

START WITH EQUITY

FROM THE EARLY YEARS TO THE EARLY GRADES

Data, Research,
and an
Actionable Child
Equity Policy
Agenda



CHILDREN'S EQUITY
PROJECT



Bipartisan Policy Center

CONTRIBUTING AUTHORS

Shantel Meek, PhD, Arizona State University, Children's Equity Project Founder and Director
Linda Smith, Bipartisan Policy Center
Rosemarie Allen, PhD, Center for Racial Equity and Excellence, Children's Equity Project partner
Evandra Catherine, PhD, Arizona State University, Children's Equity Project
Kelly Edyburn, PhD, Arizona State University, Children's Equity Project
Conor Williams, PhD, The Century Foundation, Children's Equity Project partner
Richard Fabes, PhD, Arizona State University, Children's Equity Project
Kent McIntosh, PhD, University of Oregon, Children's Equity Project partner
Eugene Garcia, PhD, Arizona State University
Ruby Takanishi, PhD, New America Senior Research Fellow
Lisa Gordon, Bank Street College, Children's Equity Project partner
Oscar Jimenez-Castellanos, PhD, Trinity University, Children's Equity Project partner
Mary Louise Hemmeter, PhD, Vanderbilt University, Children's Equity Project partner
Walter Gilliam, PhD, Yale University, Children's Equity Project partner
Ryan Pontier, PhD, Florida International University, Children's Equity Project partner

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Generous funding from:

The Heising Simons Foundation
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Research assistance from:

Brittany Alexander, Arizona State University, Children's Equity Project
Sean Austin, University of Oregon
Janniqua Dawkins, Arizona State University, Children's Equity Project
Abby Green, Vanderbilt University
Ana Maria Guevara Melendez, Arizona State University,
Children's Equity Project
Robert Tovar, Arizona State University, Children's Equity Project

Communications support from:

Dorie Turner Nolt

Graphic design from:

Allison Wachtel

Diligent review from:

Veronica Fernandez, University of Miami,
Children's Equity Project partner
Dawn Yazzie, Southwest Human Development Center,
Children's Equity Project partner
Doug Steiger, American University, DSteiger Consulting
Michael Yudin, The Raben Group
Rebecca Cokley, Center for American Progress
Shannon Rudisill, Early Childhood Funders Collaborative
Megan Vinh, University of North Carolina- Chapel Hill
Heather Rieman, The Education Trust
Ruth Gallucci, National Association of State Directors of
Special Education 619 Affinity Group
Annie Davis, Georgetown University

Logistical support from:

Arlyn Moreno Luna, Berkeley University
Arabella Pluta-Ehlers, Bipartisan Policy Center

THIS REPORT WAS INFORMED BY EXPERTS WHO ATTENDED TWO CONVENINGS IN 2019, INCLUDING:

Shantel Meek, PhD, Arizona State University, Children's Equity Project Founder and Director	Barbara Chow, PT, Heising-Simons Foundation
Linda Smith, Bipartisan Policy Center	Dean Tagawa, EdD, Los Angeles Unified School District
Arabella Pluta-Ehlers, Bipartisan Policy Center	Kristen Harper, MD, Child Trends
Arlyn Moreno Luna, MPP, Berkeley University	Phyllis Glink, MPP, Irving Harris Foundation
Oscar Jimenez-Castellanos, PhD, Trinity University, Children's Equity Project partner	Shannon Rudisill, MSW, Early Childhood Funders Collaborative
Eva Marie Shivers, JD, PhD, Indigo Cultural Center, Children's Equity Project partner	Carol Martin, PhD, Arizona State University, Children's Equity Project
Roberto J. Rodríguez, EdM, Teach Plus	Sharon Yandian, MEd, U.S. Department of Health and Human Services Office of Head Start
Rafael Lopez, Independent Consultant	Candida Hunter, First Things First
Eugene Garcia, PhD, Arizona State University	Amaya Garcia, MA, New America Foundation
Erminda Garcia, M.Ed, Higley Unified School District	Laura Bornfreund, MA, New America Foundation
Dina Castro, PhD, University of North Texas	Catherine White, MA, National Women's Law Center
Ruby Takanishi, PhD, New America Foundation Fellow	Bonnie Mackintosh, EdD, Office of the State Superintendent of Education, Washington, D.C.
Conor Williams, PhD, The Century Foundation, Children's Equity Project partner	Nicola Edge, PhD, University of Arkansas for Medical Sciences
Walter Gilliam, PhD, Yale University, Children's Equity Project partner	Torrie Dunlap, CPLP, Kids Included Together
Mary Louise Hemmeter, PhD, Vanderbilt University, Children's Equity Project partner	Lauren Hogan, MA, The National Association for the Education of Young Children
Rosemarie Allen, PhD, Center for Equity and Excellence, Children's Equity Project partner	Gladys Montes, United Way Center for Excellence in Early Education
Dawn Yazzie, MA, Center of Excellence for Infant and Early Childhood Mental Health Consultation, Children's Equity Project partner	Ryan Pontier, PhD, Florida International University, Children's Equity Project partner
Christine P. Sims, PhD, University of New Mexico	Amy Stephens, PhD, The National Academies of Sciences, Engineering, and Medicine
Kelly Capatosto, MPA, The Ohio State University, Children's Equity Project partner	Nina Perez, MA, MomsRising
Evandra Catherine, PhD, Arizona State University, Children's Equity Project	Moushumi Beltangady, MSW, MPP, U.S. Department of Health and Human Services
Dianna Carrizales-Engelmann, PhD, University of Oregon, Children's Equity Project partner	Carrie Gillispie, EdD, The Education Trust
Hakim Rashid, PhD, Howard University, Children's Equity Project partner	Ellen Roche, MEd, Trust for Learning
Elizabeth Ricks, PhD, Howard University, Children's Equity Project partner	Eryn Hurley, National Association of Counties
Jennifer Tschantz, PhD, U.S. Department of Education	Jennifer Oppenheim, PsyD, Substance Abuse and Mental Health Services Administration
Christy Kavulic, PhD, U.S. Department of Education	Rashanda Perryman, MS, Vanguard
Richard Fabes, PhD, Arizona State University, Children's Equity Project	David Addams, JD, MSJ, William Caspar Graustein Memorial Fund
Natalie Wilkens, PhD, Arizona State University	Eugene Pinkard, MA, The Aspen Institute
Laura Hanish, PhD, Arizona State University, Children's Equity Project	Kim Nall, Tribal Child Care Association of California
Lisa Gordon, Bank Street College, Children's Equity Project partner	Blanca Enriquez, PhD, Urban Strategies
Ana Maria Melendez Guevara, MSW, Arizona State University, Children's Equity Project	Mandy Sorge, MEd, National Governors Association
Camille Smith, Ed.S., MS, Independent Consultant, Children's Equity Project partner	Adrianne Elliott, National Indian Education Association
Kelly Edyburn, PhD, Arizona State University, Children's Equity Project	Jennifer Amaya-Thompson, MSW, U.S. Department of Health & Human Services
Calvin Moore, PhD, Council for Professional Recognition	Rebecca Berger, PhD, NORC at the University of Chicago
Sheresa Blanchard, PhD, East Carolina University	Michael Kim, MA, National Association for the Education of Young Children
	Barbara Smith, PhD, University of Denver
	Eric Bethel, MEd, District of Columbia Public Schools
	Daniela Anello, MA, DC Bilingual Public Charter School
	Carlene Reid, PhD, U.S. Department of Education

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A photograph of two young children, a boy and a girl, sitting at a table and playing with toys. The boy, on the left, is wearing a blue t-shirt with a 'POWER UP' graphic and a LEGO minifigure. The girl, on the right, is wearing a white t-shirt with a yellow graphic. They are both looking down at the toys on the table. The background is slightly blurred, showing a room with shelves. The text 'EXECUTIVE SUMMARY' is overlaid in the center of the image, with 'EXECUTIVE' on the top line and 'SUMMARY' on the bottom line, both in white capital letters. The text is underlined with a thick orange line.

EXECUTIVE SUMMARY

EXECUTIVE SUMMARY

In 1983, President Reagan established a commission to examine the state of the U.S. education system. The resulting landmark report, *A Nation at Risk*, raised major concerns about our students' preparedness to compete in an evolving and interconnected world economy. Despite several education system overhauls and billions of dollars, we are still very much a nation at risk four decades later.

Today, the primary source of that risk is the uneven playing field and inequitable distribution of opportunity in our education system—starting with our youngest learners. More than half of the 74 million children in the United States are children of color, and they are served by learning systems that are gravely inequitable. The COVID-19 pandemic and its effects on the health, economic wellbeing, and education of young children, only exacerbate existing inequalities.

In the midst of this global pandemic, the inequities that pervade everyday life for Black Americans and other people of color in the United States have come to a head with the recent killing of George Floyd at the hands of police and the thousands of people across the country protesting for an end to police violence and racial injustice. The opportunity to finally bring about equitable change across America's systems, including the early learning and education systems, is as ripe as it has been in a generation.

Against this backdrop, the Children's Equity Project and the Bipartisan Policy Center present a new, concrete early learning equity policy agenda that will help close opportunity gaps in learning systems. With support from the Heising-Simons Foundation, our two organizations held convenings in 2019 with over 70 experts to examine the state of equity in young children. Informed by those convenings, we developed a new report that reviews child equity data, research, and policy and culminates in targeted recommendations to build more equitable learning systems across this nation.

The United States is at a crossroads. We can spend the next several years trying to get back to the broken, ineffective status quo in our learning systems, where children were falling—or being pushed—through the cracks at astonishing rates. Or, we can choose to address the core, structural inequities that have held generations of children, especially Black, Latinx, and Native American children, back. For the sake of our country, we hope policymakers respond to the multiple crises facing our nation, with the latter. The policy agenda presented here can help us get there.

More than half of the 74 million children in the United States are children of color, and they are served by learning systems that are gravely inequitable.





Early learning experiences can have long-lasting, life-changing effects on children. Unfortunately, it is clear that the systems charged with providing those experiences are not living up to their promise.

A CRITICAL MOMENT

The public health and economic emergencies this country faces as a result of COVID-19 are unprecedented, painful, and large in scale. This pandemic has exposed the precarious economic and social conditions of children and families across the United States, but especially those from historically marginalized communities. Even with incomplete data, it is clear that people of color and people with disabilities are getting sicker and dying at higher rates. This fact is tragic, but not surprising. COVID-19 does not discriminate based on race or income, but our American systems do.

Discriminative housing, financial, labor, education, and criminal justice policies have stacked the deck against people of color. Today, people of color are less likely to have access to health insurance and more likely to face bias within the healthcare system. They are more likely to be exposed to air pollution and lead, live in food deserts and near toxic sites and landfills, and lack access to clean drinking water. Each of these factors, and others, affect underlying health conditions. The broader effects of COVID-19 on Americans' pocketbooks, education, and other domains of life will be unknown for some time. But it is a fact that a long and living history of discriminatory policies have resulted in people of color having less wealth—by some estimates, ten times less—and dramatically less upward economic mobility than their White counterparts. It is a fact that their children are more likely to attend high-poverty, underfunded schools. It is a fact that nearly one in three Black and Native American children, and one in four Latinx children lived in poverty, before COVID-19 ravaged communities economically.

And now, where the data are disaggregated, we know that children of color are also more likely to suffer directly from losing a loved one from COVID-19. Given the inequity baked into our American systems, it is almost certain that people from marginalized communities will suffer more from this pandemic and its aftermath in ways that include, but also extend far beyond, health consequences.

Our systems have created barriers that stack the deck against many children—and they have to climb over those barriers before they are out of diapers. We have a system that is unequal, unfair, and unsustainable. That is even more apparent today than it was 6 months ago. The compounding effects of discriminatory policies that have caused these conditions are undergirding the wide scale protests across the nation and the globe calling for an end to police violence and racial injustice. With these protests, advocates have brought hope for an America that lives up to its ideals.

Fixing child serving systems must be part of the solution. If all children are given access to the academic and social-emotional supports they need—instead of being kicked out of school, floundering in ineffective and ideologically driven teaching models, and separated into sub-par learning settings—young children who have been locked out of opportunity for generations could get closer to reaching their full potential. If we seize this moment as an opportunity for positive change, for a long overdue pivot toward equity, maybe we can climb out of this turbulent time in American history stronger, and ensure that all of our children, not just some of them, have the opportunity to thrive.

We centered our work on three policy areas with the potential to transform early learning experiences and close opportunity gaps.

Harsh discipline
and its disproportionate
application

The segregation of
children with disabilities in
learning settings

Inequitable and inadequate
access to **bilingual learning**
opportunities for dual
language and English
learners

ABOUT THIS REPORT

This report focuses on learning experiences in the early years, birth through age five, and the early grades (K–5). Early learning experiences in these years can have long-lasting, life-changing effects on children; unfortunately, it is clear that the systems charged with providing those experiences are not living up to their promise.

