

YOUR CHILD'S RIGHT TO BE FREE FROM DISCRIMINATION IN PRESCHOOL

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All children have the right to attend preschools in Pennsylvania free from discrimination. This fact sheet provides information for caregivers, as well as early childhood education (ECE) administrators, staff, and other stakeholders, regarding ways to eliminate discrimination in preschools, including discriminatory suspensions and expulsions.¹ Preschool settings include private programs, daycares, school district programs, as well as any ECE setting that receives federal funding.²

This fact sheet provides information on protections against discrimination under federal and state law, including antidiscrimination laws and licensing requirements that apply to preschool programs in Pennsylvania and specific programs and protections for children with disabilities, children experiencing homelessness, and those in foster care.

IMPACT OF DISCRIMINATORY TREATMENT

Young children in preschool settings often face forms of discrimination that have long-lasting negative effects. Black and Brown children, children experiencing homelessness, English learners, children with disabilities, and children at the intersection of these identities are often subject to discriminatory enrollment criteria and decision-making that prevent them from accessing high-quality preschool programs – even when their right to do so is protected by law.³ For example, preschool programs might unlawfully tell parents that they do not have the supports and services to meet their children's needs or refuse to admit children to preschool because they are not toilet-trained⁴ or they lack some other developmental skill. Some programs have prohibited outside disability service providers from delivering services. None of these is a legal basis to deny a child access to preschool. Reasonable accommodations should be made to support a child's disability or developmental skill-building.

In addition, children too often are discriminatorily excluded from preschool through **suspensions or expulsions**, which deny children the opportunity to access the benefits of preschool, do not teach appropriate behavior, and do not make classrooms safer. Nonetheless, preschoolers are excluded at a rate more than three times that of K-12 students.⁵

RACIAL AND DISABILITY DISCRIMINATION IN PRESCHOOL EXCLUSIONS

Black and Brown children are far more likely to be subject to preschool suspensions and expulsions, despite research indicating that they do not exhibit different behaviors than their peers. In fact,

Black preschool children are 3.6 times more likely to receive one or more out-of-school suspensions than their white preschool peers.⁶ Nationwide, an estimated 174,000 preschool students were reported suspended in a single year, and nearly half of the suspensions of public preschoolers were Black children – even though they represented less than one-fifth of enrolled children.⁷

The root causes of this racial disproportionality stem from systemic barriers, including structural and systemic racism, lack of equal access to early intervention services and health services to address developmental behavioral needs of Black and Brown children,⁸ and adult decisionmaker racial biases. For example, a recent study examining preschool discipline found that, even though there were no differences in observed disruptive behavior based on a child's race, child-care providers complained about Black students' behavior more frequently than white children's and viewed their similar behavior more negatively.⁹

Children with disabilities, including those with emotional challenges, are 14.5 times more likely to be suspended or expelled as typically developing peers.¹⁰ This bias disproportionately impacts Black and Brown children who share these identities.

LONG-TERM IMPACT OF PRESCHOOL EXCLUSION

When children are excluded from preschool, their risk of future exclusion and later justice-system involvement increases significantly – pushing them into the preschool-to-prison pipeline.¹¹ Suspensions and expulsions are associated with negative education and life outcomes, and often they are triggered by behaviors that are actually “developmentally appropriate” for children in preschool.¹²

Many children living in poverty are also shut out of preschool due to lack of available slots in their communities. Funding for public programs in Pennsylvania is very limited – according to a statistic from 2024, only 66,839 of the more than 145,000 Pennsylvania children eligible for publicly funded preschool had access to such a program.¹³ This critical funding issue also fuels staffing shortages that must be addressed.¹⁴

BENEFITS OF ENSURING ACCESS TO PRESCHOOL FREE FROM DISCRIMINATION

It is important to note that access to high-quality preschool is associated with positive life outcomes, including increased graduation¹⁵ and employment¹⁶ rates, increased financial independence,¹⁷ longer lifespans,¹⁸ and academic, behavioral, and social benefits.¹⁹ Although all children benefit from early education, underserved children make the most significant learning gains.²⁰ Too often, young children are prevented from accessing these critical benefits and are denied educational and economic opportunities due to illegal discrimination, which can and should be challenged and eliminated. In addition, preschoolers who have adverse childhood experiences (ACEs), such as poverty, inadequate housing, or neglect, are as much as 10 times more likely than their peers to be suspended or expelled.²¹ Preschool staff must be trained to understand ACEs and use strategies and practices that are “trauma-informed.”²²

WHAT IS A PRESCHOOL SETTING?

For the purposes of this fact sheet, a preschool setting can be any of the following:

Childcare/Daycare (ages 0-5) — Available in family childcare homes, group childcare homes, and childcare centers.

Early Intervention (ages 0-5) — Serves children with developmental delays or disabilities and provides individualized support and assistance for both child and family.

Head Start (ages 0-5) — Promotes the school readiness of infants, toddlers, and preschool-aged children from families who qualify as low-income. Services are provided in a variety of settings, including centers, family childcare, and children's own homes.

