

HOW TO CREATE EQUITABLE, AFFIRMING CODES OF CONDUCT

A TOOL FOR SCHOOL BOARD MEMBERS & ADVOCATES

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An important part of a school board's role is to review and adopt rules (also known as a Code of Conduct or Student Handbook) that govern school discipline and communicate students' rights and responsibilities.¹ School boards must ensure that codes of conduct comply with legal requirements, which include providing adequate notice of what conduct may be subject to punishment and ensuring that school rules are not arbitrary, capricious, or discriminatory.² This fact sheet provides guidance for reviewing codes of conduct and creating equitable and legally compliant school discipline rules. To learn more about the role of school boards, see Education Law Center's fact sheet ["The School Board, Its Power, and How to Advocate."](#)

THE IMPORTANCE OF CREATING POSITIVE SCHOOL CLIMATES

Positive school climates benefit all members of the school community by cultivating a sense of safety and belonging, improving students' academic achievement and engagement, increasing educators' efficacy, and fostering strong, trusting relationships between students and school staff.³ ELC urges school boards to prioritize practices that promote positive school climates by implementing restorative practices, using rights-affirming and inclusive language, and regularly collecting feedback about the code of conduct from students and families. To learn more, see ELC's fact sheet ["Promising Practices to Build Antiracist and Affirming Schools."](#)

SCHOOL CODES MUST COMPLY WITH LEGAL REQUIREMENTS

A district or charter school's code of conduct must comply with applicable legal requirements to ensure that students and parents understand school rules and any punishments that may be imposed and to ensure that the rules uphold the constitutional and statutory rights of students and parents. State law and constitutional mandates require school boards to comply with the following requirements, among others:

School Boards Must Publish Their Codes of Conduct and Ensure Language Accessibility.

School boards must publish their codes of conduct,⁴ post them on their website,⁵ and make them available in the languages that students and families understand.⁶ To learn more about the rights of multilingual students, check out ELC's fact sheet ["Rights of Multilingual and Culturally Diverse Students and Families."](#)

School Boards Must Provide Adequate Notice of School Rules and Potential Punishments in Accordance with Due Process Protections.⁷

School rules must give sufficient notice of prohibited behaviors to comply with constitutional due process requirements.⁸ School boards cannot adopt rules that are unconstitutionally vague because such rules do not tell students what behavior is subject to punishment.⁹ Moreover, schools can only enforce rules that are written and published in their codes of conduct¹⁰ and can only impose discipline that is consistent with the consequences described in the rules.¹¹ To learn more about students' rights in the school discipline context, see ELC's resources on [suspension](#) and [expulsion](#) and ["Fairness in School Discipline in Pennsylvania."](#)

School Boards Must Ensure that Codes are Free from Unlawful Discrimination.¹²

School boards cannot adopt or enforce rules that unlawfully discriminate against students based on a protected class such as race, sex, religion, or disability.¹³ In addition, all students are subject to the Equal Protection Clause of the Fourteenth Amendment.¹⁴ Below are examples of such rules that may unlawfully discriminate, along with examples of revised legally compliant school board policies that exemplify best practices:

Grooming Policy	
<p><u>Example of a racially discriminatory policy:</u> "Students cannot wear braids, locs, puffs, or afros and may be excluded for doing so."</p> <p><u>Explanation:</u> Schools cannot discriminate on the basis of race, which would include "traits historically associated with race," including "but not limited to, hair texture and protective hairstyles, such as braids, locks [sic], and twists."¹⁵ Importantly, the Pennsylvania Human Relations Commission (PHRC) has identified that "creating school policies restricting how students can wear or treat their hair" as one example of unlawful racial hair discrimination.¹⁶</p>	<p><u>Model of a legally compliant, culturally inclusive, and affirming policy:</u> "Students have the right to wear protective hairstyles such as braids, locs, puffs, afros, twists, [and] wigs, including styles with elements such as headbands, headwraps, bonnets, barrettes or beads. Students will not be discriminated against on the basis of their hair texture. Discrimination on the basis of protective hairstyle and/or hair texture is illegal racial hair discrimination."¹⁷</p>
Dress Policy	
<p><u>Example of Sex Discrimination in Policy:</u> "Female students are required to wear a 'skirt,' 'jumper, or 'skort'."¹⁸</p> <p><u>Explanation:</u> The Supreme Court and other courts have applied a heightened level of scrutiny to sex-based classifications like a "skirts" requirement in light of "volumes of history" demonstrating the denial of rights and opportunities to women because of their sex."¹⁹</p>	<p><u>Model of a legally compliant policy:</u> Gender-neutral rules such as "students have the right to dress in accordance with their stated gender identity and/or expression (including gender neutrality) within the constraints of the school dress code."²⁰</p>

Disability Policy	
<p><u>Example of Unlawful Disability Discrimination:</u> Depending on how a student’s disability shows up at school, rules prohibiting students from having “tantrums” or rules that require students to “look at a person while they are speaking” can unlawfully discriminate against students with disabilities if this behavior is a manifestation of their disability.²¹</p>	<p><u>Model of a legally compliant rule:</u> Affirm students’ rights with language such as “schools cannot discriminate against students for behaviors caused by their disabilities;” and school personnel must provide reasonable modifications to policies when necessary to avoid disability discrimination.²²</p>