We identified three key policy areas that strongly influence children’s experiences in the classroom and disproportionately disadvantage children of color and children with disabilities. They include:

- Harsh discipline and its disproportionate application
- The segregation of children with disabilities in learning settings
- The inequitable access to bilingual learning opportunities for dual language and English learners

Each of these issue areas share the common theme of exclusion: exclusion from learning settings altogether, exclusion from inclusive learning opportunities, and exclusion from teaching models that we know work. We believe that addressing this specific element can transform children’s learning experiences and change their trajectories in the long term.

Transformation begins with an understanding of both what we know and what we do not know. **By taking a deep dive into the data, research, and policy landscapes related to these issue areas, this report proposes a bold, actionable policy agenda to make our learning systems more equitable.**

For the United States to live up to its ideals, an array of social issues must be addressed—from housing and healthcare to immigration and mass incarceration. **Tackling early learning and education alone is not enough, but it is a necessary step to building a more equitable society.**

We believe that addressing unique learning inequities in tribal communities is another pivotal policy area. In the coming months, we plan to issue a separate report focusing exclusively on this issue.

LEARNINGS AND RECOMMENDATIONS

WHAT WE LEARNED

We identified several common themes and learnings across our three key issue areas. They include:

- ☑ **Racial disparities** exist across each issue area, across child ages, and across states. Children with intersecting identities who have to interact with multiple systems are the most disadvantaged.
- ☑ Inequities in learning settings are fueled by a complex array of issues that include **individual and systemic bias, policies, and access to resources**.
- ☑ Teacher preparation and professional development is **poorly resourced, and it inadequately and insufficiently addresses equity** in learning.
- ☑ **Segregated learning for children with disabilities is common** and varies by state, child race, and disability category.
- ☑ Federal and state programs for children from historically marginalized communities are **severely underfunded**.
- ☑ There is **great variation** in state policies on each of these issues.
- ☑ Federal and state monitoring and accountability is either **insufficient or altogether absent**.
- ☑ Data gaps across issue areas—but especially on dual language learners—**obscure a clear understanding** of how systems work and how well they support children.

WHAT WE RECOMMEND

Policy steps we should take that can have an impact on all of these areas collectively include:

- ☑ **Fully funding programs** designed to support children from marginalized communities e.g., IDEA, Head Start, and Titles I and III of the Every Student Succeeds Act.
- ☑ **Including funding in upcoming economic stimulus bills** that address equitable access to quality early learning.
- ☑ Requiring states to **report plans to make learning systems more equitable** in applications for federal funding, and that federal agencies tie funding to progress on such plans.
- ☑ Ensuring the federal government and states **incorporate equity into monitoring and accountability systems** and specifically monitor for COVID-19-related disparities.
- ☑ Supporting and funding **educator preparation and development** grounded in equity.
- ☑ Increasing funding for **longitudinal, disaggregated data collection**.
- ☑ Ensuring all education legislation prioritizes **racial, ethnic, linguistic, socioeconomic, and ability-based integration**.
- ☑ Reinstating and funding **targeted technical assistance efforts** focused on equity, culture and language.

MAJOR FINDINGS: HARSH DISCIPLINE

Discipline can and should be positive, helping to promote a child's social-emotional development and ability to self-regulate. However, it can also be harsh and cause harm to a child's well-being. **There is no evidence that harsh discipline improves children's behavior in the short term or over time, but there is an abundance of research showing it is associated with poor outcomes.** For the purposes of this report, we define harsh discipline as:

- Exclusionary discipline via expulsion or suspension
- Corporal punishment
- Seclusion
- Restraint used inappropriately

Harsh discipline is common even in the early years.

The data show that harsh discipline practices are used frequently in schools and early learning settings and occur even with infants and toddlers.

Consider the case of exclusionary practices, such as expelling or suspending a child. In an analysis of Pre-K through elementary school systems, **states reported 1.27 million cases of young children enrolled in public**

schools being disciplined through exclusionary practices in the 2015-2016 school year. A national parent survey found that approximately 50,000 children under five were suspended, and 17,000 were expelled, in a single year.

When it comes to corporal punishment, defined as paddling, spanking, or other forms of physical punishment imposed on a child, there are no federal laws or regulations governing the practice other than those authorizing data collection, and the practice remains legal in 19 states—mostly in the South.

National data show that more than 160,000 children were subject to corporal punishment during a given year. **More than 1,500 of these were preschool students.**

When it comes to physically restraining children, the latest data show 86,000 children were restrained over the course of a year. 36,000 children were subject to seclusion, the practice of locking children in a room alone without the ability to get out. These practices were never supposed to be commonplace; they were developed to be used exclusively for emergencies and to mitigate physical harm, but they are overused and abused, and sometimes used to punish children for minor misbehavior

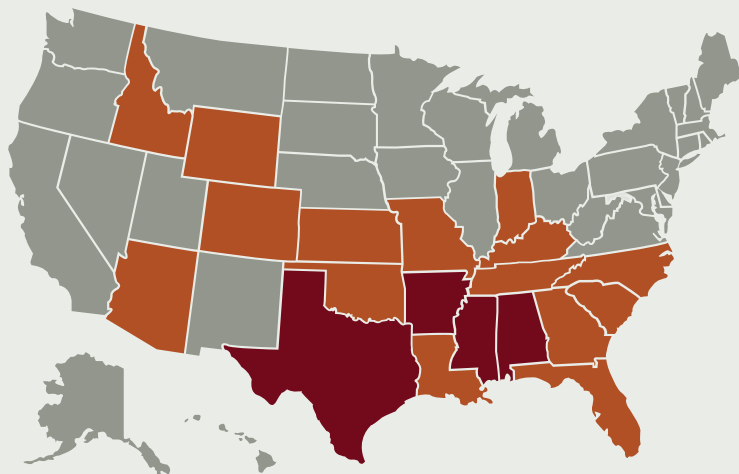
It's disproportionate. This is all happening inequitably.

Corporal punishment

is legal in public

schools in 19 states.

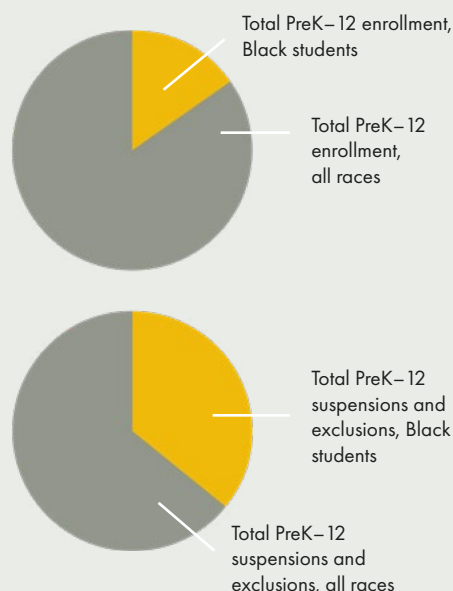
- States where corporal punishment is legal in public schools
- States representing the majority of corporal punishment cases



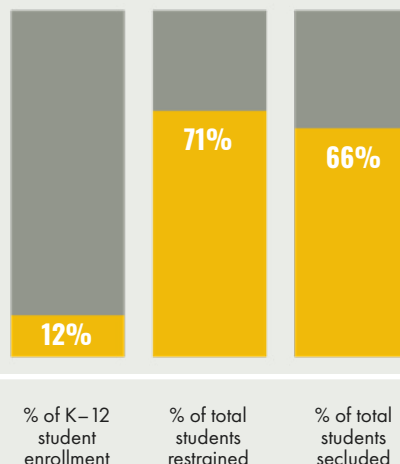
National data show that more than **160,000 children** were subject to corporal punishment in a given year. More than **1,500** of those were **preschool students**.

Black children are disciplined—and children with disabilities are restrained and secluded—at far higher rates than their peers.

DISCIPLINE RATES: BLACK STUDENTS



RESTRAINT AND SECLUSION RATES: STUDENTS WITH DISABILITIES



In K-12 settings, Black children make up 15% of children in schools but 39% of those suspended at least once, 27% of children restrained, and 23% of children secluded. They are also about twice as likely to be corporally punished as their White peers.

There is no evidence that Black children show greater or more severe misbehavior. Instead, research suggests Black children are punished more severely than their peers for the same or similar behaviors and that they are subject to increased scrutiny as early as preschool. Well-established **research suggests Black children are often the subjects of implicit bias, with adults perceiving Black children as being older than they are, less innocent than their peers, more culpable and aggressive, and more deserving of harsher punishment than White children.** Other factors are also at play.

And we're not progressing in making meaningful change. Data in K-12 settings indicate that **racial disparities in**

Expulsion rates in public Pre-K settings are about three times higher than in K-12 settings. Some estimates suggest that the rate in child care settings is as much as 13 times higher than K-12 settings.

corporal punishment and exclusionary discipline today are largely consistent, or larger, than when data were first published more than 40 years ago.

Disparities also exist for children with disabilities. In more than half of the schools that use corporal punishment, children with disabilities are disproportionately subject to the practice.

They also are twice as likely to be excluded from K-12 settings than their peers without disabilities. And children with disabilities make up 12% of student enrollment but 71% and 66% of all children restrained and secluded, respectively.

State policies and practices vary. For example, Utah has the lowest rate of using exclusion to discipline children, while Mississippi has the highest rate. **We calculated exclusion rates for Black children as compared to their peers, and we found racial disparities in every single state.** Ohio had the biggest difference in rates at which Black children are suspended and expelled as compared to all other children.

Corporal punishment is legal in private school settings in every state in the nation except two (New Jersey and Iowa), and is legal in public school settings in 19 states. The majority of public school corporal punishment cases occur in Mississippi, Arkansas, Alabama, and Texas.

Policies and practices around seclusion and restraint also vary by state. Only two states, Georgia and Hawaii, ban seclusion outright. A handful ban it for children with disabilities. There are no limits on restraining children in nearly half the states.

What is fueling these practices and disparities? Lack of teacher training and ongoing supports are key. One national representative survey found that only 20% of early childhood providers received training in social and emotional development in the previous year. Research finds that when teachers have access to an early childhood mental health specialist, suspensions and expulsions can drop by half.

Disparities in access to social-emotional support is also a factor. Children of color have less access to early childhood mental health specialists in early learning settings; in K–12 settings, they disproportionately attend schools with no or insufficient counselors and mental health professionals

Implicit and explicit bias is also an underlying driver of the uneven application of harsh discipline. Black children face disparities across all forms of harsh discipline and across all age groups.

PROMOTING POSITIVE DISCIPLINE: SOLUTIONS BEGIN WITH POLICY CHANGE.

Congress should:

- ✓ Pass legislation to end corporal punishment, seclusion and exclusionary discipline, and limit restraint across programs that serve young children and receive federal funding.
- ✓ Eliminate the 10-day suspension allowance for children with disabilities
- ✓ Increase funding for mental health interventions and personnel
- ✓ Prioritize child mental health and positive school climate over punitive discipline in budgets

Federal agencies

should:

- ✓ Raise awareness about the negative impacts of harsh discipline and family rights
- ✓ Tie federal funds to state progress reducing harsh discipline and disparities in its use
- ✓ Reinstate guidance that discourages the use of exclusionary discipline and address racial disparities
- ✓ Require states to report their use of harsh discipline and its disproportionate application in child care

States should:

- ✓ Prohibit corporal punishment, seclusion, and exclusionary discipline in learning settings serving young children and limit restraint
- ✓ Invest in data systems and professional development
- ✓ Develop infrastructure to receive, investigate, and act on parent complaints

Districts should:

- ✓ Ban harsh discipline even in states where it remains legal
- ✓ Ensure that young children never have negative interactions with school resource officers via intimidation, inappropriate restraint, handcuffing, or arrest
- ✓ Invest in systems for training, coaching, and evaluating the use of positive discipline and anti-bias approaches

MAJOR FINDINGS: SEGREGATED LEARNING FOR YOUNG CHILDREN WITH DISABILITIES

Since the passage of the Individuals with Disabilities Education Act (IDEA) nearly 50 years ago, federal law has been clear: All eligible school-aged children with disabilities are guaranteed a free and appropriate public education in the least restrictive environment.

The legal foundation for inclusion is supported by a vast body of research that shows that inclusion has many benefits. Children with disabilities in high-quality, inclusive early learning programs make larger gains in their cognitive, communication, and social-emotional development than their peers with disabilities in segregated settings.

Despite this knowledge, progress has been slow. **The number of children receiving special education services in inclusive settings has not substantially increased in decades.** This is especially so in the preschool years: Data show the number of children with disabilities ages three to five who received special

education services in inclusive settings has inched up by just about 5% since the 1980s. Today, more than half of preschoolers with disabilities still receive their services in segregated settings.

Pre-K is an underused lever to increase inclusion.