Private Academic School (ages 3-5) — Licensed by the Pennsylvania Department of Education to serve children and staffed by qualified teachers and other professionals. These may be religious schools.²³

School District Prekindergarten (ages 3 and 4) — Preschool programs that many school districts administer to prepare children for kindergarten.

ANTIDISCRIMINATION LAWS IN PENNSYLVANIA

In addition to federal laws, which are discussed below, the **Pennsylvania Human Relations Act** (PHRA)²⁴ is a state law that prohibits discrimination in education, among other areas, including early childhood education settings. Under the PHRA, it is illegal to discriminate against a child based on:²⁵

- Race ([including protective hairstyles](#)),
- Color,
- Sex ([including gender identity, sexual orientation, etc.](#)),
- Religious creed,
- National origin,
- Ancestry, or
- Disability (including the use, handling, or training of service or guide animals).

Below are some examples of discriminatory practices that are prohibited by both state and federal anti-discrimination laws:²⁶

- Segregating students based on membership in a “protected class” (such as race, sex, disability, national origin, or religion, etc.);
- Applying admission rules differently based on protected-class status such as disability;
- Applying a policy or practice that has a different impact on a protected class without justification or when there is a less discriminatory alternative option available;

- Applying student misconduct or discipline rules differently to students based on race, disability, etc.;
- Creating or permitting a hostile education environment based on race, disability, sexual orientation, etc. (including a school's failure to take action whenever it knows, or reasonably should know, about harassment); and
- Failing to provide accessible facilities to students with a disability or equal access to academic programs.

Suspension in the early education context is when a child is removed from a classroom for a specified period of time as a consequence of the child's behavior.²⁷ Often, the words "suspend" or "expel" are never used. Examples of suspensions include:

- Excluding a child from the classroom by placing them outside the classroom or in another part of the building;
- Sending a child home early or limiting their hours per day at school; or
- Preventing a child from attending school because their one-to-one aide called out sick.

Expulsion in the early education context is the permanent removal of a child from an early childhood program because of behavior or health conditions.²⁸ Examples of expulsions include:

- Advising a parent that they must find new childcare because their child has been deemed a "safety risk;"
- Disenrolling a child because they are "not a good fit" with the program;
- Removing a child because their one-to-one aide quit.

For more information, see our fact sheet on "[Preventing Suspension & Expulsion in Preschool Settings](#)."

WHICH RIGHTS AND PROTECTIONS APPLY TO MY CHILD'S PROGRAM?

Pennsylvania laws such as the PHRA and state guidance, as well as federal laws such as the Americans with Disabilities Act, apply to most programs in Pennsylvania, with a few exceptions.²⁹ Although all early childhood education settings are required to follow the state Office of Child Development and Early Learning's mandate to reduce and end suspensions/expulsions, only programs that receive federal funding are required to follow federal laws that provide protections for children experiencing homelessness and children in foster care. Examples of federally funded programs include Head Start; school district programs; or programs through Early Intervention, Elwyn Early Learning Services, or an Intermediate Unit and some private academic schools. In addition, programs *operated* by a religious organization have fewer obligations, as discussed below.³⁰

In choosing a preschool program, it is important to consider licensing systems and their unique requirements for programs, because some programs offer greater protections than others based on their licensing or contract.³¹ The following list highlights anti-discrimination program and policy requirements, including many additional protections for students with disabilities:

State Office of Child Development and Early Learning (OCDEL): Since 2017, OCDEL has required all Pennsylvania early learning programs to develop policies to prevent, reduce, and ultimately eliminate the suspension and expulsion of children from their programs.³²

State Licensing Requirements: Pennsylvania requires that early childhood education settings comply with Department of Human Services licensing regulations to operate childcare facilities. Among other licensing requirements, Pennsylvania requires that licensed programs must do the following:

- Make reasonable accommodations to include children with disabilities.³³
- Permit adults who provide services to children with disabilities to provide those services on the premises.³⁴
- Comply with civil rights laws such as the PHRA and ADA, among others.³⁵
- Allow parents free access to the center while their children are there.³⁶
- Communicate with parents in a language they understand.³⁷

Head Start: Programs funded through Head Start are subject to “suspension limitations” and a prohibition on expulsion.³⁸ Head Start’s limitations on exclusion include the following:

- A program cannot expel or disenroll a child from Head Start because of the child’s behavior.³⁹
 - If there are serious and persistent behavioral concerns, the program must explore and document all possible steps to address such problems.⁴⁰
 - If, after the program has explored all steps and consulted with the child’s parents, teacher, early intervention agency, and mental health consultant, and if the child’s attendance creates a serious safety risk, the program must work with other entities to transition the child to a more appropriate placement.⁴¹
- Head Start programs must prohibit or severely limit suspensions, meaning that suspensions can only be used as a last resort in extraordinary circumstances and that suspensions must be temporary. Programs must comply with the following requirements:
 - They cannot suspend students without talking to a mental health consultant, collaborating with parents, and using community resources.⁴²
 - Temporary suspensions can be used as a last resort when (1) the program has already tried interventions recommended by a mental health consultant, (2) there is a serious safety issue, and (3) the program needs time to put services in place.⁴³
 - If the program does suspend your student, they must explore all steps to help the student return as quickly as possible, including providing supports, talking to the family, and making referrals.⁴⁴
- Head Start programs must proactively identify and effectively serve students with disabilities.
 - If a child is regularly displaying serious challenging behaviors, a program must consider a wide range of options and document all steps taken to address the

behaviors. These steps must include, at a minimum, talking to a mental health consultant and considering all services required for students with disabilities.⁴⁵