Codes of Conduct Must Uphold All Rights of Students with Disabilities. Students with disabilities have additional rights and protections in school, particularly in the school discipline context.²³ School boards must ensure that codes of conduct do not discriminate against students on the basis of their disabilities and that codes of conduct clearly state that these students will not be disciplined for conduct or behavior that is a manifestation of their disabilities.²⁴ To learn more about the rights of students with disabilities, see ELC’s new fact sheet [“Preparing for a Manifest Determination Review”](#) and three other resources from ELC: [“The Right to Special Education in Pennsylvania: A Guide for Parents and Advocates,”](#) [“Suspension and Expulsion Toolkit,”](#) and [“Fairness in School Discipline in Pennsylvania.”](#)

Codes of Conduct Must Uphold Students’ First Amendment Rights.

School boards must uphold students’ constitutional rights to freedom of speech and expression. Students generally have “the right to express themselves unless the expression materially and substantially interferes with the educational process, threatens serious harm to the school or community, encourages unlawful activity or interferes with another individual’s rights.”²⁵ Students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.”²⁶ Expression includes speaking aloud, hairstyle and clothing, petitioning school officials, and writing on paper or in online chat platforms.²⁷ To learn more about students’ rights under the First Amendment, see ELC’s fact sheet [“Students Maintain a Right to Free Speech and Expression in Public Schools.”](#)

Codes of Conduct Cannot Punish Students for Truancy or Absences.

Act 138, adopted in 2016, is Pennsylvania’s main truancy law. It mandates that children are not to be suspended, expelled, or transferred to an Alternative Education for Disruptive Youth (“AEDY”) program as a form of discipline for having unexcused absences²⁸ or because they are considered “truant” (3+ unexcused absences in the current school year) or “habitually truant” (6+ unexcused absences in the current school year).²⁹ To learn more, see ELC’s [“Addressing Attendance Barriers & School Attendance in Pennsylvania”](#) and [attendance barrier screening tools](#).

GENERAL RULES TO CREATE WELCOMING AND POSITIVE SCHOOL CLIMATES

RULE 1: USE CLEAR AND OBJECTIVE LANGUAGE SO THAT RULES ARE UNDERSTOOD AND EQUITABLY ENFORCED.

School rules must be clear so that students know what behavior may violate the rules and result in punishment. Accordingly, school boards must avoid using subjective language. For example, rules prohibiting “verbal/written abuse of a staff member”³⁰ or the use of “any term/word conceived as offensive,”³¹ or barring students from wearing “tight and revealing clothing”³² and “negative imagery”³³ are all vague and subjective. Such rules create conditions for racial bias and racially discriminatory application, harming Black and Brown students.³⁴

In contrast, school boards can use clear and objective rules such as “name calling includes: calling other community members outside of their preferred name” or fighting refers to “students who willingly engage in a physical altercation,” eliminating those who may engage in fighting due to self-defense.³⁵ Schools should also consider taking proactive measures against actions by school professionals that adultify children. Instead, establish clear expectations, such as “teachers, administrators, and other school staff shall avoid objectifying conversations about dress and appearance.”³⁶

RULE 2: AVOID EXCLUDING CHILDREN FROM SCHOOL OR IMPOSING SCHOOL TRANSFERS AS A FORM OF DISCIPLINE.

School boards should avoid excluding children from school through suspensions, expulsions, and disciplinary transfers. For example, some Pennsylvania school boards have adopted policies that prohibit or significantly limit expulsions in the early grades. For example, Pittsburgh Public Schools eliminated suspensions for minor, non-violent offenses for students in pre-kindergarten through second grade, while the School District of Philadelphia banned suspensions for students in kindergarten through second grade except in rare cases.³⁷

Research shows that exclusionary school discipline is a health-harming practice that deprives students of important learning opportunities.³⁸ It undermines students’ academic achievement, ability to attend school, and overall long-term health and well-being.³⁹ Children who experience unfair school discipline report significant mental distress, including “persistent feelings of sadness or hopelessness,” and “suicidal thoughts and behaviors”⁴⁰ that follow them into adulthood.⁴¹ Additionally, there is nearly an 11-year difference in life expectancy between the most and least educated people in the United States.⁴² In fact, suspension from school increases the likelihood that a child will be forced to repeat a grade, be pushed out of school altogether, and be pushed into the juvenile legal system the following year.⁴³

Research also shows that due to discriminatory rules and enforcement, schools are more likely to impose exclusionary school discipline on students of color, students with disabilities, students in foster care, and LGBTQ+ students compared to their white, non-disabled, non-LGBTQ counterparts.⁴⁴

Transfers to alternative disciplinary programs also cause harm. Such programs provide inferior educational opportunities and often have fewer instructional hours and lower educational standards compared to regular schools and rely on punitive and exclusionary discipline.⁴⁵ In light of these harms and in response to a complaint filed by ELC with the Department of Justice against the state regarding the education of students in Alternative Education for Disruptive Youth (“AEDY”), the Pennsylvania Department of Education established a “45-day presumptive exit date” to ensure that students would not remain in an AEDY placements beyond that period of time without a review of progress and a deliberate decision to continue the program.⁴⁶ To learn more, see ELC’s fact sheets “[Alternative Education for Disruptive Youth \(AEDY\)](#),” “[Alternative Education for Students with Disabilities](#),” and “[Alternative Education for Multilingual Learners](#).”