States with robust public Pre-K systems should have a higher percentage of children with disabilities receiving services in inclusive early learning settings, given the greater number of slots. However, our analysis found that access to Pre-K in states was not related to the proportion of children with disabilities receiving services in inclusive settings.

This isn't a red or a blue state issue.

- States with the highest rates of enrolling school-aged children with disabilities in regular classes are Alabama, Nebraska, Florida, Colorado, and Kentucky.
- States with the lowest rates of school-aged children with disabilities in inclusive classes include Hawaii, New Jersey, Montana, Arkansas, and Illinois.

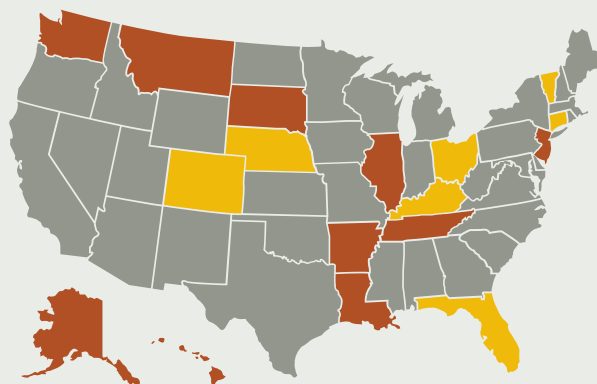
It is important to note that these data only speak to physical placement of service delivery, not quality of inclusion.

There are large disparities when it comes to who gets access to inclusive learning. For example, 13% of children identified with multiple disabilities and 17% of

Inclusion of preschoolers with disabilities varies by state.

Rates of providing services to preschool and/or school-aged children with disabilities in regular early childhood programs

■ Highest rates of inclusion ■ Lowest rates of inclusion



Today, more than half of preschoolers with disabilities still receive their services in segregated settings.

children identified with intellectual disabilities spend the majority of their day in regular classes, compared to about two-thirds of all other children with disabilities. Children identified with emotional disturbances also are less likely to spend time in general education settings.

Only 13% of children identified with multiple disabilities and 17% of children identified with intellectual disabilities spend the majority of their day in regular classes, compared to about two-thirds of all other children with disabilities.

Black children are overrepresented in special education, but not in early intervention (though some scholars have recently contested this finding). In examining the

intersections between race and disability category, Black children are at least twice as likely to be identified with an intellectual disability or emotional disturbance than all other racial/ethnic groups combined; children with these disabilities are less likely to spend time in general education classrooms than their peers with other disabilities. In some places, the result is segregated special education placements that tend to mirror racial segregation patterns of the past.

Other major barriers to inclusion are ableism, which influences teacher and administrator attitudes and beliefs around the inclusion of students with disabilities, educator training to guide the use of practices that support inclusion, and the need for meaningful state reforms and funding increases.

INCREASING INCLUSION OF CHILDREN WITH DISABILITIES IN LEARNING SETTINGS: SOLUTIONS BEGIN WITH POLICY CHANGE.

Congress should:

- ✓ Fully fund IDEA
- ✓ Increase funding for infants and toddlers with disabilities
- ✓ Increase funding for training, monitoring, and accountability
- ✓ Request 3 GAO reports on the costs of funding inclusive services, the effects of failing to fully fund IDEA, and implementation of the Equity in IDEA rule
- ✓ Give the Dept of Ed. authority to hold states accountable for funding their share of IDEA services, in line with findings from the above GAO studies

Federal agencies

should:

- ✓ Monitor and hold states accountable for placement practices that ensure students are served in inclusive settings
- ✓ Incentivize inclusion through grants
- ✓ Use federal funds to incentivize states to develop and test teaching models that support inclusion
- ✓ Ensure early learning programs are ADA compliant

States should:

- ✓ Monitor districts on inclusion and hold them accountable
- ✓ Increase funding for inclusion
- ✓ Require 10% of early childhood enrollment across programs to be for children with disabilities or delays
- ✓ Ensure IEP teams are well-trained and accountable for inclusion
- ✓ Deploy teams to work on this issue locally

Districts should:

- ✓ Make meaningful reforms to expand access to inclusive learning for children with disabilities, including restructuring budgets, physical space, and staffing structures; training IEP teams on inclusion; formalizing partnerships with community-based early childhood providers; and requiring joint training for early and special educators

MAJOR FINDINGS: INEQUITABLE ACCESS TO BILINGUAL LEARNING OPPORTUNITIES FOR DUAL LANGUAGE AND ENGLISH LEARNERS

Dual language learners (DLLs) are young children who are learning a second language while continuing to develop their first language (customarily the language they speak at home). Once they enter the K–12 system, DLLs who are not proficient in English are formally classified as “English learners” (ELs) and are eligible for services to aid their English language development.

About one third of children in the United States are dual language learners.

DLL and EL children are a large, diverse, and growing population. It’s estimated that about a third of children in the country under eight years old are DLLs, though gaps in data prevent a more precise estimate.

As a subgroup, DLL and EL children have a host of linguistic, cultural, and social strengths. Their bilingualism is associated with cognitive advantages, including strong executive functioning skills, attention, perspective taking, and self-regulation.

The research is clear: The gold standard in instruction is high-quality dual language immersion. Such programs provide instruction in two languages and typically have balanced enrollment between native speakers of each of the languages used.

Dual language immersion models are associated with improved developmental, linguistic, and academic outcomes for all students. Research shows that having access to learning experiences in a child’s home language alongside English strengthens the language foundation upon which literacy grows, provides meaningful access to the curriculum, and can foster teacher-child relationships. But despite the advantages of bilingualism and the superiority of bilingual learning models, our learning systems are overwhelmingly depriving DLLs and ELs of such opportunities.



Dual language instruction creates lasting, wide-ranging benefits for all students.

DUAL LANGUAGE LEARNERS ENROLLED IN THESE INSTRUCTIONAL MODELS ARE MORE LIKELY TO:



Become
proficient in English
more quickly



Outperform
peers in both
math and reading



Reach national
academic
performance
norms



Become
biliterate

For dual language learners, bilingual education is not an optional opportunity for enrichment. It can make or break their access to a quality education altogether.

There is a lack of bilingual education nationwide. In some places where bilingual learning does exist, DLLs and ELs are underrepresented; in other places, they are locked out as a matter of policy.

English immersion or “English-only” programs are commonplace for DLLs and ELs, but they are not effective. In K–12 settings, these models sometimes result in the segregation of students learning English. Research shows DLLs who are first exposed to English in kindergarten and remain in English-dominant instructional environments tend to fall behind their early-proficient and monolingual English-speaking peers on academic skills (as measured in English).

This has contributed to a gap between DLLs’ and ELs’ potential and their outcomes. Beyond a lack of access to appropriate learning approaches, this gap

is tied to a societal bias in the United States in favor of monolingualism. Tests and assessments are primarily conducted in English, and bilingualism is only valued for some and seen as a deficit for DLLs and ELs. Combined these factors disadvantage children and create misperceptions about DLLs’ and ELs’ potential.

For DLLs, bilingual learning is not an optional enrichment, as it is for children who speak English as a first language.

It can make or break their access to a quality education altogether. It is the difference between enrichment and equity.

Assessment problems cannot be overlooked. In addition to improving access to high-quality bilingual learning models, we need better assessments for DLLs and ELs so we can effectively measure both student progress and program effectiveness: Too often, assessments are conducted exclusively in English, which end up assessing a child’s English skills rather than subject matter content. And although the field lacks assessment tools in many languages, there are tools in Spanish—by far the most commonly spoken language by DLLs and ELs in this country, that are not being used enough.



Other obstacles to access and opportunity are also significant. The national shortage of credentialed bilingual teachers limits access to strong DLI programs. In addition, research finds that teacher bias and differential expectations for DLLs and ELs also impact the success of young learners. Nationally representative data show that teachers have lower academic expectations for children classified as ELs; this is not the case in bilingual schools. **Similarly, in countries that place value on speaking multiple languages, the academic differences between monolingual and bilingual students are small or nonexistent.**

The federal and state policy landscape:

Federal funding for English learners is not anywhere near sufficient. Title III funding under ESSA is designed to support ELs but has been stagnant for years, not even keeping pace with inflation or the increase in the number of ELs in the country.

Head Start has the most comprehensive standards for DLLs across early learning systems.

States and districts play a significant role in EL policy.

In 2015, Congress passed the Every Student Succeeds Act, which shifted much of the responsibility for decision making and accountability related to English learners to the states.

Bilingual learning opportunities are growing, but they are not always growing equitably. A number of cities and states are trying to expand access to bilingual learning programs, but the extent to which English learners and dual language learners have access has not been analyzed.

Head Start has the most comprehensive standards for DLLs across early learning systems.

Pre-K policies for DLLs vary greatly across states.

Though no state has a comprehensive set of policies or standards to support DLLs, 35 state-funded Pre-K programs have some policies in place specific to DLLs. Only one state, Illinois, explicitly requires bilingual instruction if there are 20 or more DLLs with the same home language enrolled in the same program. An analysis of state Early Learning and Development Standards found that 15 states discuss the learning and developmental needs of DLLs. However, only New Jersey was identified as having a dual language approach; every other state had an English-focused approach.

Notably, at the time of publication of this report, Arizona was the only remaining state with an English-only mandate for ELs in K–12 settings, although key provisions in the law were recently rolled back. A 2020 ballot initiative will determine the fate of the full law. California and Massachusetts repealed their English-only mandates in 2016 and 2017, respectively.

EQUITABLY EXPANDING ACCESS TO BILINGUAL LEARNING: SOLUTIONS BEGIN WITH POLICY CHANGE.

Congress should:

- ✓ At least double funding for students learning English through ESSA Title III and any other relevant funding streams
- ✓ Request a GAO study on federal funding for DLLs/ELs
- ✓ Align policy with research and prioritize dual language and strengths-based approaches, and tie prioritization to federal funding. Phase out ineffective English-only approaches
- ✓ Hold hearings on best practices and funding models that optimally support ELs and DLLs and use GAO reports and hearings to inform additional investments
- ✓ Fund a national effort to expand the number of qualified bilingual educators.

Federal agencies should:

- ✓ Pilot and invest in strengths-based bilingual education and linguistically diverse workforce preparation programs
- ✓ Invest in classroom assessment tools to assess the quality of dual language approaches
- ✓ Invest in child-level assessment tools for DLLs and ELs in languages other than English
- ✓ Require states to report their plans to equitably expand access to dual language programming

States should:

- ✓ Discontinue segregated programs for ELs
- ✓ Discontinue all “English-only” programs
- ✓ Use federal funds to expand bilingual programs and prioritize DLLs and ELs in expansion
- ✓ Adopt Head Start dual language learner standards in state-funded Pre-K, incorporate into accountability frameworks, and make funding contingent on adherence to these standards
- ✓ Improve existing—and create new—workforce preparation programs to expand linguistic diversity and knowledge

LOOKING AHEAD

COVID-19 has exposed and exacerbated longstanding inequities in our learning systems, starting at the youngest ages. The time for change is now. In fact, it is especially now. Policymakers' responses to both the pandemic and to the uprising against racial injustice will determine whether children continue to be locked out of opportunity for another generation—or longer—or are given the fair chance they need to reach their full potential. Our policy agenda helps move us in the direction of the latter.

These and other reforms that address inequities in learning, are critical to our economy, our capacity to be competitive on a global scale, and our ability to live up to the core principles of equality on which this country was founded. But even more fundamentally, they are necessary because all children deserve the chance to reach their full potential, regardless of what they look like, where they are from, or what disability they may have. We can and must do better.

Read our full report for the complete policy agenda.

We hope this report will serve as a guide, reference, and rallying cry for bringing about change.





INTRODUCTION

INTRODUCTION

“Equal opportunity for all” is a cornerstone promise of American democratic life. And yet, the United States has only fully extended this promise to certain groups of people. Practically and legally speaking, for most of our history “all” has never truly meant all.

It has been more than 150 years since the Emancipation Proclamation and many decades since the Civil Rights era. Indeed, these efforts have resulted in important legal precedents and legislative victories for people of color. Still, in 2020, American children’s demographic characteristics are too often predictive of their outcomes. Families of color are more likely to experience daily hardships and lifelong stressors stemming from policies and resulting conditions that systematically disadvantage, disenfranchise, and discriminate against their communities. These policies run the gamut of family life and include limited access to financial capital, affordable housing, quality education, and healthcare, as well as hostile immigration policies and mass incarceration. These policies, and others, have taken their toll on families of color for generations and continue to deny equal opportunity today.

Given the critical nature of the earliest period of human development, the stressors that result from policy-influenced inequities are especially consequential for young children. Differences in access to resources—even before birth—profoundly influence children’s development and result in diverging trajectories and stubborn disparities that persist and compound throughout their lives. Pregnant mothers of color have less access to high-quality prenatal care.¹ Once born, children from low-income families and children of color have less access to an array of resources, including, but not limited to, clean and toxin-free drinking water, quality health and mental healthcare, and safe and affordable housing.² When children enter early education, the inequities continue; children of color and children with disabilities have less access to high-quality, inclusive learning environments.³ These inequities are compounded by harsh immigration and mass incarceration policies that result in family separations and that disproportionately bring devastation to communities of color.