- If a child has not already been identified as eligible for disability-related services, a program must work with other agencies to determine whether the child is eligible.⁴⁶

Keystone STARS: Many childcare and early learning programs participate in Keystone STARS, a quality rating and training system that helps licensed programs improve. To receive a high-quality rating from Keystone STARS, programs must meet certain benchmarks, including requirements to support children experiencing challenging behaviors so that they are not discriminated against. For a program to maintain a certain Keystone STARS quality rating, it must:⁴⁷

- Provide professional development opportunities for staff to support children's needs.⁴⁸
- Develop plans for referrals to social, mental health, educational, wellness, and medical services.⁴⁹
- Use observation-based assessments and maintain data on student outcomes that can be shared with families and partners.⁵⁰
- Hold a minimum of two family conferences to discuss strengths, behavioral challenges, needs, and goals for the child.⁵¹

In addition, Keystone Stars programs must adopt policies, practices, and supports regarding inclusion, including a process to address local steps to ensure inclusion in response to the OCDEL Announcement, *Inclusion of All Children in Early Childhood Programs in Pennsylvania*.⁵² Keystone Stars programs also must implement effective teaching practices that promote development across all content areas for all children, including those who are culturally and linguistically diverse.⁵³

PHLpreK: Programs contracted with PHLpreK are required to take steps to prevent children from being suspended or expelled.⁵⁴ Additionally, programs contracted with PHLpreK are required to maintain a Keystone STARS level 3 or 4 rating, meaning that these programs must also meet the Keystone STARS quality benchmarks. The PHLpreK Provider Agreement requires that programs:⁵⁵

- May not independently suspend or expel an enrolled child.
- Must develop an intervention or transition plan that supports the child exhibiting challenging behavior.
- Must contact the Administrative Intermediary and Quality Support Center if a child poses a risk to the safety or well-being of other children or staff.
- Must consider quality supports and resources available.

Pre-K Counts: Pre-K Counts programs also must follow specific guidelines set out by statute,⁵⁶ including the following:

- Programs must be open to children with developmental delays, disabilities, or both, and must provide inclusive environments.⁵⁷
- Providers must conduct a developmental screening within 45 days of a child starting.⁵⁸

- Programs must comply with OCDEL's [Inclusion Policy Statement](#) and [Suspension and Expulsion Policy Statement](#).⁵⁹
- Programs must use trauma-informed approaches and receive training on the topic.⁶⁰
- Programs must inform children's families of program goals and their children's progress.⁶¹
- As required by law, providers may not deny admission based on disability.⁶²
- The following young children are to be prioritized in enrollment if they meet all eligibility requirements: children with disabilities, children receiving behavioral or mental health supports, children in the child welfare system, children whose parents do not have a postsecondary degree, English language learners, children experiencing homelessness, children whose parent is incarcerated, migrant children, and children with a mother who was under age 18 when the child was born.⁶³
- Children may not be excluded from enrollment for any reason that does not explicitly align with a program's prioritization plan.⁶⁴
- Programs must be transparent and communicate their enrollment priorities.⁶⁵
- Providers must collaborate with and make referrals to other agencies, including Early Intervention agencies, Child Care Information Services agencies, and community resources.⁶⁶

ENSURING ACCESS TO PRESCHOOL FOR CHILDREN WITH DISABILITIES

The Americans with Disabilities Act (ADA)⁶⁷ is a federal law that prohibits discrimination against children with qualifying disabilities in preschool or daycare settings, including in enrollment, equal access, program administration, and discipline. Children with qualifying disabilities⁶⁸ include:

- Children who receive early intervention services; and
- Children with mental or physical conditions that substantially limit major life activities (including thinking, walking, seeing, making friends, talking, etc.).

Parents may request a “**reasonable modification**” or accommodation to ensure that a child with a qualifying disability can access a program. Preschools must make reasonable modifications to their policies and practices to integrate children with disabilities into their programs.⁶⁹ Preschools must provide aids and services to ensure that children with disabilities can equally access its programs and benefits and **cannot exclude a child with a disability without attempting modifications**.⁷⁰

Under Title III of the ADA, preschools **cannot exclude children on the basis of their disabilities or disability-related behaviors unless their presence poses a direct threat to the health or safety of others or necessary care would fundamentally alter the nature of the program**.⁷¹ A decision must be based on individualized determination.

For more information, please visit the [Department of Justice's FAQ about Child Care Centers and the Americans with Disabilities Act](#).

The Individuals with Disabilities Education Act (IDEA)⁷² guarantees that eligible children with disabilities receive a free, appropriate public education, including all necessary services. Qualifying children have access to early intervention services from birth to 5 or 6 years old. To learn more, see ELC's fact sheets on [Early Intervention](#).