RULE 3: REDUCE POLICE INVOLVEMENT IN SCHOOLS.

Schools should be spaces for learning, support, and healing. To promote these goals, schools should revise their codes of conduct *and* Memorandums of Understanding (MOU) with police to avoid police referrals and address school discipline matters without using police involvement.⁴⁷ Due to the historic and current disinvestment in Black and Brown communities, students of color are often relegated to hyper-segregated⁴⁸ and “grossly underfunded” schools⁴⁹ that have a strong law enforcement presence and very few, if any, school counselors or mental health support professionals.⁵⁰ As a result of these historic and current injustices, Black and Brown students, LGBTQ+ students, and students with disabilities are disproportionately referred by schools to the police⁵¹ and arrested and subjected to police violence and abuse.⁵² These practices undermine all students’ ability to learn and their overall well-being.⁵³ They also create an entry point for students to be pushed into the juvenile and adult criminal systems,⁵⁴ while experiencing decreased graduation and college entry rates.⁵⁵

RULE 4: ELIMINATE SUMMARY CITATIONS.

In Pennsylvania, school police officers can issue “summary citations” to students under 18, which charge youth with a “low-level” offense and order their appearance in adult criminal court.⁵⁶ A summary offense is the most minor type of criminal offense in Pennsylvania, and it is often called a non-traffic citation.⁵⁷ Summary citations issued to students are often based on subjective rules that punish such behavior as “disorderly conduct,” “loitering,” or “using obscene language” and can also include minor misbehavior such as possession of alcohol or vaping.⁵⁸ Due to racist school rules, subjective language, and racially disparate enforcement, police issue summary citations to Black students at much higher rates than their white peers.⁵⁹

The consequences of summary citations can be grave. Summary citations cannot be expunged until either six months after the student turns 18 or after waiting five years, and only if a student meets all required conditions.⁶⁰ Thus, a summary citation may appear on background checks and job,

college, or military applications,⁶¹ and students are required to disclose them when asked if they have been convicted of a crime.⁶² Recognizing these significant collateral consequences, some school districts, like Pittsburgh Public Schools, have opted to impose moratoriums on the use of summary citations.⁶³

RULE 5: PRIORITIZE RESTORATIVE AND DEVELOPMENTALLY APPROPRIATE RESPONSES TO STUDENT BEHAVIOR.

Research consistently shows that using restorative practices such as peer mediation,⁶⁴ self-regulation skill-building, and culturally affirming social and emotional learning⁶⁵ instead of exclusionary discipline promotes conflict resolution⁶⁶ and creates a greater sense of community.⁶⁷ Additionally, these practices keep children in school learning. Although there are clear benefits for all students,⁶⁸ restorative practices hold particular promise for improving school conditions for girls of color by increasing feelings of “school connectedness” and “safety.”⁶⁹ Restorative justice practices are focused on teaching and healing rather than punishment, and they should be included as a response to violations of a code of conduct. For example, the School District of Philadelphia’s code of conduct states: “Except in cases of the most serious infractions, every incident should be addressed through restorative approaches.”⁷⁰

RULE 6: BUILD IN OPEN LINES OF COMMUNICATION AND SUPPORT AMONG SCHOOL STAFF, STUDENTS, ADMINISTRATORS, AND FAMILIES.

Schools that are communicative and responsive are more likely to create trusting relationships with students, families, and the larger community.⁷¹ This is particularly important when there is a demographic mismatch between the representation of school staff and the student body.⁷² Schools can best serve members of the community when they understand the pressing needs, priorities, and concerns unique to that community.⁷³ Using families’ preferred language and modes of communication and adopting flexible policies that consider families’ circumstances can help to establish mutual trust.⁷⁴

BEST PRACTICES FOR ANNUAL REVIEW OF CODE OF CONDUCT

CENTER STUDENT AND FAMILY FEEDBACK.

School boards should proactively and regularly collect input from students and families and center their feedback when revising rules or adopting new policies. Best practices include undertaking anonymous equity audits and school climate studies and publishing the results; and creating designated spaces for students to share their experiences at school board meetings and other forums while ensuring that students and families feel welcome to share their perspectives.⁷⁵ These practices let school boards know whether a change is working⁷⁶ and help identify inequities arising from school policies and practices. This information should be used by school boards to address inequities and eliminate, revise, or clarify policies.⁷⁷

Other best practices include regularly offering accessible in-person and virtual opportunities for feedback and input into the code of conduct and other important school decisions, as well as

establishing student advisory boards to provide input to a school board on codes of conduct and other issues that impact students.

CONDUCT SURVEYS AND REVIEW SCHOOL DISCIPLINE DATA ANNUALLY.