By transforming children’s opportunities, the resources they have access to, and the experiences they have in learning settings, we can move closer to our goal: ensuring that demographic characteristics no longer predict children’s outcomes.



The Novel Coronavirus (COVID-19) pandemic has only exacerbated these inequities. Even with incomplete data, it is clear that people from marginalized communities—including people of color and people with disabilities—are getting sicker and dying at higher rates. Longstanding inequities in employment, pay, and opportunity mean that members of these communities are more likely to be in more precarious financial positions than their White, non-disabled counterparts. Students of color are not only less likely to have access to tools that enable electronic remote learning, but they are also more likely to suffer directly from losing a loved one and/or from family financial stressors. In light of these realities and research on the disproportionate effects of summer learning loss for children from marginalized communities, it is clear that the pandemic poses a grave threat to educational equity.

Amid this global pandemic, thousands of protesters across the United States and around the world have taken to the streets to demand justice for police violence and to bring an end to systemic racism. The murder of George Floyd, and many other Black men and women at the hands of police and white supremacist vigilantes, is a painful and difficult moment for Americans, especially for Black Americans; but it is also a moment of hope. This modern uprising has brought about a long-overdue reckoning about race in the United States. The opportunity to finally dismantle racism and bring about equitable change across America's systems, including the early learning and education systems, is as ripe as it has been in a generation.

Against this backdrop, we present a new, concrete equity policy agenda that will help close the earliest opportunity gaps, from the early years to the early grades. The Children's Equity Project and the Bipartisan Policy Center, with support from the Heising-Simons Foundation, held two convenings in 2019 with over 70 experts to examine the state of equity in young children. Informed by those convenings, this report reviews child equity data, research, and policy and culminates in targeted recommendations to build more equitable learning systems for our youngest learners across this nation.

We chose to focus on learning systems—from the early years (birth to five) to the early grades (K-5)—due to the consequential nature of early experiences and the important role that education plays in setting long-term trajectories and opportunities. We centered our work on three specific policy areas—referred to here as “pivotal policy areas”—that if changed, could begin to transform learning experiences, bridge opportunity gaps, and level

We believe that addressing unique learning inequities in tribal communities is another pivotal policy area. In the coming months, we plan to issue a separate report that focuses exclusively on the data, research, and policy landscape of learning inequities in tribal communities.

the playing field for young children. These three pivotal areas are: (a) harsh discipline and its disproportionate application in learning settings, (b) lack of inclusion of children with disabilities in learning settings, and (c) inequitable access to high-quality learning opportunities for dual language and English learners. We believe that addressing unique learning inequities in tribal communities is another pivotal policy area; however, it is outside the scope of this report to deeply examine these issues. In the coming months, we plan to issue a separate report that focuses exclusively on the data, research, and policy landscape of learning inequities in tribal communities.

Each of the three pivotal policy areas reviewed in this report disproportionately affects the learning experiences of children from historically marginalized communities, including children with disabilities and children of color—especially those living in low-resourced communities, dual and English language learners, and children from American Indian communities. They also share the common theme of *exclusion*: exclusion from learning settings altogether, exclusion from inclusive learning opportunities, and exclusion from teaching models that we know work. We believe that shifting to inclusion in these pivotal areas can transform children's learning experiences and change their trajectories in the long term.

Although we frame our report around these distinct issue areas, we recognize that they are not mutually exclusive. It is impossible to consider any single inequity rooted in children's identities in isolation from all others. It is necessary to explore how children's intersecting identities contribute to the strengths and experiences of marginalization within and across systems that cannot

be fully understood by examining only one dimension of identity.⁴ For example, Black dual language learners may simultaneously face inequities in school discipline and lack access to bilingual programs that optimize their learning. Similarly, young children with disabilities may be educated in settings segregated from their peers without disabilities and may disproportionately experience harsh discipline. It is equally important to recognize how intersecting systems and policies can compound and amplify marginalization for already disadvantaged groups of children. Throughout this report, numerous themes and experiences cut across the issue areas and are highlighted wherever possible.

We believe that by transforming children’s learning experiences and expanding access to resources and opportunity, we can move closer to our ultimate goal: ensuring that all children reach their full potential, and that demographic characteristics no longer predict outcomes. If all children have access to the interventions and supports proven to propel them toward success—instead of being kicked out of school, being forced to flounder in ineffective, ideologically-driven teaching approaches, or being boxed into segregated and often subpar learning settings—those who have been locked out of opportunity for generations can get closer to reaching their full potential.

We acknowledge that addressing inequities exclusively in the education sector will not address all of the deeply rooted institutional and systemic inequities that affect young children. We maintain our focus on learning systems and the three pivotal policy areas within them, while simultaneously recognizing the impacts that racial segregation, funding, and inequities in systems surrounding the educational system continue to have on young children from historically marginalized communities. Our focus on the above domains is not meant to minimize these other factors in the lives of young children; rather, it is an attempt to deeply engage with specific, influential areas in which we can provide concrete and actionable recommendations.

We also recognize that COVID-19 has raised the stakes and made this work all the more important and all the more difficult. At the same time, the worldwide uprising against police violence and systemic racism have made equitable change, attainable. As schools and early childhood programs prepare to reopen amidst an environment of budget deficits and uncertainty, and against the backdrop of national protests and mounting pressure for systemic reform, implementing targeted interventions that address inequity is paramount to our

nation’s recovery. The areas of change outlined in this report are a start. Our recommendations illuminate unfulfilled past promises and areas that are ripe for change, especially now.

THE SURROUNDING CONTEXT

Although the early learning and education systems should be a safe haven from deeply entrenched societal inequities, they are—almost reliably—part of the problem. Data indicate that children’s experiences in our learning systems are influenced by gender, race, ethnicity, home language, and disability, among other factors.

Part of the challenge is an inequitable distribution of resources fueled, in part, by segregation. More than 65 years after the *Brown v. Board of Education* decision, schools in the United States are more racially segregated than at any time since the 1970s.⁵ The continuation and amplification of educational segregation can be attributed to several factors, including the long-lasting effects of discriminatory housing policies like redlining, which isolated communities of color from resources, and the gerrymandering of school zones, a practice that continues today. Although housing segregation is identified as the root cause of educational segregation, other factors are also at play, as many school districts are more segregated than the communities in which they operate.⁶ **What’s more, socioeconomic and racial segregation begins before children enter school. A recent Urban Institute study found that early childhood programs are even more segregated than K–12 settings.⁷**

The United States has one of the most inequitably funded education systems in the industrialized world and is one of two countries globally that spends less on low-resource schools than on more affluent ones. The difference between the upper and lower 10% of U.S. school districts in spending is nearly tenfold.⁸ By every measure—school facilities, qualified teachers, curriculum and instruction—schools that serve greater proportions of low-income children and children of color are far less resourced. Given the significant budget deficits facing the country after COVID-19, these inequities will likely be exacerbated. The determination of who gets access to resources and who is shut out is fundamental to equity, but it is not the only contributor. Policies and practices also shape children’s experiences, and contribute to and compound inequities.

Positive early learning experiences can be life-changing for children. But if the systems that provide these experiences are not intentionally mindful of equity in their policies and practices, early learning and education can exacerbate, instead of diminish, inequities. Today, the conceptualization of “quality” early learning or education includes factors such as research-based curriculum and qualified teachers, who are typically measured by their academic degrees or credentials. Although these factors are important for the experiences of all children, the current system leaves out an explicit focus on what has been a less visible layer of quality: practices and policies that uniquely shape the experiences of children from marginalized communities. The prevailing understanding of “quality” often lacks attention to, or fails to acknowledge entirely, the power of relationships undergirded by cultural knowledge; harsh discipline practices that disproportionately affect and harm Black children; insufficient access to dual language programming for children who speak a language other than English at home; inadequate access to inclusive learning opportunities for children with disabilities; and access to positive learning experiences, particularly for those with the least access to resources, such as children in American Indian communities.

The number of children affected by inequities in our learning systems is not a small slice of the overall child population in the United States. Indeed, more than half of all young children are children of color,⁹ and estimates indicate that about one-third of children under the age of six are dual language learners.¹⁰ The current state of affairs is not only

fundamentally unequal and unjust—it is inconsistent with our country’s founding values and it is economically and socially unsustainable. It is critical to look inside the walls of early learning and elementary school systems to better understand children’s experiences, particularly children who have historically been left behind, and redesign our systems informed by that understanding.

In 1982, President Reagan commissioned an examination of the education system in the United States. The resulting report—*A Nation at Risk*—warned of an education system that was woefully underperforming and denying children the necessary skills, competencies, and competitive edge to succeed in an ever-evolving and interconnected world economy. **Nearly 40 years later, our nation is very much still at risk because of an inequitable distribution of resources and opportunity for our children, starting at birth.** Too many children, disproportionately Black, Latinx, and American Indian children and children with disabilities, fall through the cracks of our educational system. This is problematic primarily because it is a failure to recognize the human potential and dignity of all children. Beyond that, it is clear that too much talent and potential are being left on the sidelines. One analysis found that if the United States had closed the gap in educational outcomes between children of color and their White peers in 1998, the gross domestic product a decade later would have been up to \$525 billion higher.¹¹ More than two decades later, that number would be astronomically higher. The United States, and the world more broadly, facing some of the most trying circumstances in a generation, simply cannot afford to continue sidelining talent. And it is clear that Americans, led by Black men and women across this country, are no longer going to stand for it.

Nearly 40 years after *A Nation at Risk*, our nation is very much still at risk because of an inequitable distribution of resources and opportunity for our children.





THE ORGANIZATION OF THIS REPORT

Within each of the three pivotal policy issue areas, we will first examine the relevant **data landscape**. We know a great deal about how our children are faring in our early learning and education systems, but there is also much we do not know. We review major data efforts that supply us with a better understanding of children's outcomes, and the distribution of opportunities (or lack thereof) tied to those outcomes.

We then take a **deep dive into the research** base underlying each of the three pivotal policy areas. We review the latest evidence base, with an emphasis on underlying causes, barriers to success, and strategies, models, and approaches that work to close opportunity gaps.

In this report, we address the **data, research, and policy landscapes** for each issue area and use our analyses to inform an **actionable policy agenda**.

Next, we examine the **state of the policy landscape** and assess what the federal government and states are doing to close opportunity gaps within each of these pivotal areas.

The report concludes with a more coherent understanding of what we know and what we do not know across our pivotal equity issue areas. Based on that knowledge, we provide a **concrete and actionable child equity policy agenda** extending from the early years to the early grades. Our policy agenda includes a series of recommendations—both cross-cutting and unique to each pivotal issue area. We believe that implementing these reforms can move us closer to bridging opportunity gaps and reducing the likelihood that children's demographic characteristics predict their life outcomes.

A young Black boy with short, dark hair is focused on playing with a colorful string toy. He is wearing a green t-shirt. The toy consists of a red string with several colorful rings (blue, yellow, orange, purple) attached to it. He is holding the string with both hands, and the rings are stacked vertically. The background is blurred, showing what appears to be a play area with other toys and a blue sign with some text. The overall lighting is soft and natural.

PIVOTAL POLICY AREA 1:

HARSH DISCIPLINE

AND ITS DISPROPORTIONATE
APPLICATION IN LEARNING
SETTINGS

PIVOTAL POLICY AREA 1:

HARSH DISCIPLINE AND ITS DISPROPORTIONATE APPLICATION IN LEARNING SETTINGS

At A Glance

- ✓ Harsh discipline happens early and often in U.S. early learning and education systems, though rates vary substantially across state lines.
- ✓ Black children, boys, and children with disabilities are disproportionately the targets of harsh discipline.
- ✓ A variety of factors contribute to harsh discipline, including implicit biases and their effects on decision making; a lack of training and support for early educators and teachers; teacher stress and depression; poor working conditions, such as long working hours with few breaks; school climate; and a lack of behavior policies that are supportive of children's social, emotional and behavioral development.
- ✓ Harsh discipline is associated with a host of negative child outcomes and is not associated with a single positive outcome.
- ✓ Harsh discipline is largely unregulated at the federal level (except, in some cases, in children with disabilities).
- ✓ Many states and communities have their own policies, though their quality varies greatly.
- ✓ A handful of interventions and pedagogies have shown promise in reducing harsh discipline, although very few approaches have succeeded in closing racial disparities.