Section 504 of the Rehabilitation Act of 1973⁷³ prohibits discrimination against and exclusion of students with disabilities in all programs that receive federal funding. Children who do not qualify for special education services under IDEA may still qualify for protections under Section 504. An important note: Section 504 applies the ADA definition of a person with a disability, which is very broad and includes a person who has a history or record of an impairment or a child who is perceived by others as having an impairment. The definition includes anxiety disorders, PTSD, and other mental health challenges that may significantly impact a child's ability to learn or socialize.⁷⁴

The Pennsylvania Human Relations Act (PHRA)⁷⁵ is a state law that prohibits discrimination in public accommodations and education, including early childhood education settings. Under the PHRA, it is illegal to discriminate against a child based on their disability, race, or sex, among other traits.

Do these protections apply to my child's program?

Most preschool programs must comply with the ADA and PHRA, including private programs and programs through Head Start, PHLPrek, Pre-K Counts, school districts, and Early Intervention, among others. Preschools operating on religious organizations' properties must comply with the ADA unless they are operated by a religious organization.⁷⁶ Protections under the IDEA and Section 504 apply only to programs that receive federal funding, which does not include completely private or religious schools that do not take federal funding.

ENSURING ACCESS TO PRESCHOOL FOR CHILDREN EXPERIENCING HOMELESSNESS

Preschool-age children who experience homelessness have important independent legal rights under a federal law called the McKinney-Vento Act.⁷⁷

A child is considered "homeless" under the McKinney-Vento Act if they lack a consistent, adequate, fixed nighttime residence.⁷⁸ This includes but is not limited to children who are:

- Living "doubled up" with friends or family due to economic hardship or loss of housing;
- "Couch surfing;"
- Living in temporary or emergency shelters;
- Living on campgrounds, including those who are unsheltered, in a tent, recreational camper, or other inadequate accommodations;
- Living in a car, hotel, or trailer park;⁷⁹
- Living in a place that is not ordinarily used for sleeping;
- Living unsheltered; or
- Living in housing that is legally recognized as substandard.⁸⁰

The McKinney-Vento Act offers additional protections for preschool children who are experiencing homelessness. These include:

- **School stability**⁸¹
 - Children must be allowed to remain in their current preschool or the preschool they attended before becoming homeless if doing so is in their best interest.

- Children can stay in the same school (“school of origin”) even if they move, until they secure permanent and adequate housing.
- Local education agencies (LEA) ***must collaborate to provide transportation*** to a support a child to attend their school of origin, even if it requires crossing state lines, if doing so is in a child’s best interest.⁸² If a student becomes permanently housed in the middle of the school year, the LEA must continue to provide transportation until the end of the school year.
- **Immediate enrollment**⁸³
 - Children can enroll in a new preschool or kindergarten where they are now living or where they have “a substantial connection.”
 - Children must be enrolled on the same day they seek enrollment, even without necessary documents normally required for enrollment (such as proof of age). Schools may ask for necessary documentation after enrollment.
- **Removal of policy barriers, including fines and fees**⁸⁴
 - Schools must eliminate policies that create barriers for young children to have equal access to preschool.
 - Schools must eliminate fines and fees (including uniform or graduation fees) that would prevent a McKinney-Vento eligible child’s enrollment, retention or equal access to school.
- **Schools cannot segregate, discriminate against, or stigmatize McKinney-Vento eligible children.**⁸⁵

Do these protections apply to my child’s program?

Children who qualify as “homeless” under the federal act are protected in public preschool programs, including **programs funded by Head Start; school district programs; or programs through Early Intervention, Elwyn, or an Intermediate Unit.** Even if a family is unaware of their eligibility for protections under the law, schools are responsible for promptly identifying schoolchildren who are experiencing homelessness.⁸⁶

For more information about the McKinney-Vento Act and other rights and protections, please see our fact sheet on [“The Rights of Students Experiencing Homelessness.”](#)

ENSURING ACCESS TO PRESCHOOL FOR CHILDREN IN FOSTER CARE

Children cannot be excluded from preschool because of their foster care status. Rather, as discussed above, children in foster care must be prioritized for Head Start programs. In addition, children in foster care settings have some of the same additional protections under federal law as children experiencing homelessness under the federal Every Student Succeeds Act (ESSA), which is part of the Elementary and Secondary Education Act (ESEA).⁸⁷

- Under ESSA, educational stability protections apply to children in foster care who attend public preschool. If a local education agency (LEA) offers a public preschool education, the LEA must meet the Title I requirements for preschoolers in foster care and must provide the following:

- **School stability:** LEAs must ensure that a child in foster care remains in their preschool of origin, unless a determination is made that it is not in the child's best interest.⁸⁸
- **Transportation:** Preschoolers in foster care should receive transportation to and from their public preschools of origin.⁸⁹ If a district cannot provide transportation, the custodial agency and district should collaborate to arrange transportation.
- Protections apply only when the child was enrolled at the time of their placement in foster care and whenever there is a change in their foster care placement.⁹⁰

Do these protections apply to my child's program?