School boards should conduct annual surveys and offer in-person and virtual feedback sessions specifically about codes of conduct. This could include involving families and students in planning and listening sessions when school boards update their policies, mission, and vision.⁷⁸ In addition, all school board members should receive a copy of school discipline data reflecting the number and percentage of expulsions, suspensions, and transfers to AEDY (and other alternative schools after disciplinary incidents) disaggregated by race, gender, disability status, and English language status at the district, grade, and school building level. The data should be provided to school board members at the end of every school year and include annual trends over the prior four years for comparison.

The Education Law Center-PA (ELC) is a nonprofit, legal advocacy organization with offices in Philadelphia and Pittsburgh, dedicated to ensuring that all children in Pennsylvania have access to a quality public education. Through legal representation, impact litigation, community engagement, and policy advocacy, ELC advances the rights of underserved children, including children living in poverty, children of color, children in the foster care and juvenile justice systems, children with disabilities, English learners, LGBTQ students, and children experiencing homelessness.

ELC's publications provide a general statement of the law. However, each situation is different. If questions remain about how the law applies to a particular situation, contact ELC's Helpline for information and advice — visit www.elc-pa.org/contact or call 215-238-6970 (Eastern and Central PA) or 412-258-2120 (Western PA) — or contact another attorney of your choice.

¹ 22 PA. CODE § 12.3(c).

² 22 PA. CODE § 12.3(b).

³ Linda Darling Hammond & Jennifer DePaoli, *Why School Climate Matters and What Can Be Done to Improve It*, 20 J. NAT'L. ASSN. STE. BD. OF ED., 7, 10 (2020), [Hereinafter "School Climate Matters"], <https://www.nasbe.org/why-school-climate-matters-and-what-can-be-done-to-improve-it/> (detailing the importance of fostering connections between families and schools, engaging in restorative practices rather than exclusion to respond to student behavior, and utilizing culturally responsive curricula that build social and emotional learning skills); see also Arianna Prothero, *The Essential Traits of a Positive School Climate*, EDUC. WEEK (Oct. 13, 2020), [Hereinafter "Essential Traits of Positive School Climate"], <https://www.edweek.org/leadership/the-essential-traits-of-a-positive-school-climate/2020/10> (exploring in part the importance of seeking feedback from students and families and building welcoming relationships to promote positive school climate and feelings of community and safety).

⁴ 22 PA. CODE § 12.3(c).

⁵ 24 P.S. § 5-510.2.

⁶ 20 U.S.C. § 1703(f); Dear Colleague Letter at 10-11; *OCR Compliance Rev. Letter to Hazleton Area SD - 03-10-5002*, U.S. Dep't of Educ., Off. for C.R., 6 (2014); *Basic Educ. Circular: Educating Eng. Learners (ELs)*, Pa. Dep't of Educ., 2 (2017), <https://www.pa.gov/agencies/education/resources/policies-acts-and-laws/basic-education-circulars-beecs/pa-code/educating-english-learners-els.html>.

⁷ See 22 PA. CODE § 12.3.

⁸ *Hamilton v. Unionville-Chadds Ford School District*, 714 A.2d 1012, 1014 (Pa. 1998).

⁹ *Killion v. Franklin Regional School District*, 136 F. Supp. 2d 446, 459 (W.D. Pa. 2001) (rule prohibiting "verbal/written abuse of a staff member" held unconstitutionally vague).

¹⁰ 22 PA. CODE § 12.3(c).

¹¹ See 22 PA. CODE § 12.6(a); See, e.g., *Schmader v. Warren County School District*, 808 A.2d 596, 599 (Pa. Commw. Ct. 2002).

¹² 42 U.S.C. § 2000d (Title VI of the Civil Rights Act of 1964); 20 U.S.C. § 1681 (Title IX); 43 P.S. Ch. 17 (Pennsylvania Human Relations Act).

¹³ Pennsylvania Human Relations Act, 43 PA. STAT. ANN. § 953.; 16 PA. CODE § 41.204 (2023) (defining “traits associated with race” to include, but not be limited to, “hair texture and protective hairstyles, such as braids, locks [sic], and twists.”).

¹⁴ *Brown v. Bd. of Ed. of Topeka, Shawnee Cnty., Kan.*, 347 U.S. 483, 493, (1954) (*the opportunity of an education, “where the state has undertaken to provide it, is a right which must be made available to all on equal terms”*).