Authors

Shantel Meek, PhD
*Arizona State University,
Children's Equity Project*

Rosemarie Allen, PhD
*Center for Racial Equity
and Excellence*

Evandra Catherine, PhD
*Arizona State University,
Children's Equity Project*

Richard Fabes, PhD
*Arizona State University,
Children's Equity Project*

Kent McIntosh, PhD
University of Oregon

Lisa Gordon
*Bank Street College of
Education*

**Mary Louise Hemmeter,
PhD**
Vanderbilt University

Walter Gilliam, PhD
Yale University

HARSH DISCIPLINE

AND ITS DISPROPORTIONATE APPLICATION IN LEARNING SETTINGS

Discipline is an adult decision made in response to, and to address, a child's behavior or perceived behavior. Some forms of discipline are positive and promote children's social and emotional development and self-regulation. Other forms of discipline are harsh and harmful to children's development and can catalyze a cascading set of events that can shift children's trajectories in a negative direction. **Here, we define harsh discipline as exclusionary discipline via expulsion or suspension, corporal punishment, seclusion, and restraint used inappropriately as punishment.** These are not the only forms of harsh discipline; adult behaviors like shaming, belittling, withholding food, and name-calling are also harsh forms of discipline, although these are typically not instituted into policy. This section focuses on harsh discipline actions that are often instituted into and can be mitigated by policy.

Harsh discipline is used early, often, and disproportionately on children of color and children with disabilities in U.S. early learning and education systems. The main source of discipline data in the United States is the Civil Rights Data Collection (CRDC), which is collected biannually by the Office for Civil Rights (OCR) at the U.S. Department of Education (ED). The collection includes information from over 99% of public schools in the country on a range of variables associated with access to opportunity and equity. A key purpose of the data is to monitor civil rights violations in public schools. The Individuals with Disabilities Education Act Section 618 also requires discipline data collection disaggregated by race/ethnicity and English learner status.

Although exclusionary discipline, corporal punishment, seclusion, and inappropriate restraint are very different in their presentation, they share the common characteristics of being harmful to children's development, particularly for the youngest learners, and are counterproductive to managing behavior and supporting social and emotional development. They can also cause physical harm, significant stress, and lasting psychological distress, all of which are associated with a host of negative outcomes later in life.

Harsh discipline will be an even more critical issue to address when children transition back to school after COVID-19. Young children express stress, trauma, loss of routine and security, personal loss, and anxiety, in many cases, through externalizing behavior that is perceived as challenging. Similarly, teacher and caregiver stress, depression, and anxiety are associated with increased bias and harsher discipline decisions. This combination should alarm policymakers and administrators and motivate them to prioritize social and emotional supports for students and teachers, and to carefully monitor discipline decisions and disparities in such decisions as schools and early learning programs reopen.

Harsh disciplinary practices have few, if any, restrictions in federal law; the state policy landscape varies greatly. Increased attention to these issues over the last decade, especially exclusionary discipline, has prompted a wave of policy reforms across every level of government. The quality of these policies, however, and the financial backing to support implementation has been insufficient in most places and largely uneven across the country. The following section includes a review of the status of data, research, and policy landscapes of harsh discipline.

HARSH DISCIPLINE AND ITS DISPROPORTIONATE APPLICATION IN LEARNING SETTINGS:

THE DATA LANDSCAPE

EXCLUSIONARY DISCIPLINE

It is well documented that children are suspended and expelled early and often, and that Black children and boys much more likely to be excluded from their educational settings. Dr. Walter Gilliam of Yale University conducted the first wide-scale data collection of exclusionary discipline in early childhood settings in 2004. His research revealed that young children in public Pre-K settings were expelled at a rate three times higher than children in K–12 settings and that Black boys were disproportionately the victims of exclusionary discipline.

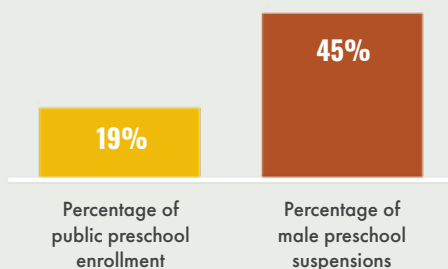
Although Dr. Gilliam’s seminal study captured national media attention, it was not until nearly a decade later that the federal government began collecting expulsion and suspension data in public preschool settings through the CRDC. **The preschool discipline data were released to the public for the first time in 2014 and showed remarkable consistency with Dr. Gilliam’s earlier findings.**¹² The most recent federal data, from the 2015–16 school year, show that Black preschoolers are 3.6 times as likely to be suspended as their White peers.

Black boys represent 19% of public preschool enrollment, but 45% of male preschool suspensions, and Black girls represent 20% of preschool enrollment, but 54% of female preschool suspensions.¹³

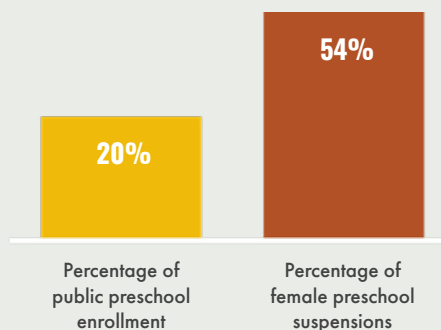
Racial disparities in disciplinary

action are vast, even in preschool.

PRESCHOOL SUSPENSIONS, BLACK BOYS



PRESCHOOL SUSPENSIONS, BLACK GIRLS



In K–12 settings, Black children continue to be disproportionately excluded. Black children make up 15% of K–12 children in the United States but represent 39% of those suspended at least once. Black boys, who make up 8% of the student population, represent a quarter of all suspended students.

Data further indicate that children with disabilities are twice as likely to be excluded from K–12 settings than their peers, and Black children with disabilities are the most likely to be excluded.¹⁴ Although data do not indicate that children with disabilities are disproportionately excluded from early childhood settings via suspensions and expulsions, it is possible that young children are not yet identified as having a disability, making it difficult to determine whether children who are eventually diagnosed with a disability were disproportionately excluded earlier in life.

Patterns in exclusionary discipline data are troubling, but neither are as stark nor as consistent for Latinx and American Indian/Alaska Native (AI/AN) children. For both groups, data generally indicate that they are not overrepresented in exclusionary discipline in the early grades but are in the later grades.¹⁵ However, there are exceptions. For example, in California, AI/AN boys are 2.5 times more likely and AI/AN girls are 3.7 times more likely to be suspended in early childhood settings than their same-aged, same-gender peers.¹⁶

Data on Asian-American and Pacific-Islander (AAPI) children show that certain subgroups of children within these groups experience disparities in discipline. One study of K–12 students indicated that when examined as a group, AAPI students are less likely to receive exclusionary discipline than White students.¹⁷ However, when disaggregated, children in the narrower Pacific Islander category had a risk ratio over four times greater than children in the Asian-American group.

There is a small but emerging evidence base that finds exclusionary discipline practices are used in infant and toddler child care settings. One study found that 42% of infant/toddler child care programs had expelled a child in the previous year due to challenging behavior.¹⁸ More recently, researchers in Philadelphia found that 26% of child care programs had expelled at least one child in the past year and that toddlers were as likely to be targets of exclusionary discipline as preschoolers.¹⁹ By comparison, Dr. Gilliam's 2005 study found that just over 10% of Pre-K teachers had expelled one or more children in the past year, alarmingly suggesting even higher rates in infant/

toddler child care than public preschool, which already has much higher rates than K–12 settings.

The National Survey for Children's Health,²⁰ conducted by the Health Resources Services Administration (HRSA) at the U.S. Department of Health and Human Services (HHS), is another source of national exclusionary discipline data of young children. In this 2016 survey, **parents reported that approximately 50,000 children under age five were suspended and 17,000 were expelled in one school year alone.**²¹ These figures are substantially higher than those reported through the CRDC. This data collection effort was a valuable contribution to the data landscape on exclusionary discipline, primarily because parents were the reporters instead of school officials, which enabled a more comprehensive view of the issue across early education setting types (i.e., private child care, public Pre-K, and Head Start). Unfortunately, HHS only included an exclusionary discipline question in the 2016 survey and has no plans to include it in future iterations of the survey.

State Data Analyses

State analyses of exclusionary discipline have been examined to a lesser extent than national data. Here, we produced a first-of-its-kind analysis of exclusionary discipline rates of children in Pre-K through elementary school (herein referred to as "young students") using the most recent publicly available CRDC data to determine: (a) state differences in exclusionary discipline rates, and (b) differences in rates between Black children, who consistently experience the largest disparities, and other children.

Our analysis revealed racial disparities in every state in the country. Nationally, the average difference in exclusion rate between young Black students and their peers was almost 71 per 1,000 students. Although rates varied across states, from a high of almost 141 in Ohio to a low of 3 in Hawaii.

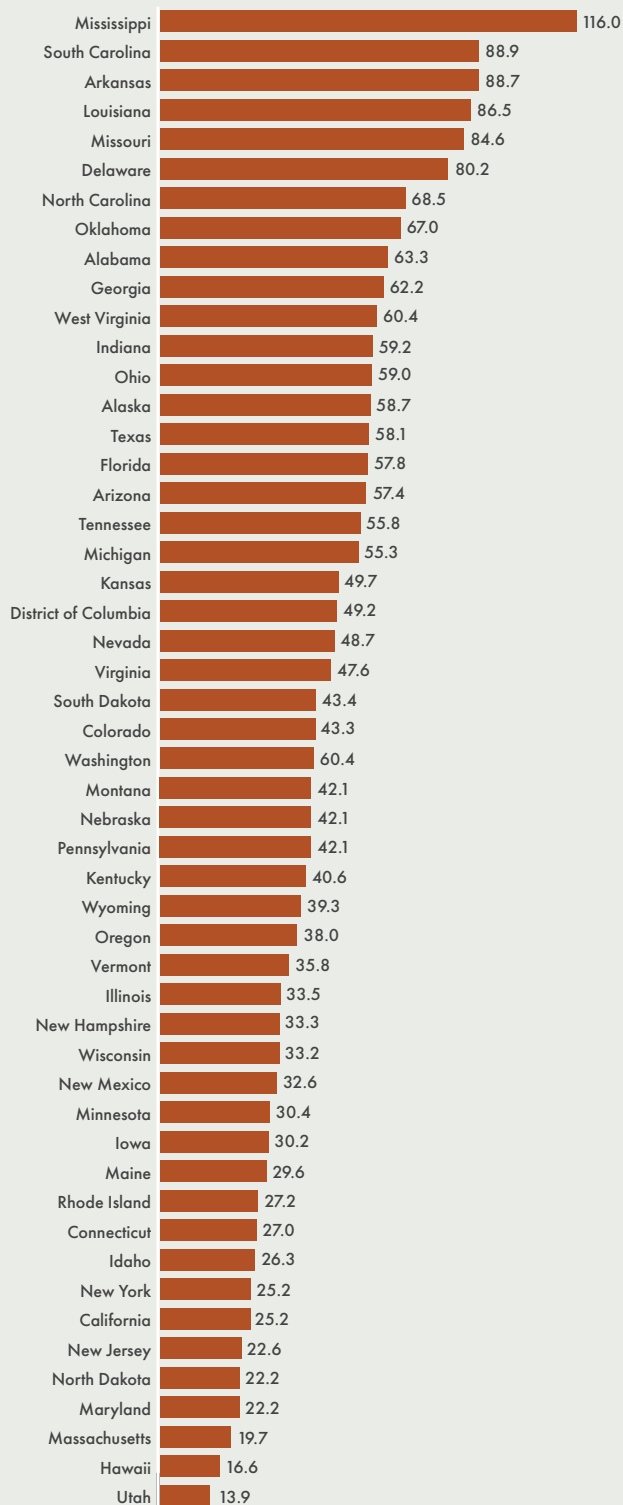
In 2015–16, states reported a total of almost 1.27 million cases of exclusionary discipline for young students enrolled in public schools.²²

This total obscures considerable differences across the country. To account for state population, we computed rates of classroom exclusion per 1,000 students enrolled. The average rate of classroom exclusion in the U.S. was just over 47 cases per 1,000 students. Utah had the lowest rate of exclusion with about 14 cases per 1,000 young students, followed by Hawaii and Massachusetts, each with under 20 cases per 1,000 students. Mississippi had the highest rate of exclusion with about 116 cases per 1,000 young students, followed by South Carolina, Arkansas, Louisiana, Missouri, and Delaware, all of which reported more than 80 cases per 1,000 young students.