Educational stability protections under ESSA apply to public preschool programs, including **programs funded by Head Start; school district programs; or programs through Early Intervention, Elwyn, or an Intermediate Unit.**

For more information, see our fact sheets on "[School Stability & Immediate Enrollment for Children in Foster Care](#)" and "[Rights of Students in Foster Care](#)."

WHAT IF I HAVE A COMPLAINT ABOUT DISCRIMINATION AGAINST MY CHILD IN PRESCHOOL?

If you believe that you or your child have experienced discrimination in an early childhood education program, you have several options to challenge discriminatory decisions and report violations. These include submitting DHS licensing complaints and other state complaints to the Bureau of Early Intervention Services and Family Supports and the Pennsylvania Human Relations Commission. In addition, complaints may be filed with the U.S. Department of Justice.⁹¹

- **Office of Child Development and Early Learning/DHS licensing**
 - You can fill out a complaint about a program [here](#), including complaints about discrimination against you or your child.
 - Staff from this office investigate complaints regarding licensed programs that fail to meet licensing requirements, including complaints about discrimination.
 - Each region in the state has its own certification office. Philadelphia is overseen by the Southeast Region Office, which can be reached at 215-560-2541. For more information, including contacts for each region, see the state's website [here](#).
- **Pennsylvania Human Rights Commission⁹²**
 - See our fact sheet on "[How to File a Complaint to the PHRC](#)."
 - You have 180 days to file from when the alleged discrimination happened. However, pursuant to a Pennsylvania Supreme Court ruling, minority tolling permits consideration of a complaint filed by a person from 180 days of their 18th birthday, even if the incident happened more than 180 days ago.⁹³
- **Bureau of Early Intervention Family Services and Supports (BEISFS)**
 - You can submit a BEISFS complaint for any Early Intervention issue that has occurred in the last year by submitting [this complaint form](#).⁹⁴

- You can also download the form and submit it by fax at 717-346-9330 or by email at ra-ocintervention@pa.gov. You can find contact information for BEISFS and more information about complaint procedures [here](#).
- The BEISFS will then investigate your complaint within 60 days.⁹⁵ If the investigation finds problems, the state will require the county, IU, or Elwyn to fix them. Within 60 calendar days after a complaint is filed, BEISFS will issue a written decision that addresses the claims in your complaint.⁹⁶
- **Department of Justice (DOJ)**
 - The DOJ Civil Rights Division is charged with investigating complaints of all civil rights violations prohibited under federal law.⁹⁷
 - If you believe a preschool has discriminated against you or your child based on a **disability**, you can file an ADA complaint [here](#).
 - If you believe you have been discriminated against because of your **race, color, or national origin**, including limited English proficiency, by programs or activities receiving federal financial assistance (such as Head Start), you can file a complaint with the Civil Rights Division [here](#).
- **U.S. Department of Education Office for Civil Rights (OCR)**
 - OCR is responsible for investigating and addressing complaints of discrimination in school settings, including in preschools that receive federal funding, when it occurs based on race, sex, disability, national origin, or other factors discussed above.⁹⁸
 - You can learn more about OCR's complaint process and file a complaint [here](#).
 - Please note, due to selective enforcement and recent federal efforts to eliminate the U.S. Department of Education, OCR's ability to timely investigate complaints has been greatly reduced.⁹⁹

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 *Reduction of Expulsion and Suspension in Early Childhood Programs in Pennsylvania*, PA. DEP'T OF EDUC. (2017), <https://www.pa.gov/content/dam/copapwp-pagov/en/education/documents/instruction/early-learning/early-intervention/laws-regulations-and-announcements/announcements/2017/ei%2017-02%20reduction%20of%20expulsion%20and%20suspension.pdf>.

² Such programs may include settings funded by Child Care Works; Early Head Start; Head Start; Early Intervention (EI); Home Visiting Programs, and Keystone STARS programs, among others.

³ *Id.*; see also Americans with Disabilities Act of 1990, Pub. L. No. 101-336, 104 Stat. 327 (codified as amended at 42 U.S.C. §§ 12101-12213 [2025]).

⁴ Preschools cannot exclude children because they are not toilet-trained unless including the child would be an undue burden or require a fundamental alteration of the program. See 28 C.F.R. § 35.130(b)(7).

⁵ Songtian Zeng et al., *Adverse childhood experiences and preschool suspension expulsion: A population study*, 97 CHILD ABUSE & NEGLECT 104149 (2019),

<https://www.sciencedirect.com/science/article/abs/pii/S0145213419303266?via%3Dihub>.

⁶ Office for Civil Rights, U.S. Department of Education, *Key Data Highlights on Equity and Opportunity Gaps in Our Nation's Public Schools* (2014); Cristina Novoa & Rasheed Malik, Center for American Progress, *Suspensions Are Not Support: The Disciplining of Preschoolers with Disabilities* (2018).

⁷ Songtian Zeng et al., *Adverse childhood experiences and preschool suspension expulsion: A population study*, 97 CHILD ABUSE & NEGLECT 104149 (2019),

<https://www.sciencedirect.com/science/article/abs/pii/S0145213419303266?via%3Dihub>.