¹⁵ 16 PA. CODE § 41.204 (2023) (Defining “traits associated with race” to include, but not be limited to, “hair texture and protective hairstyles, such as braids, locks, and twists.”); See *Brown v. Bd. of Educ. of Topeka*, 347 U.S. 483, 495 (1954) (holding that racial discrimination in schools violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution); Title IV of the Civil Rights Act of 1964, 42 U.S.C. § 2000c-6(a) (prohibiting discrimination in schools on the basis of race, color, religion, sex, or national origin); 1 Pa.C.S. Article I, Sections 26 and 28; 1 Pa.C.S. Article III, Section 32; and 1 Pa.C.S. Article VIII, Section 1 (These provisions have been interpreted to provide an equivalent or greater level of equality than the minimum guaranteed by the United States Constitution); 43 P.S. §§ 951–963, 16 Pa. Code §§ 41.201–41.207 (defining the meaning of terms included in protected statuses in the Pennsylvania Human Relations Act (PHRA) and Pennsylvania Fair Educational Opportunities Act (PFEOA) to include “traits historically associated with race, including hair texture and protective hairstyles” within the definition of race and “gender identity and expression” within the definition of sex); The Pennsylvania Human Relations Act (PHRA) (prohibiting discrimination based on a student’s race, including on the basis of hair texture or protective hair style, color, sex, including gender identity and expression, religion, ancestry, national origin); Pennsylvania Human Relations Act, 43 Pa. Stat. Ann. § 953.; 24 Pa. Stat. Ann. §§ 5001–5010 (West); 16 Pa. Code § 47.41 (delineating unlawful discriminatory practices).

¹⁶ PA. HUM. RELS. COMM’N, C.R.O.W.N. PROTECTIONS, available at: <https://www.pa.gov/content/dam/copapwp-pagov/en/phrc/phrc-outreach/hair%20discrimination.pdf> (explaining that race is inclusive of “traits associated with race, including hair texture and protective hairstyles,” and identifying examples of hair discrimination, including in the public school context).

¹⁷ SCH. DIST. OF PHILA., CODE OF CONDUCT 9 (2025-2026), available at <https://drive.google.com/file/d/1gJ5cJre4KMAj3yr4qcLrx2agECz08d2d/view>.

¹⁸ *Peltier v. Charter Day School, Inc.*, 37 F.4th 104, 125-26 (4th Cir. 2022) (finding public school rule stating “female students are required to wear a ‘skirt,’ ‘jumper, or ‘skort’” was illegal).

¹⁹ In *Peltier*, the Fourth Circuit held that sex-specific dress codes requiring girls to wear skirts was based on impermissible gender stereotypes and therefore forbidden under the Fourteenth Amendment. The court also observed that such a policy would violate Title IX if girls were excluded from participation in an education program or activity, denied the benefits of education, or otherwise subjected to discrimination because of their sex. *Id.*, 37 F.4th at 125-26. The court also noted that the challenged action caused girls harm, which may include “emotional and dignitary harm” and plainly stated that “universal values of kindness and respect... are never advanced by discriminatory treatment of girls in a public school.” *Grimm v. Gloucester Cnty. Sch. Bd.*, 972 F.3d 586, 608, 616, 618; 20 U.S.C. § 1681(a). See also *United States v. Virginia*, 518 U.S. 515, 531 (1996); *Sessions v. Morales-Santana*, 582 U.S. 47, 56-9 (2017). Discrimination based on sex is also prohibited under the Pennsylvania Human Relations Act (“PHRA”). See 16 PA. CODE § 41.201-41.207 (effective Aug. 16, 2023)(final regulations defining terms related to sex, sexual orientation, and gender identity used in the PHRA); PA. HUM. RELS. COMM’N, GUIDANCE ON DISCRIMINATION ON THE BASIS OF SEX UNDER THE PENNSYLVANIA HUMAN RELATIONS ACT 2-3 (Mar. 3, 2021) available at <https://www.pa.gov/content/dam/copapwp-pagov/en/phrc/documents/Sex%20Discrimination%20Guidance%20PHRA-3-3-2021.pdf> (delineating prohibitions in the PHRA against discrimination on the basis of sex prohibit discrimination on the basis of sex assigned at birth, sexual orientation, transgender identity, gender transition, gender identity, and gender expression).

²⁰ SCH. DIST. OF PHILA., CODE OF CONDUCT 9 (2024-2025), available at <https://www.philasd.org/studentrights/wp-content/uploads/sites/67/2025/05/Code-of-Conduct-24-25.pdf>.

²¹ 34 C.F.R. § 104.4; U.S. DEP’T OF EDUC. OFF. FOR C.R., SUPPORTING STUDENTS WITH DISABILITIES AND AVOIDING THE DISCRIMINATORY USE OF STUDENT DISCIPLINE UNDER SECTION 504 OF THE REHABILITATION ACT OF 1973 25-26 (2022) [Herein after “Supporting Students with Disabilities”] <https://www.ed.gov/sites/ed/files/about/offices/list/ocr/docs/504-discipline-guidance.pdf>; See e.g. OCR Settlement Agreement (March 5, 2024) (finding discrimination against students with

disabilities for failure to make reasonable modifications for students with disabilities to its policies governing suspension, threat assessment, and law enforcement referrals 28 CFR § 35.130(b)(7)(i)), *available at* <https://www.justice.gov/crt/media/1340976/dl?inline>; See also OCR Settlement Agreement (Nov. 18, 2015) (failure to provide reasonable modifications to school policy for students with disabilities leading to discriminatory use of exclusionary discipline), *available at* <https://www.justice.gov/crt/case-document/file/928961/dl>.

²² 34 C.F.R. § 104.4; 28 C.F.R. § 35.130(b)(7); Supporting Students with Disabilities at 24-5.