Substantial state differences in rates by race were also noted. **Nationally, the average difference in the exclusion rate between young Black children and their peers was almost 71 per 1,000 students. Although rates varied across states, from a high of almost 141 in Ohio to a low of 3 in Hawaii, disparities were noted in every state in the country.** Notably, nine states had exclusion disparity rates over 100 and only four states had rates under 30.²²

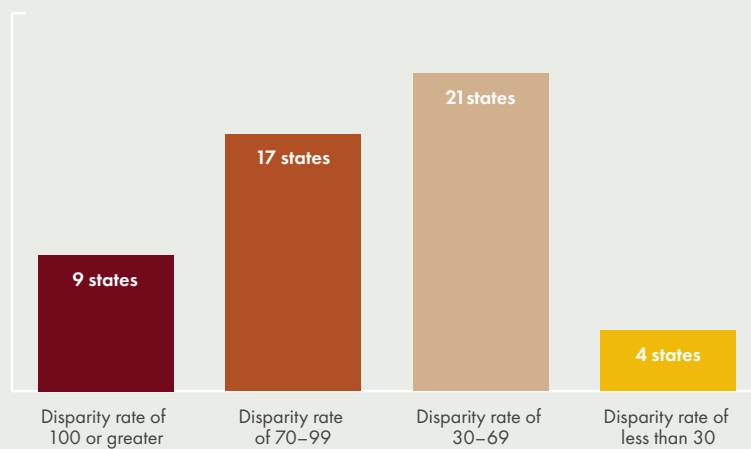
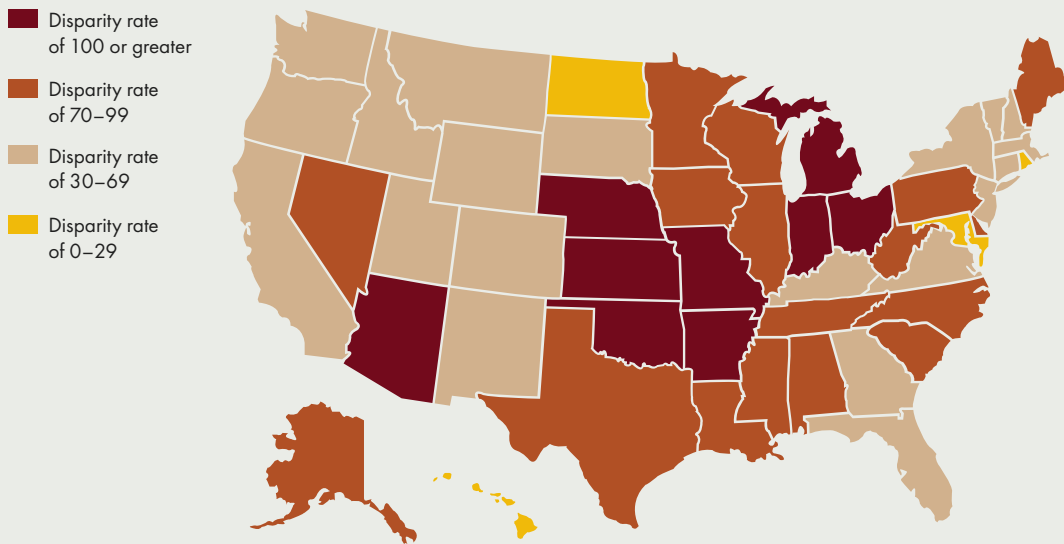
With over 3.5 million young Black students enrolled in U.S. public schools, eliminating this disparity would reduce the number of exclusions for young Black students by almost 250,000 cases.

In 2015–16, the average rate of classroom exclusion of young students in the U.S. was just over 47 per 1,000 students.



On average, the rate at which young Black students are excluded is more than double that of their peers.

DISPARITY RATES IN THE EXCLUSION OF YOUNG BLACK STUDENTS



CORPORAL PUNISHMENT

The CRDC defines corporal punishment as “paddling, spanking, or other forms of physical punishment imposed on a child.” **School corporal punishment is currently legal in 19 states and nearly 45,000 public and private Pre-K–12 settings.**

In 2015–16, the CRDC included corporal punishment data on preschoolers for the first time. **These data indicate that more than 1,500 preschoolers in public Pre-K settings were subject to corporal punishment over the course of the school year.²² Across age groups, over 160,000 children were subject to corporal punishment over the course of the school year.²²**

Although the national rate of corporal punishment is about 0.5%,²³ an analysis by the Civil Rights Project at the University of California Los Angeles and the Southern Poverty Law Center found that this figure obscured state, district, and school differences. In schools that use corporal punishment, the rate was over 10 times greater. For example, the rate in Mississippi, the state with the highest rate of corporal punishment, is 9.3%. Mississippi and other Southern states, including Arkansas, Alabama, and Texas, make up the majority of corporal punishment cases across the country.

In more than half of the schools that use corporal punishment, children with disabilities were disproportionately subjected to the practice. In four states that have the highest rates of corporal punishment, including Mississippi, Alabama, Arkansas, and Texas, **children with disabilities make up nearly two-thirds of all children who receive corporal punishment.**

In the preschool years, Black, White, and American Indian/Alaska Native (AI/AN) children are disproportionately subjected to corporal punishment. **Of note, AI/AN children make up less than 1% of the preschool population but make up 9% of corporal punishment incidents.** It is important to consider this finding in the context of the long and painful history of corporal punishment and abuse of AI/AN children in educational settings, undoubtedly associated with the U.S. government’s policy to forcibly remove tribal children from their families and place them in boarding schools.²⁴ Our upcoming report on AI/AN learning equity will engage more deeply on this issue.

Data in K–12 settings indicate that racial disparities in corporal punishment today are largely consistent with the first data collection on corporal punishment published over 40 years ago.²⁵ Black children make up 16% of

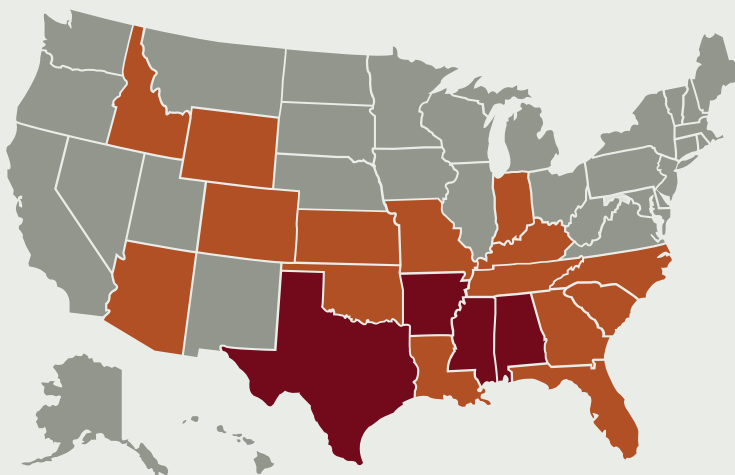
Black girls are three times as likely as White girls to be the targets of corporal punishment.

Corporal punishment

is legal in public

schools in 19 states.

- States where corporal punishment is legal in public schools
- States representing the majority of public school corporal punishment cases



Black and AI/AN children in Pre-K through elementary school are disproportionately subjected to corporal punishment.

	Young Black students		Young AI/AN students	
	% of total corporal punishment cases	% of total enrollment	% of total corporal punishment cases	% of total enrollment
Alabama	32.96%	35.62%	0.75%	0.95%
Arizona	0.00%	4.68%	0.00%	5.78%
Arkansas	26.48%	22.05%	0.13%	0.66%
Colorado	*	*	*	*
Florida	26.42%	26.28%	0.61%	0.38%
Georgia	46.22%	38.44%	0.31%	0.27%
Idaho	*	*	*	*
Indiana	0.00%	11.95%	0.00%	0.28%
Kansas	*	*	*	*
Kentucky	7.59%	12.02%	0.00%	0.19%
Louisiana	60.90%	47.69%	0.90%	0.73%
Mississippi	67.43%	53.34%	0.53%	0.30%
Missouri	15.36%	17.68%	0.18%	0.47%
North Carolina	5.71%	26.44%	11.43%	1.40%
Oklahoma	7.38%	10.29%	23.77%	11.61%
South Carolina	50.00%	38.82%	0.00%	0.41%
Tennessee	29.09%	25.33%	0.66%	0.25%
Texas	20.58%	13.79%	0.62%	0.43%
Wyoming	*	*	*	*

* Corporal punishment is legal, but no cases were reported in Pre-K through elementary school.

public school enrollment but more than 33% of students who are corporally punished, resulting in about **40,000 Black children subject to corporal punishment in a single school year**. Black boys are about twice as likely to be corporally punished as their White counterparts. The disparity is even greater when comparing Black girls to White girls. **Black girls are more than three times as likely to be the targets of corporal punishment than White girls.**²⁶

It is important to note that Black children live in southern states in greater proportions than in other states across the country. For example, although Black children make up 16% of K–12 enrollment nationally, they make up more than twice that percentage in some southern states. This is important given the fact that corporal punishment is concentrated in (though not exclusive to) southern states. Given this finding, it is especially important to address disparity at the state level.

Our state analysis of corporal punishment in elementary-school-aged children finds that Black and/or AI/AN children are disproportionately subjected to corporal punishment in 10 of the 19 states that allow this punishment. **The states with the largest disparities for Black children are Louisiana and Mississippi, where Black children make up about 47% and 53% of school enrollment respectively, but make up 60% and more than 67% of corporal punishment cases in those states. South Carolina, Georgia, and Texas also have large disproportionality. The states with the largest disparities for AI/AN children are North Carolina, where AI/AN children make up 1.4% of school enrollment but more than 11% of corporal punishment cases, and Oklahoma, where AI/AN children make up 11.5% of enrollment but nearly 24% of corporal punishment cases.** Latino children in this age range were not disproportionately subjected to corporal punishment in any state. In four states that allow corporal punishment—Colorado, Idaho, Kansas, and Wyoming—there were no reported cases for children in this age range for the 2016–17 school year.

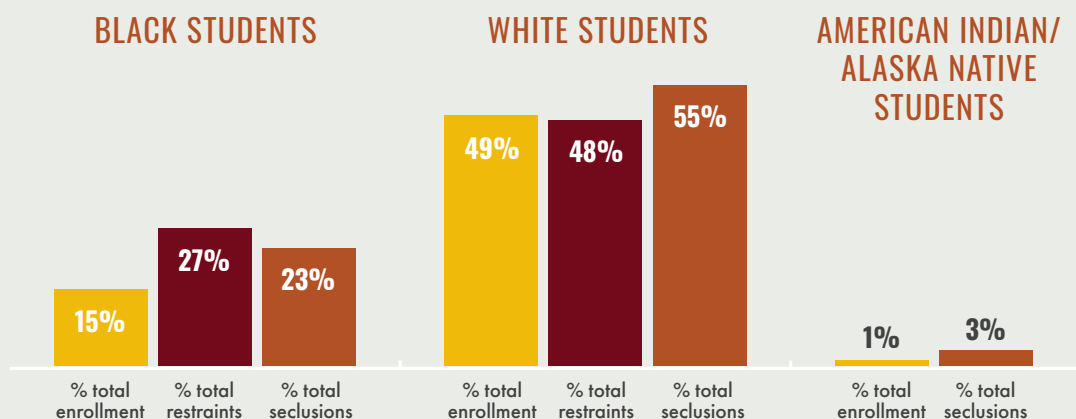
RESTRAINT AND SECLUSION

The CRDC defines restraint as “a personal restriction that immobilizes or reduces the ability of a student to move his or her torso, arms, legs, or head freely,” mechanical restraint as “the use of any device or equipment to restrict a student’s freedom of movement,” and seclusion as “the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving.” Many policies, including 2012 guidance from the U.S. Department of Education, indicate that restraint and seclusion should be used only as a last resort when there is a serious and immediate safety threat. Unfortunately, in too many instances restraint and seclusion are used as punishment, often for minor and subjective behaviors.

CRDC is the main source for restraint and seclusion data, as with exclusionary discipline and corporal punishment. In 2015–16, administrators reported physically and mechanically restraining 86,000 children and secluding 36,000 children.²² These estimates are 23% higher than 2011–12 data, primarily accounted for by cases of restraint.

There are significant gender and racial disparities in the use of restraint and seclusion, and the vast majority of children restrained and secluded have disabilities.

Black and AI/AN children are disproportionately the subjects of restraint and seclusion.



As with other forms of harsh discipline, there are significant gender and racial disparities in the use of restraint and seclusion. Boys represent 79% of restraint cases and 77% of seclusion cases in the U.S. Black boys are disproportionately restrained, and Black, American Indian/Alaska Native and White children are disproportionately secluded. The vast majority of children restrained and secluded had disabilities. Children with disabilities comprised 12% school enrollment but made up 71% and 66% of all restraint and seclusion cases, respectively. Of these cases, 83% were boys.²⁷

DATA TAKEAWAYS

The CRDC is an invaluable source of information for policymakers and stakeholders. No other survey has such wide coverage and high completion rates.²⁸ The fact that the data are designed to be disaggregated and used as a mechanism to enforce civil rights is critical. The Trump Administration has proposed scaling back key components of the CRDC, including preschool enrollment data disaggregated by race/ethnicity. This move would make assessing discipline disproportionality in public preschool settings, where disparities may be the greatest, impossible. The precarious state of data in government, particularly civil rights data, make it critical to impose legislative requirements—including a mandate for universal disaggregation—and create more public-private partnerships that could insulate data from political forces.

