in care in residential placements.** The Guidance suggests that attendance in the local public school is preferable to an alternative school setting and that the positive disciplinary approaches described in the Guidance should apply in alternative settings as well. On-site programs should offer meaningful instruction (and special instruction for children with disabilities) and offerings comparable to those in regular schools. Attention must be paid to ensure a smooth transition back to the regular school.
- **Build school staff’s capacity to support youth in care.** School personnel (including administrators) need training and feedback to respond to student

misconduct fairly, equitably, and without regard to a student’s personal characteristics such as race, color, or ethnicity. Although the Guidance does not explicitly list involvement with the child welfare system, school staff need to understand the implicit or unconscious biases and the harms associated with using or failing to counter stereotypes that children in care experience.

- **School-based police should be trained** on adolescent development, age-appropriate responses, disability concerns, and conflict resolution and de-escalation techniques. These police should be familiarized with the specific challenges and needs of youth in foster care and trauma-informed responses.
- **Partnering with child serving agencies.** The Guidance underscores that appropriately designed partnerships with local mental health offices, child welfare agencies, and other stakeholders can help schools identify students coping with trauma or with mental health or emotional issues; allow schools to expand interventions offered as part of a school’s tiered supports; ensure a continuum of care between school and community-based mental health providers; and fill the gap when schools lack mental health professionals.
- **Written agreements or memoranda of understanding to formalize these partnerships.** The agreements should clarify roles, areas of responsibility, procedures, scope of work, staffing, leadership, and lines of communication. The agreements should address discipline and support that complies with applicable privacy laws.
- **Discipline prevention strategies should be evidence-based and data-driven.** Schools should regularly collect, review, and analyze information about all discipline incidents. By separately assessing the progress of youth in the child welfare system, schools will be better positioned to address the needs of this highly vulnerable group of students.
- **Data sharing** is an effective way to monitor the consequences of school discipline across systems and for specific student populations.

Q: Where can I learn more about this topic?

A: Access an issue brief authored by the Legal Center for Foster Care and Education here: http://www.fostercareandeducation.org/Database.aspx?EntryId=1992&Command=Core_Download&method=inline.