²³ 34 C.F.R. § 300.530; 22 PA. CODE § 14.102.

²⁴ 34 C.F.R. § 300.530(e); 42 U.S.C. § 2000d (Title VI of the Civil Rights Act of 1964); 20 U.S.C. § 1681 (Title IX); 43 PA. STAT. ANN. §§ 951-963 (Pennsylvania Human Relations Act).

²⁵ 22 PA. CODE 12.9(b); *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 506 (1969); *Mahanoy Area Sch. Dist. v. B.L.*, 594 U.S. 180, 192 (2021).

²⁶ *Tinker*, 393 U.S. at 506.

²⁷ See 22 PA. CODE § 12.9(c) (“Students may use publications, handbills, announcements, assemblies, group meetings, buttons, armbands and any other means of common communication, provided that the use of public school communications facilities shall be in accordance with the regulations of the authority in charge of those facilities.”); See. e.g. *Sypniewski v. Warren Hills Reg’l Bd. of Educ.*, 307 F.3d 243, 243-544(3d Cir. 2002) (school could not ban shirt with the word “redneck” in a school with a “background of demonstrated racial hostility” because it had not caused a disruption).

²⁸ See 24 P.S. § 19-1901(c) (defining alternative education program).

²⁹ 24 P.S. § 13-1333(c).

³⁰ *Killion v. Franklin Reg’l Sch. Dist.*, 136 F. Supp. 2d 446, 459 (W.D. Pa. 2001) (finding a rule prohibiting “verbal/written abuse of a staff member” unconstitutionally vague because it did not define “abuse” and didn’t include “any specificity or limitations” and would impermissibly require one to “make a subjective reference” in determining prohibited behavior).

³¹ UPPER DARBY SCH. DIST., MIDDLE SCHOOL CODE OF CHARACTER, 2024-2025, *available at*:

<https://www.upperdarbysd.org/departments12/student-services/school-codes-of-character/middle-school-code-of-character>.

³² SW. LEADERSHIP ACAD. CHARTER SCH., PARENT AND STUDENT HANDBOOK (2024-2025), *available at* https://core-docs.s3.us-east-1.amazonaws.com/documents/asset/uploaded_file/1749/SLACS/4030195/24-25_Parent_and_Student_Handbook_.docx.pdf.

³³ *Id.*

³⁴ PA. ADVISORY COMM. TO THE U.S. COMM’N ON C.R., DISPARATE AND PUNITIVE IMPACT OF EXCLUSIONARY PRACTICES ON STUDENTS OF COLOR, STUDENTS WITH DISABILITIES AND LGBTQ STUDENTS IN PENNSYLVANIA PUBLIC SCHOOLS, 20-2, 86 (2021),

<https://www.usccr.gov/files/2021/04-09-Pennsylvania-Public-Schools.pdf>

³⁵ SCH. DIST. OF PHILA., CODE OF CONDUCT 23 (2024-2025), *available at* <https://www.philasd.org/studentrights/wp-content/uploads/sites/67/2024/06/Code-of-Conduct-24-25-1.pdf>

³⁶ PITTSBURGH PUB. SCHS., STUDENT SUPPORT AND POSITIVE SCHOOL CULTURE GUIDE 20 (2024-2025), *available at* https://resources.finalsite.net/images/v1725023820/pghschoolsorg/bnkvszkzipbdap6ekrh5/PPS_Code_of_Conduct_2024.pdf.

³⁷ For example, in December 2017, the Pittsburgh Public School Board voted to eliminate suspensions for minor, non-violent offenses for students in pre-k through second grade. See Sarah Schneider, *Pittsburgh Public Bans Suspensions for Students Younger than 3rd Grade for Nonviolent Offenses*, 90.5 WESA (Dec. 21, 2017),

<http://wesa.fm/post/pittsburgh-public-bans-suspensions-students-younger-3rd-grade-nonviolent-offenses#stream/0>.

See also SCH. DIST. OF PHILA., CODE OF CONDUCT 17 (2024-2025) (establishing that students in the “Kindergarten, first and second grade may NOT be suspended unless their actions result in documented serious bodily injury”).

³⁸ Seth J. Prins et al., *Longitudinal Relationships Among Exclusionary School Discipline, Adolescent Substance Use, and Adult Arrest: Public Health Implications of the School-to-Prison Pipeline*, 251 DRUG & ALCOHOL DEPEND, 1 (2023); Kathleen H. Krause et al., *Report of Unfair Discipline at School and Associations with Health Risk Behaviors and Experiences — Youth Risk Behavior Survey, United States, 2023*, 73 MORBIDITY & MORTALITY WKLY. REP. (MMWR) 69, 69 (2024) [Hereinafter “Unfair Discipline and Health Risk”].

³⁹ Unfair Discipline and Health Risk at 69-70.

⁴⁰ *Id.* at 69.

⁴¹ Michael Niño et al., *The Long Arm of School Punishment: The Role of School Suspension on Self-Rated Health from Adolescence to Midlife*, 10 SOCIUS 1, 1 (2024).