Notwithstanding the critical data the CRDC provides, significant gaps exist in the discipline data landscape, primarily in early education settings that are not part of the state-funded public Pre-K system. There is no comprehensive data source on harsh discipline in the broader early education system, including the child care system, which serves an estimated 12 million children under age five,²⁹ or Head Start programs, which serve over 1 million children every year. This is especially problematic because the child care system is considered the most under-resourced segment of the early childhood system, and there are a large number of providers who are exempt from licensing and operate unregulated. Child care providers generally have less access to supports, lower levels of education, lower pay, and fewer benefits. Perhaps unsurprisingly, research indicates that exclusionary discipline rates may be highest in child care programs.^{30, 31} Scholars have estimated that the rate in child care programs may be as much as 13 times the rate in K–12 settings.³² Prompted by the reauthorized federal

Child Care and Development Block Grant, some states have recently begun collecting data on exclusionary discipline at the state level, but it has not been aggregated to inform a national understanding of the issue.

There is no systematic or national effort underway to track corporal punishment, restraint, or seclusion in early childhood settings outside of the public Pre-K–12 system. Considering the harm that more extreme forms of punishment have on very young children's brain development, this is among the most problematic gaps in the discipline data landscape.³³ The challenge of lack of documentation and data is particularly troubling because children with disabilities—some of whom have speech/language delays and cannot easily communicate these abuses—are much more likely to be the targets of such practices.

The challenge of documentation and data also extends to informal exclusionary discipline. Some experts call this practice “soft expulsion,” whereby parents are pressured to remove their children or are given alternate reasons for why their child cannot attend the program (e.g. they are not developmentally ready or it is “not a good fit”).³⁴ Soft expulsions, like formal expulsions, are also used to keep children with disabilities out of inclusive early childhood settings. Soft expulsions are, anecdotally, common practice, but are not systematically tracked in any way.

Relatedly, there is scarce data about exclusionary discipline and other forms of harsh discipline in infant and toddler child care programs, which largely operate outside the Pre-K–12 system. Any work to dismantle the school-to-prison pipeline necessarily includes addressing the initial entry point; unfortunately, the small pool of data available on this issue indicates that entry point may be sooner than preschool.

Gaps also exist with respect to who provides the data. Experts speculate that local and state administrators may not be the most well-informed reporters on discipline issues in local schools, resulting in a potential undercount. Parents may provide a more comprehensive and accurate count of these issues. The only national data reported by parents on harsh discipline, however, was in exclusionary discipline, and this was a one-time collection. This parent-informed data indicated significantly higher rates of harsh disciplinary practices than administrator-informed rates reported by the CRDC.

Given the powerful role of data in equity, maintaining data that are currently available—namely through the federal government's CRDC—and expanding data collection to address the gaps cited in this report are critical to expanding opportunity and bridging disparities in learning settings.

HARSH DISCIPLINE AND ITS DISPROPORTIONATE APPLICATION IN LEARNING SETTINGS:

THE RESEARCH LANDSCAPE

Research surrounding harsh discipline is clear: despite beliefs to the contrary, there is no evidence that harsh discipline improves children’s behavior in the short or long term. There is, however, a plethora of research that finds harsh discipline is associated with poor outcomes. The following section presents a deep dive into the research base of harsh discipline, with an emphasis on contributing factors, resulting outcomes, and preventative approaches that reduce harsh discipline.

EXCLUSIONARY DISCIPLINE

Exclusionary discipline and the racial disparities therein are not new phenomena. In the years following the landmark *Brown v. Board of Education* decision to desegregate schools, the suspension rate for Black students tripled compared to that of White students.³⁵ During this time, the suspension rate for White children was 22 per 100 students, whereas for Black students the rate was 76 per 100 students.³⁶ In nearly every state in the country, during the 1972-73 school year, the suspension rates for Black children were at least twice as high as for White children.³⁷

More than 40 years later, disparities in exclusionary disciplinary practices are remarkably consistent.³⁸ By some estimates, disparities are larger due to an overall decrease in harsh discipline practices, with White children being the primary and disproportionate benefactors.³⁹ Today, as has always been the case, race is the most significant predictor of out-of-school suspensions.⁴⁰ Although exclusionary discipline is also associated with other demographic characteristics like income,⁴¹ studies find that disproportionality based on race continues to exist,

even after statistically controlling for socioeconomic status, gender, prior behavior, age, and other factors.⁴² Research also consistently finds that Black students are more likely to be excluded for subjective behavioral infractions (e.g., defiance, disrespect) with ambiguous definitions,⁴³ and that these subjective infractions drive the vast majority of disproportionality in discipline.⁴⁴

Suspension and expulsion are associated with a host of negative outcomes, particularly educational outcomes. One key reason for this is that children simply miss out on valuable learning time. **During the 2015-16 school year, students lost more than 11 million school days due to out-of-school suspensions.**⁴⁵ Removing students from the learning process contributes to poor performance in school, decreased scores on standardized tests, decreased reading and writing achievement, grade retention, and increased dropout rates.⁴⁶

The stress associated with expulsions and suspensions, particularly in very young children, cannot be overstated. The most critical component of a child’s experience in early learning settings is having a secure, positive relationship with his or her teacher.⁴⁷ **Strained teacher-child relationships that lead to suspension or expulsion and other forms of harsh discipline can have negative effects on children’s social and emotional base; they can also influence children’s perceptions of school and learning and lessen their trust in adults during a sensitive and especially consequential time in development.**

Several factors contribute to exclusionary discipline, including policies, school climate, teacher training and supports, children’s and teachers’ mental health challenges, and programmatic characteristics. Early childhood teachers are not consistently trained to address challenging behavior and almost always cite this skill as their top training need.⁴⁸ **The National Survey for Early Care and Education found that only 20%**

of early childhood providers had received any training in social and emotional development in the last year.⁴⁹ This is particularly problematic for teachers working with young children, given that infants, toddlers and preschoolers are in the early stages of developing language, social, and emotional skills, resulting in more behaviors that may be developmentally appropriate but that present a challenge to adults. Without support to better understand the normative trajectory of behavior and the skills to foster social-emotional and behavioral development, early childhood teachers are more likely to use unnecessary exclusionary practices. Teachers who have social and emotional supports available, but who underutilize them are also more likely to suspend or expel children.⁵⁰ **When teachers are offered and engage in training to prevent and manage behavior they deem challenging, harsh disciplinary actions decrease.**⁵¹

Beyond teacher training, research has found that teacher characteristics and working conditions are associated with expulsions and suspensions. For example, teachers who are depressed and under greater levels of stress are more likely to suspend and expel students.⁵² In addition, early childhood programs with longer operating hours, higher child-to-adult ratios, and higher group sizes are also associated with increased exclusionary discipline.⁵³ These factors are also indicative of an under-resourced system. Research by Gilliam and colleagues in 2018 found that a teacher's decision to exclude a child is based on four primary factors: (a) the perception that the child's behaviors are disruptive to the learning environment, (b) the fear of being accountable for the child's behaviors that may cause harm to self or others, (c) the perceived level of stress caused by the child's behavior, and (d) hopelessness.⁵⁴

The pattern of poorly resourced learning systems, particularly investments that support teacher and child wellness, continues into K–12 settings. A study by the American Civil Liberties Union in 2019 found that 14 million children, disproportionately children of color, attend schools with police officers but no counselors, nurses, psychologists, or social workers.⁵⁵ Only three states in the country are meeting the recommended student-to-counselor ratio. **This lack of expertise affects 90% of public school students, and a vast majority of teachers who must assume the difficult work of supporting children's mental health issues, often without the necessary training, supports, or time to do so.**

When teachers are offered and engage in training to prevent and manage behavior they deem challenging, harsh disciplinary actions decrease. Research on the effects of such training on disparities is sorely inadequate.

Teacher-family relationships may also affect expulsions and suspensions. When teachers and families do not agree on the challenging behavior at hand, expulsion is more likely. Lack of a shared understanding is associated with teachers who believe parents are uncooperative in addressing a child's behavior. These feelings are further exacerbated if outside professionals, such as behavioral coaches or consultants, recommend an intervention that parents do not follow through with. It should be noted, however, that in cases with poor parent-teacher or school relationships, parents may not be asked for input into the intervention selected to address the child's behavior, and such intervention may not align with the families' culture, parenting values, or preferences. Providers' or teachers' lack of ability to address a challenging behavior may lead them to associate the behavior with a poor family environment.⁵⁶ Not surprisingly, one study found that teachers with a negative perception of a child's parents were more likely to expel the child.⁵⁷

Policy also plays an important role in the use of suspension and expulsion. Rigid zero-tolerance policies have resulted in an overuse of exclusionary discipline.⁵⁸ On the other hand, in early childhood settings most programs simply did not have a policy prior to the most recent wave of federal and state reforms. Suspensions and expulsions were managed on an ad hoc basis, which resulted in a lack of clarity for staff and families, and also opened the door to biased implementation of disciplinary decisions.

CORPORAL PUNISHMENT

Corporal punishment is increasingly acknowledged nationally and internationally as unethical, abusive, and a violation of children's human rights.⁵⁹ Research has consistently found that corporal punishment is harmful to children's development and wellness.⁶⁰

A 2011 study found that adolescents who were regularly paddled over a three-year period had less gray matter in areas of the brain that are linked to problem-solving, addiction, and impulse control.⁶¹

This results in a cyclic pattern, where corporal punishment predicts more challenging behavior in the future and puts children at greater risk for subsequent corporal punishment.⁶² Studies of corporal punishment also indicate the harmful impact on children's mental health, including⁶³ increased rates of depression, anxiety, post-traumatic stress disorder, aggression, and problematic behavior.⁶⁴

Researchers have found that children who have been subjected to hitting, paddling, or other physical disciplinary practices withdraw from school activities and disengage academically. One study examined the

association between corporal punishment and state education outcomes and found that children in states that allow corporal punishment do worse academically than those children in states where corporal punishment is not allowed.⁵⁸ From 1994 to 2008, whereas most states demonstrated improvements in their ACT scores, schools that experienced the least improvement were in states that used corporal punishment the most. The 10 states with the longest histories of banning corporal punishment demonstrated improvements in their scores with rates three times higher than those states that reported frequent use of corporal punishment.⁶⁵ It is likely that corporal punishment is not the causal mechanism driving differences in test scores, but rather a variable that contributes to and compounds an overall culture of inequity and lack of resources in certain states, primarily in the South.

Evidence indicates that it is easy for corporal punishment to escalate to serious injuries. The Society for Adolescent Medicine estimates between 10,000 and 20,000 students require medical attention for injuries such as bruises, hematomas, nerve and muscle damage, cuts, and broken bones as a result of school corporal punishment each year.⁶⁶

Research has found that corporal punishment is not effective at increasing compliance in the short term⁶⁷ or at promoting long-term compliance and moral behavior.⁶⁸ States that have banned corporal punishment from their schools have not seen a subsequent increase in juvenile crime over time.⁶⁹ **No evidence exists to show that removing corporal punishment creates a permissive environment where challenging behavior increases in schools.**

No evidence exists to show that removing corporal punishment creates a permissive environment where challenging behavior increases in schools.



RESTRAINT AND SECLUSION

Restraint and seclusion were not designed for disciplinary purposes; rather, they were developed as emergency measures to mitigate physical harm.⁷⁰ Unfortunately, in many instances, staff misuse restraint and seclusion to punish children, even when there is not a safety threat.

Children are more likely to be subjected to restraint and seclusion than adults, and they are more vulnerable to significant resulting harm.³³ **A 2009 GAO report found hundreds of allegations of restraint and seclusion abuses that resulted in death or severe physical and psychological injury. All children outlined in the report had a disability, and they ranged in age, with the youngest case being a 4-year-old girl.** This 4-year-old girl, who was restrained to a wooden chair with leather straps to resemble an electric chair, was later diagnosed with post-traumatic stress disorder. The catalyst for the restraint was “uncooperative behavior.” In another case, a boy with a learning disability in elementary school was locked into a seclusion room 75 times over a 6-month period for multiple hours at a time. The reasons cited for the seclusion included whistling, slouching, and hand waving.³³

The cases outlined in the GAO report highlight the harmful effects of seclusion and restraint abuses. Research indicates that the most common cause of death via restraint is asphyxiation. For seclusion, the most common causes of death include suicide by hanging and injuries sustained during restraint prior to seclusion.³³ Seclusion deaths are associated with failure of an adult to monitor children while in seclusion.⁷¹

Research finds that restraint and seclusion trigger feelings of humiliation, fear, loss of control, and anger, and they remove children from an environment where they are likely to learn self-management strategies. These practices can traumatize children, do not have a calming effect, and can decrease children’s ability to learn self-control. Children who are secluded or physically restrained may also suffer from depression, anxiety, and post-traumatic stress disorder. **Instead of improving a child’s behavior, seclusion and restraint typically cause an escalation in behavior in the moment⁷² and can evoke additional problem behavior in the future.⁷³ This is not surprising, particularly in**

young children, given that these practices can cause trauma, fear, and insecurity, which may manifest as challenging behavior. Further problematic is that restraint and seclusion can create resentment between the child and the adult, and in some cases irreparably damage the relationship.⁷⁴ This is particularly problematic given the critical role of the adult-child relationship in child development, wellness, and learning.