⁸ Early Childhood Technical Assistance Center, *Fact Sheet: Advancing Racial Equity in Early Intervention and Preschool Special Education* (Jan. 5, 2023), https://equity-coalition.fpg.unc.edu/wp-content/uploads/FactSheet_RacialEquity_2023.pdf; Natalie

Slopen et al., *Racial and ethnic inequities in the quality of paediatric care in the USA: a review of quantitative evidence*, 8 *Racism and Child Health in the USA* 147 (Lancet Child Adolescent Health, 2024),

<https://www.thelancet.com/series/racism-child-health-USA>.

⁹ Terri Sabol et al., *A window into racial and socioeconomic status disparities in preschool disciplinary action using developmental methodology*, ANNALS OF THE N.Y. ACAD. OF SCI. (Sept. 2021),

<https://nyaspubs.onlinelibrary.wiley.com/doi/epdf/10.1111/nyas.14687>.

¹⁰ Office for Civil Rights, U.S. Department of Education, *Key Data Highlights on Equity and Opportunity Gaps in Our Nation's Public Schools* (2014); Cristina Novoa & Rasheed Malik, Center for American Progress, *Suspensions Are Not Support: The Disciplining of Preschoolers with Disabilities* (2018).

¹¹ James J. Heckman, *Perry Preschool Project*, CENTER FOR THE ECONOMICS OF HUMAN DEVELOPMENT,

https://cehd.uchicago.edu/?page_id=958. The preschool-to-prison pipeline refers to the systemic pattern through which children, and particularly underserved children, are suspended, expelled, excluded, or otherwise pushed out of the education system starting in preschool, which is associated with long-term negative consequences including decreased likelihood of educational attainment and increased risk of involvement with the criminal justice system.

¹² Susanna K. Jain et al., *School Suspension and Expulsion: Policy Statement*, 154 *Pediatrics* e2024068466 (2024).

¹³ Nearly Half of Eligible Pennsylvania Children Do Not Have Access to Pre-K, *Trying Together* (May 13, 2024),

<https://tryingtogether.org/nearly-half-of-eligible-pennsylvania-children-do-not-have-access-to-pre-k/>.

¹⁴ For more information on advocacy efforts in this area, explore campaigns such as Pre-K for PA, Start Strong PA, Pennsylvania Partnerships for Children, and Early Learning PA Coalition, among others.

¹⁵ Dana Charles McCoy et al., *Impacts of Early Childhood on Medium and Long-Term Educational Outcomes*, 46 *EDUC. RESEARCHER* 474 (Nov. 15, 2017), <https://psycnet.apa.org/record/2017-52000-005>.

¹⁶ THE UNIV. OF CHICAGO, CTR. FOR THE ECON. OF HUMAN DEVELOPMENT, *Perry Preschool Project*,

https://cehd.uchicago.edu/?page_id=958.

¹⁷ Arthur J. Reynolds et al., *Reducing Poverty and Inequality Through Preschool-to-Third-Grade Prevention Services*, 74 *AM. PSYCHOL.* 653 (2019), <https://pubmed.ncbi.nlm.nih.gov/31545639/>.

¹⁸ Ismaila Ramon et al., *Early Childhood Education to Promote Health Equity: A Community Guide Economic Review*, 24 *J. Pub. Health Mgmt. & Prac.* e8, e8-e15 (2018).

¹⁹ Greg Camilli et al., *Meta-analysis of the Effects of Early Education Interventions on Cognitive and Social Development*, 112 *Tchr. C. Rec.* 579, 579-620 (2010).

²⁰ *Closing the Opportunity Gap: What America Must Do to Give Every Child an Even Chance* (Prudence L. Carter & Kevin G. Welner eds., Oxford Univ. Press 2013).

²¹ Zeng et al., 97 *Child Abuse & Neglect* 104149 (2019).

²² For information on trauma-informed models, see <https://mybrightwheel.com/blog/trauma-informed-classroom>. See also Education Law Center, *Unlocking the Door to Learning: Trauma-Informed Classrooms & Transformational Schools* (2014), <https://www.elc-pa.org/wp-content/uploads/2015/06/Trauma-Informed-in-Schools-Classrooms-FINAL-December2014-2.pdf>.

²³ Religious preschools operated by religious organizations may not be covered under the Pennsylvania Human Rights Act or Americans with Disabilities Act. Religious preschools operated by religious organizations may be exempt from

compliance with the Pennsylvania Human Rights Act and Americans with Disabilities Act. *See* 42 U.S.C. § 12187; 43 P.S. § 955.

²⁴ Pennsylvania Human Relations Act of Oct. 27, 1955, P.L. 744, No. 222 (codified as amended at 43 Pa. Stat. §§ 951-963 [2025]).

²⁵ 43 Pa. Stat. §§ 955(a).

²⁶ Equity in Schools, Pa. Off. of Att’y Gen., <https://www.attorneygeneral.gov/protect-yourself/civil-rights/equity-in-schools/>. (last visited Aug. 5, 2025).

²⁷ *Preventing Suspension and Expulsion in Pennsylvania Early Childhood Programs*, Pa. Office of Child Development and Early Learning (2022), <https://www.pakeys.org/wp-content/uploads/2022/10/Program-Guide-to-Suspension-Expulsion-10.27.22.pdf>.