⁴² Global Burden of U.S. Health Disparities Collaborators, *Life Expectancy By County and Educational Attainment in the USA, 2000-29: an Observational Analysis*, 10 LANCET PUB. HEALTH e-136, e-144 (Feb. 2025), <https://www.thelancet.com/action/showPdf?pii=S2468-2667%2824%2900303-7>.

⁴³ HAROLD JORDAN, ACLU OF PA., *BEYOND ZERO TOLERANCE: DISCIPLINE AND POLICING IN PENNSYLVANIA PUBLIC SCHOOLS* 7 (2015) [Hereinafter “Beyond Zero Tolerance”] <https://www.aclupa.org/publications/beyond-zero-tolerance-discipline-and-policing-pennsylvania-public-schools/>.

⁴⁴ See EDUCATION LAW CENTER & PA. PARTNERSHIPS FOR CHILDREN, SUPPORTING SUCCESS FOR PENNSYLVANIA’S STUDENTS IN FOSTER CARE: DATA, OUTCOMES, AND STORIES FROM THE FIELD 11 (2025), <https://www.elc-pa.org/wp-content/uploads/2025/05/Supporting-Success-for-Pennsylvanias-Students-in-Foster-Care.pdf> (detailing that Black and Brown “children in foster care are subject to more punitive school discipline based on race,” when compared with white peers); PA. ADVISORY COMM. TO THE U.S. COMM’N ON CIV. RTS., DISPARATE AND PUNITIVE IMPACT OF EXCLUSIONARY PRACTICES ON STUDENTS OF COLOR, STUDENTS WITH DISABILITIES AND LGBTQ STUDENTS IN PENNSYLVANIA PUBLIC SCHOOLS (detailing systemic disproportionality in school discipline imposed on students of color, students with disabilities, and LGBTQ students in Pennsylvania public schools arising from disparities in enforcement and discriminatory rules) 20-21 (2021), <https://www.usccr.gov/files/2021/04/09-Pennsylvania-Public-Schools.pdf>; U.S. DEP’T OF EDUC. & U.S. DEP’T OF HEALTH & HUM. SERVS., NON-REGULATORY GUIDANCE: ENSURING EDUCATIONAL STABILITY AND SUCCESS FOR STUDENTS IN FOSTER CARE 32 (2024), <https://www.ed.gov/media/document/non-regulatory-guidance-ensuring-educational-stability-and-success-students-foster-care-november-15-2024-108448.pdf> (explaining the impact that trauma can have on student behavior, particularly for students in care, and the linkage between experiencing Adverse Childhood Experiences (ACES) and subsequently experiencing school pushout arising from school officials responding to behaviors caused by trauma with school discipline, rather than support).

⁴⁵ Beyond Zero Tolerance at 18.

⁴⁶ Settlement Agreement on Alternative Education for Disruptive Youth Programs Between the United States and the Pennsylvania Department of Education, (Apr. 3, 2019), <https://www.justice.gov/crt/case-document/pennsylvania-department-education-alternative-education-disruptive-youth-aedy> (establishing and defining a “Presumptive Exit Date” as being the date “by which a student is expected to transition/return to the General Education Program” and noting that “the purpose of the Presumptive Exit Date is to ensure that AEDY placements are temporary and that students are transitioning/returning to the General Education Program as soon as a students’ behavioral goals are met”).

⁴⁷ 22 PA. CODE § 10.11 (In part requiring all schools to have a “memorandum of understanding with each local police departments with jurisdiction over school property of the school entity.”). HAROLD JORDAN ET AL., ACLU OF PA., *POLICE AND PENNSYLVANIA’S SCHOOLS: WHAT EDUCATION LEADERS NEED TO KNOW* 29-30 (Oct. 2019) [Hereinafter “Police and Pennsylvania’s Schools”] https://www.aclupa.org/app/uploads/2019/11/police_and_pennsylvania_schools_report_digital_10.14.2019.pdf.

⁴⁸ PAIGE JOKI ET AL., *WE NEED SUPPORTIVE SPACES THAT CELEBRATE US: BLACK GIRLS SPEAK OUT ABOUT PUBLIC SCHOOLS* 28 (2023) [Hereinafter “Supportive Spaces.”] <https://www.elc-pa.org/wp-content/uploads/2023/05/FINAL-Supportive-Spaces-for-web.pdf>.

⁴⁹ *Id.* at 28.

⁵⁰ See generally, MENTAL HEALTH AMERICA, *ADDRESSING THE YOUTH MENTAL HEALTH CRISIS: THE URGENT NEED FOR MORE EDUCATION, SERVICES, AND SUPPORTS* 12 (July 2021), <https://jedfoundation.org/wp-content/uploads/2021/07/MHA-Addressing-Youth-Mental-Health-Crisis-Report-1.pdf>.

⁵¹ THE ADVANCEMENT PROJECT & ALLIANCE FOR EDUCATIONAL JUSTICE, *WE CAME TO LEARN: A CALL TO ACTION FOR POLICE-FREE SCHOOLS* 61 (2018) [Hereinafter “We Came to Learn”].

⁵² We Came to Learn at 72.

⁵³ Thalía González, *Race, School Policing, and Public Health*, 73 STAN. L. REV., 180 (2021) [Hereinafter “Race, School Policing, & Public Health”].