²⁸ *Id.*

²⁹ *See* 42 U.S.C. § 12187; 43 P.S. § 955.

³⁰ *Id.*

³¹ *See, e.g.*, Pa. Dep’t of Educ., Pennsylvania Pre-K Counts Statute, Regulations and Guidelines, 22 Pa. Code § 405 (2023), available at <https://www.pakeys.org/wp-content/uploads/2025/02/PKC-regs-2023-FINAL-.pdf>; Head Start Program Performance Standards, 45 C.F.R. §§ 1301-1305 (2025), available at HeadStart.gov.

³² *Reduction of Expulsion and Suspension in Early Childhood Programs in Pennsylvania*, PA. DEP’T OF EDUC. (2017), <https://www.attorneygeneral.gov/protect-yourself/civil-rights/equity-in-schools/>; <https://www.pa.gov/content/dam/copapwp-pagov/en/education/documents/instruction/early-learning/early-intervention/laws-regulations-and-announcements/announcements/2017/ei%2017-02%20reduction%20of%20expulsion%20and%20suspension.pdf>

³³ 55 Pa. Code § 3270.17(a) (2025).

³⁴ 55 Pa. Code § 3270.17(b) (2025).

³⁵ 55 Pa. Code § 3270.26 (2025).

³⁶ 55 Pa. Code § 3270.23 (2025).

³⁷ 55 Pa. Code § 3270.22 (2025).

³⁸ 45 C.F.R. § 1302.17 (2025).

³⁹ *Id.* at (b)(1).

⁴⁰ *Id.* at (b)(2).

⁴¹ *Id.* at (b)(3).

⁴² *Id.* at (a)(3).

⁴³ *Id.* at (a)(2).

⁴⁴ *Id.* at (b)(3).

⁴⁵ *Id.* at (a)(4).

⁴⁶ *Id.*

⁴⁷ Pa. Office of Child Dev. & Early Learning, 2023 Keystone STARS Program Manual (Aug. 28, 2023), <https://www.pakeys.org/wp-content/uploads/2023/08/2023-Keystone-STARS-Program-Manual-8.28.2023.pdf>.

⁴⁸ *Id.* at 38.

⁴⁹ Pa. Office of Child Dev. & Early Learning, *Keystone Program Performance Standards*, 32, <https://www.pakeys.org/wp-content/uploads/2023/01/2022-Keystone-STARS-Performance-Standards-Final-Updated-5.5.2022.pdf>.

⁵⁰ *Id.* at 28.

⁵¹ *Id.* at 32.

⁵² Pa. Office of Child Dev. & Early Learning, *Announcement: Inclusion of All Children in Early Childhood Programs in Pennsylvania* (June 29, 2017), at <https://www.pakeys.org/wp-content/uploads/2017/11/Announcement-Inclusion-of-All-Children-in-Early-Childhood-Programs-in-PA.pdf>.

⁵³ 2023 Keystone STARS Program Manual, at 40.

⁵⁴ PHLpreK Provider Agreement, City of Philadelphia Office of Children and Families (2025).

⁵⁵ *Id.*

⁵⁶ 22 Pa. Code § 405.1 et seq. (2025); Pennsylvania Office of Child Development & Early Learning, *Pennsylvania Pre-K Counts Statute, Regulations and Guidelines* (2023), <https://www.pakeys.org/wp-content/uploads/2023/03/PKC-regs-2023-FINAL-.pdf>.

⁵⁷ 22 Pa. Code § 405.51; § 405.24.

⁵⁸ 22 Pa. Code § 405.46.

⁵⁹ 22 Pa. Code § 405.51.

⁶⁰ Pennsylvania Office of Child Development & Early Learning, Bureau of Early Learning Policy & Professional Development, Announcement PKC 22-#002; HSSAP 22-#003, Pennsylvania Pre-K Counts Trauma-Informed Resources (July 27, 2022).

⁶¹ 22 Pa. Code § 405.47.

⁶² 22 Pa. Code § 405.24.

⁶³ Pennsylvania Office of Child Development & Early Learning, Supplemental Resource #004: Enrollment Prioritization Plan Guidance (2023), <https://www.pakeys.org/wp-content/uploads/2023/03/PKC-regs-2023-FINAL-.pdf>.

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ 22 Pa. Code § 405.31.

⁶⁷ Title II of the Americans with Disabilities Act 42 U.S.C. § 12132 (2025).

⁶⁸ 28 C.F.R. § 36.105 (2025).

⁶⁹ 28 C.F.R. § 36.303(a)(2025) (requiring a modification unless it is an undue burden or requires a fundamental alteration of the program).

⁷⁰ *Id.*

⁷¹ 28 C.F.R. § 36.302 (2025); 28 CFR § 36.208 (2025) (clarifying that a direct threat is a substantial risk of serious harm to the health or safety of others, and that this determination cannot be based on generalizations or stereotypes about the effects of a disability).

⁷² Individuals with Disabilities Education Act, Pub. L. No. 108-446, 118 Stat. 2647 (2004) (codified as amended at 20 U.S.C. §§ 1400-1482 [2025]).

⁷³ Rehabilitation Act of 1973 § 504, 29 U.S.C. § 794(a) (2025).

⁷⁴ 45 C.F.R. § 84.4; 42 U.S.C. § 12102 (2025).

⁷⁵ Pennsylvania Human Relations Act of Oct. 27, 1955, P.L. 744, No. 222 (codified as amended at 43 Pa. Stat. §§ 951-963 [2025]).

⁷⁶ 42 U.S.C. § 12187; Child Care Centers, ADA.gov, <https://www.ada.gov/topics/child-care-centers/> (last visited Aug. 5, 2025).

⁷⁷ McKinney-Vento Homeless Assistance Act, 42 U.S.C. § 11431 et seq. (2025).

⁷⁸ 42 U.S.C. § 11434a(2)(A)-(B).

⁷⁹ *N.C. v. Easton Area School District*, No. 5:13-CV-07199 (E.D. Pa. Jan. 6, 2014) (ordering immediate re-enrollment of two students who were disenrolled after being improperly classified as ineligible for McKinney-Vento protections because they lived in a recreational camper on a campground outside the catchment of the school district).

⁸⁰ 42 U.S.C. § 11434a(2)(B).

⁸¹ 42 U.S.C. § 11432(g)(3)(B).

⁸² *Id.* § 11432(g)(5)(A)(ii).

⁸³ *Id.* § 11432(g)(3)(C).

⁸⁴ *Id.* § 11432(g)(1)(I).

⁸⁵ *Id.* § 11432(g)(J)(i).

⁸⁶ 42 U.S.C. § 11432(g)(6)(A)(i).

⁸⁷ Every Student Succeeds Act § 5, Pub. L. No. 114-95, 129 Stat. 1802 (2015); Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, 79 Stat. 27 (codified as amended at 20 U.S.C. §§ 6301-7981 [2025]); U.S. Dep't of Ed., Frequently Asked Foster Care Education Stability Questions and Answers, <https://www.ed.gov/teaching-and-administration/supporting-students/special-populations/students-foster-care/frequently-asked-foster-care-education-stability-questions-and-answers>

⁸⁸ Elementary and Secondary Education Act of 1965 § 1111, 20 U.S.C. § 6311 (2025).

⁸⁹ 20 U.S.C. § 6312(c)(5)(B).

⁹⁰ 20 U.S.C. § 6311(g)(1)(E).

⁹¹ However, as of August 2025, the current administration has halted investigation of certain complaints by DOJ, and the Office for Civil Rights (OCR) is currently significantly understaffed. See, e.g., U.S. Dep't of Educ., Office for Civil Rights, Dear Colleague Letter: Title VI of the Civil Rights Act in Light of Students for Fair Admissions v. Harvard (Feb. 14, 2025), available at <https://www.ed.gov/media/document/dear-colleague-letter-sffa-v-harvard-109506.pdf?bcs-agent-scanner=be0b4913-1160-394f-8a78-aec497421485>.

⁹² *Id.*

⁹³ *Nicole B. v. Sch. Dist. of Phila.*, 240 A.3d 986 (Pa. 2020).

⁹⁴ Office of Child Development and Early Learning, Announcement EI-25 #02, 2, at <https://www.pa.gov/content/dam/copapwp-pagov/en/education/documents/instruction/early-learning/early->

[intervention/laws-regulations-and-announcements/announcements/2025/ei25-02-early-intervention-complaint-procedures.pdf](#); 34 C.F.R. § 300.151 (2025).

⁹⁵ Announcement EI-25 #02, at 3; 34 C.F.R. § 300.153(c).

⁹⁶ Announcement EI-25 #02, at 4.

⁹⁷ Civil Rights Division, U.S. Dept. Office of Child Development and Early Learning, Announcement EI-25 #02, at <https://www.pa.gov/content/dam/copapwp-pagov/en/education/documents/instruction/early-learning/early-intervention/laws-regulations-and-announcements/announcements/2025/ei25-02-early-intervention-complaint-procedures.pdf> of Justice, *Our Work*, at <https://www.justice.gov/crt/our-work>.

⁹⁸ U.S. Dept. of Educ. Office for Civil Rights, *OCR: Discrimination Complaint Form*, at <https://www.ed.gov/laws-and-policy/civil-rights-laws/file-complaint/ocr-discrimination-complaint-form>.

⁹⁹ Brooke Schultz, *Trump Shakeup Stops Most Work at Education Department's Civil Rights Office*, Ed. Week, (Feb. 14, 2025), at <https://www.edweek.org/policy-politics/trump-shakeup-stops-most-work-at-education-departments-civil-rights-office/2025/02>; Naaz Modan, *Trump's OCR Steps Up Pace for Dismissing Complaints*, K-12 Dive (Jul. 7, 2025), at <https://www.k12dive.com/news/ocr-dismisses-complaints-at-quick-pace-2025-trump-administration/752391/>. See also Brooke Schultz, *What 100 Ed. Dept. Investigations Say About Trump's Agenda for Schools* (May 22, 2025) at <https://www.edweek.org/policy-politics/what-100-ed-dept-investigations-say-about-trumps-agenda-for-schools/2025/05>.