⁵⁴ Race, School Policing, & Public Health at 180.

⁵⁵ *Id.* at 189.

⁵⁶ 234 PA. CODE RULE 1002 (Procedure in Summary Cases).

⁵⁷ *Id.*; 101 PA. CODE § 15.66(8) (An offense is a summary offense if it is so designated or if a person convicted thereof may be sentenced to a term of imprisonment, the maximum of which is not more than 90 days).

⁵⁸ See e.g., Police and Pennsylvania’s Schools at 15. See e.g., Jillian Forstadt, *PPS Board Tables Summary Citations Policy, Citing a Need to Address Disproportionate Use*, 90.5 WESA (Feb. 29, 2024), <https://www.wesa.fm/education/2024-02-29/pps-board-tables-summary-citations-policy-citing-a-need-to-address-disproportionate-use>

- ⁵⁹ Jillian Forstadt, *PPS Board Tables Summary Citations Policy, Citing a Need to Address Disproportionate Use*, 90.5 WESA (Feb. 29, 2024), <https://www.wesa.fm/education/2024-02-29/pps-board-tables-summary-citations-policy-citing-a-need-to-address-disproportionate-use>; Police and Pennsylvania's Schools at 15; See also Supportive Spaces at 27 (“[T]his charge, which was widely used as a catch-all to target and police Black people during Jim Crow, continues to be disproportionately levied against Black girls (and Black women) due to racist stereotypes and responses to behavior in Pennsylvania and across the nation.”); HAROLD JORDAN & GHADAH MAKOSHI, ACLU OF PA., *STUDENT ARRESTS IN ALLEGHENY COUNTY SCHOOLS* 13-14 (Jan. 2022), https://www.endzerotolerance.org/files/ugd/10497b_d04ef8b8de994db9a4ca7dab915509b6.pdf.
- ⁶⁰ 18 PA.C.S. 9123(a)(2.1); 18 PA.C.S. § 9122(b)(3).
- ⁶¹ HAROLD JORDAN ET AL., ACLU OF PA., *POLICE AND PENNSYLVANIA’S SCHOOLS: WHAT EDUCATION LEADERS NEED TO KNOW* 15 (Oct 2019), https://www.aclupa.org/app/uploads/2019/11/police_and_pennsylvania_schools_report_digital_10.14.2019.pdf.
- ⁶² Police and Pennsylvania’s Schools at 14-15.
- ⁶³ Lajja Mistry, *Updated: PPS Tables New Citation Policy, Extending Moratorium*, PITTSBURGH’S PUB. SOURCE (Feb. 29, 2024), <https://www.publicsource.org/pps-pittsburgh-public-schools-board-citations-policy-equity/>; See THE BLACK GIRLS EQUITY ALL., UNDERSTANDING AND ADDRESSING INSTITUTIONALIZED INEQUITY: DISRUPTING PATHWAYS TO JUVENILE JUSTICE FOR BLACK YOUTH IN ALLEGHENY COUNTY 12 (2022), available at <https://www.gwensgirls.org/wp-content/uploads/2022/10/BGEA-Disrupting-the-Pathways-to-Juvenile-Justice-report.pdf> (outlining harms of summary citations and setting forth recommendations for needed reforms, including instituting “a moratorium on summary citations being issued at school”).
- ⁶⁴ School Climate Matters at 8.
- ⁶⁵ *Id.* at 8.
- ⁶⁶ *Id.* at 8.
- ⁶⁷ *Id.* at 7.
- ⁶⁸ *Id.* at 7.
- ⁶⁹ THALIA GONZALEZ & REBECCA EPSTEIN, GEO. L. CTR. ON POVERTY AND INEQ., *BUILDING FOUNDATIONS OF HEALTH AND WELLBEING IN SCHOOL: A STUDY OF RESTORATIVE PRACTICES AND GIRLS OF COLOR* 5 (2021).
- ⁷⁰ SCH. DIST. OF PHILA., CODE OF CONDUCT 16 (2024-2025).
- ⁷¹ Essential Traits of Positive School Climate.
- ⁷² Elizabeth Heubeck, *Recruiting and Retaining Teachers of Color: Why It Matters, Ways To Do It*, EDUC. WEEK (June 30, 2020), <https://www.edweek.org/leadership/recruiting-and-retaining-teachers-of-color-why-it-matters-ways-to-do-it/2020/06>; Anna J. Egalite & Brian Kisida, *The Effects of Teacher Match on Students’ Academic Perceptions and Attitudes*, 40 EDUC. EVAL. AND POL’Y ANALYSIS 59, 59 (2018).
- ⁷³ Essential Traits of Positive School Climate.
- ⁷⁴ School Climate Matters at 8.
- ⁷⁵ Essential Traits of Positive School Climate.
- ⁷⁶ *Id.*
- ⁷⁷ *Id.*
- ⁷⁸ School Climate Matters at 10 (“For example, Maryland is using school climate surveys of students and educators as an accountability indicator in all grades. Students and educator surveys alike include items on relationships, safety, engagement, and environment.”).