The causes of seclusion and restraint vary and depend on the intended goal. In instances where the goal is to mitigate a serious and immediate safety threat, the cause is typically a combination of behavior that is perceived as aggressive or out of control along with an adult’s inability to prevent or de-escalate the behavior.

In instances where the intended goal is to punish children for misbehavior, more systemic dysfunction is involved and likely includes a negative school climate, lack of training and support, misguided policies, and/or an uninformed understanding of child development and behavior management. Research finds that under-resourced programs are more likely to use restraint and seclusion as “basic behavior management strategies.”⁷⁵ Schools that use any restraint and seclusion are at higher risk for abusing the practice; for example, restraining or secluding a child for behaviors that do not cause a safety threat as “treatment” or using it as a “short cut” and neglecting to address the root causes of the child’s behavior.⁷⁶

Instead of improving a child’s behavior, seclusion and restraint typically cause an escalation in behavior in the moment and can evoke additional problem behavior in the future. This is not surprising, particularly in young children, given that these practices can cause trauma, fear, and insecurity, which may manifest as challenging behavior.

IMPLICIT BIAS IN HARSH DISCIPLINE

Racial, gender, and disability-based disparities exist to varying extents among all three forms of harsh discipline discussed here. Black children are the only group that faces disparities across all forms of harsh discipline and across all age groups.⁷⁷ A robust evidence base indicates that the higher rate of harsh discipline experienced by Black children is not the result of greater or more severe misbehavior.⁷⁸ A critical factor that contributes and must be addressed is the influence of implicit bias on the disproportionate discipline of Black children, and to a lesser extent other children of color and children with disabilities.

Implicit bias is an unconscious belief and stereotype that is triggered unknowingly and without intention.⁷⁹ These biases impact interactions, behaviors, and feelings toward others.⁸⁰ Research indicates that Black children are often the subjects of implicit bias. Studies have found that adults perceive Black children as 4.5 years older than their actual age;⁸¹ rate Black children as less innocent, and more culpable and aggressive than White children;⁸² more readily associate Black boys' faces, as young as age 5, with violence;⁸³ and rate Black girls as being less innocent and more adult-like than their White peers aged 5-14.⁸⁴ These biases appear to form in childhood. One study assessed the developmental trajectory of empathy and found that children as young as 7 years old rated Black children as "feeling less pain" than White children. Overall, these findings paint a picture of the dehumanization of Black children over time, where Black children are seen as bigger, older, more aggressive, less innocent, and even less able to feel pain.

Findings around implicit bias paint a picture of the dehumanization of Black children over time, where Black children are seen as bigger, older, more aggressive, less innocent, and even less able to feel pain.

Extensive research shows that these biases extend into the classroom and are related to the discipline gap.⁸⁵ Research on White teachers' attitudes toward and expectations of Black children was first conducted in 1973, nearly 20 years following the Supreme Court decision to desegregate schools. This study found that White teachers often ignored Black children, gave them little if any positive attention, and criticized them more than White children. Of note, gifted Black children were treated more harshly than all other children in this study.⁸⁶ Contemporary research has identified similar patterns. Teachers rate Black children lower in math skills compared to their White counterparts, despite no difference in their test scores or non-cognitive skills.⁸⁷ Other experimental research has found that when presented with identical behavioral records on paper, teachers are more likely to label children as troublemakers and recommend exclusionary discipline if the child is thought to be Black (e.g. has a stereotypical Black name) compared to children who are perceived to be White.⁸⁸

Very young children are not immune from being the subjects of bias. An important study found that when early childhood teachers were asked to watch a video and identify "when a challenging behavior was about to occur," teachers were more likely to direct their gaze at Black boys (assessed via eye-tracking technology),⁸⁹ even though there were no actual challenging behaviors displayed in the video. This may indicate that teachers expect challenging behavior from Black boys and as a result may spend more time scrutinizing their behavior, and less time scrutinizing other children, who may be just as likely to engage in the same behaviors. Bias plays a role in how adults perceive behavior and the discipline decisions that they make to address said behavior, starting in the youngest children and extending throughout the educational continuum.

These findings may be less surprising considering the increasing racial and ethnic mismatch between students and teachers in U.S. schools today. The number of students of color in the United States has steadily increased, with early childhood settings increasing at the fastest rate, whereas the number of teachers of color has decreased.⁹⁰ By 2024, it is projected that students of color will comprise 54% of the student population.⁹¹ In contrast, teachers of color comprise only 17% of the workforce today.⁹² Many White teachers enter the workforce with few, if any, consistent personal interactions with people of color. Researchers suggest that many White teachers may have developed negative, deficit-based, and ill-informed stereotypes of children of color and their families.⁹³ Of course, even when students and teachers share the same race or ethnicity, it cannot be assumed they share the

same culture, background, and principles⁹⁴ and it cannot be assumed that they do not have racial or gender-implicit biases. Indeed, research finds that both Black and White teachers show implicit biases that affect Black children, though it may present differently.⁹⁵

School climate and demographics also play a role in exclusionary discipline. Black and Latinx students are less likely to experience exclusionary discipline in schools with higher proportions of teachers of color.⁹⁶ In contrast, these students are more likely to experience exclusionary discipline in schools with higher numbers of Black and Latinx students. The seven highest suspending schools in the U.S. consist majority of Black student bodies.⁹⁷ One study found that schools with a majority Black student body suspended more than two-thirds of their students during a given year.⁹⁸ Some researchers have speculated that one phenomenon at play may be White teachers' fear of losing control in classrooms where the majority of students are Black and the use of suspension as a means of maintaining control.⁹⁹ Another important consideration is the role of empathy in discipline decisions. Research has found that empathy can improve teachers' understanding and support for children with challenging behaviors, but that "failures of empathy" are more likely in interactions between people of different groups (e.g., different racial/ethnic groups).¹⁰⁰ Historically, schools with majority Black or Latinx enrollment are considerably more under-resourced and more likely to have inexperienced teachers, fewer counselors, and more school resource officers.

Interventions and Approaches to Address Harsh Discipline

Most interventions used to address harsh discipline focus on improving school climate and discipline policies, improving teachers' skills to manage challenging behavior, and fostering children's social and emotional development.¹⁰¹ Research suggests that a focus on workplace conditions and teacher wellness may also reduce harsh discipline. Most approaches have been evaluated in relation to effects on exclusionary discipline, as opposed to corporal punishment, seclusion, and inappropriate restraint; however, some approaches to decrease exclusionary discipline should theoretically reduce other forms of harsh discipline. Very few interventions have explicitly and directly addressed disparities in harsh discipline; thus, there is a limited evidence base on effective approaches to close racial, gender, and disability gaps.

SOLUTIONS: TEACHER CHARACTERISTICS, WELLNESS, AND WORK CONDITIONS

Reforms that address teachers' working conditions, stress, and mental health may decrease the use of exclusionary discipline. These changes may include lowering child-to-adult ratios and group sizes, allowing for sufficient breaks and paid sick days, and ensuring access to mental health professionals—such as counselors, school psychologists, and social workers—who can work directly with children and families. The undercompensated state of the education workforce, in particular child care teachers, and the resulting stress cannot be overstated. Finally, although a racial and ethnic match between teachers and students is neither necessary nor adequate to address harsh discipline practices and reduce disparities, research shows that teachers paired with students from similar racial and ethnic backgrounds may make a difference. For example, research finds that teachers may be less likely to respond with empathy when a child of a different race to their own is exhibiting challenging behaviors.¹⁰² And as previously stated, children of color who attend schools with a greater number of teachers of color are less likely to be excluded than children in schools that employ fewer teachers of color.⁹³

SOLUTIONS: CULTURALLY RESPONSIVE PRACTICE

Culturally responsive practice (CRP) is not an intervention; rather, it is a pedagogy that gets to the heart of less tangible but critical teacher competencies, including dispositions, mindsets, and beliefs. Each of these facets are foundational to healthy teacher-child relationships and learning. This pedagogy is implemented at the individual, instructional, and institutional levels and affects the school climate for all children, especially for culturally, linguistically, and ethnically diverse children and families. In using a CRP framework, teachers teach to children's strengths and use cultural knowledge to support a positive learning environment.¹⁰³

One of the pillars of CRP is teacher mindsets, including attitudes and expectations.¹⁰⁴ Teachers' mindsets impact perceptions about students' potential, motivations, intentions, and behaviors, as well as their decisions about disciplinary actions. These decisions, in turn, affect the teacher-child relationship. Research shows that children's academic outcomes depend as much on teacher-child

Culturally responsive practice is a culturally supported, learner-centered context, where the strengths students bring to school are identified, nurtured, and used to promote student achievement.¹¹⁰

relationships as on instruction.¹⁰⁵ **Culturally responsive teachers are “warm-demanders.” They are supportive, personable, enthusiastic, understanding, and flexible, yet rigorous in expecting and demanding high-quality academic performance from both themselves and their students.** Through a process of self-reflection, culturally responsive teachers become aware of the effects of various forms of bias and build understanding about their students’ culture in order to strengthen their relationships with students and promote supportive learning environments.¹⁰⁶ Changing mindsets, attitudes, and beliefs are important precursors to creating more empathy, addressing implicit biases, and ultimately changing behavior and disciplinary decisions.

The CRP pedagogy was designed to be the foundation of, or incorporated into, teacher professional development and intervention. It has been incorporated as a critical component of the Pyramid Model and Positive Behavioral Interventions and Supports (PBIS) more broadly, as well as other models. Research finds that CRP shows promise in addressing racial disproportionality in disciplinary actions,¹⁰⁷ and that coupled with a PBIS framework can also reduce discipline disparities.¹⁰⁸ Several states that have incorporated CRP into their PBIS work have decreased disproportionality in exclusionary discipline.¹⁰⁹

SOLUTIONS: POSITIVE BEHAVIORAL INTERVENTIONS AND SUPPORTS

One framework with a robust and growing evidence base supporting its effectiveness in reducing harsh discipline is Positive Behavioral Interventions and Supports (PBIS).¹¹¹ Research shows that PBIS is effective at improving school climate and children’s social and emotional development.¹¹² Importantly, there is also evidence that PBIS reduces disparities in exclusionary

discipline. One study found that disparity rates decreased in schools implementing PBIS over a three-year period but grew each year in schools not implementing PBIS.¹¹³ More recent research shows that disproportionality in suspensions between Black and White children was 20% lower among schools implementing PBIS with fidelity than the national average.¹¹⁴ Elements of PBIS that may contribute to equity in school discipline include its focus on (a) implementing school systems that can be adapted to the values and needs of students, their families, and the community, (b) using an instructional approach to prevent and respond to unwanted behavior, and (c) assessing disaggregated data.¹¹⁵

Although PBIS shows evidence of reducing racial inequities in discipline, findings show that disparities remain.¹¹⁶ As a result, practitioners and researchers have begun to test equity-focused adaptations to the PBIS framework. Some examples of the work involved collaborating with families to improve congruence with local cultures and values,¹¹⁷ giving teachers strategies to make their behavior support systems more culturally responsive,¹¹⁸ and teaching educators specific strategies to replace biased responses with instructional ones.¹¹⁹

A particularly promising approach is the use of disaggregated discipline data to identify Vulnerable Decision Points, specific situations where educators’ implicit biases are most likely to influence their discipline decisions.¹²⁰ Once identified, teams can create specific action plans tailored to address vulnerabilities in decision points, change their systems, and improve equity.¹²¹

SOLUTIONS: THE PYRAMID MODEL

The PBIS framework has traditionally been implemented in K–12 settings but has been adapted for use in early childhood settings through the Pyramid Model for Supporting Social Emotional Competence in Infants and Young Children.¹²² The Pyramid Model uses coaches to support early childhood teachers, assistants, administrators, and other staff on a range of strategies to prevent challenging behaviors and support children’s social and emotional development. This multi-tiered model of support has a robust evidence base in supporting children’s social and emotional development and improving classroom quality.¹²³ Emerging evidence finds that program-wide implementation of the Pyramid Model may be effective in addressing disparities in discipline, though more work is warranted in this area.¹²⁴ The Pyramid Model currently operates in 29 states, though related resources are so widely disseminated that programs in every state are likely use them.

SOLUTIONS: EARLY CHILDHOOD MENTAL HEALTH CONSULTATION

Another approach with a growing evidence-base that is widely used in early learning settings is early childhood mental health consultation (ECMHC). This approach pairs early childhood mental health specialists with adults who work with young children, including teachers and administrators, to build their capacity to support children's social and emotional development. ECMHC may be implemented at several different levels, including the child, classroom, program, and systems levels. A cornerstone of this approach is an emphasis on strong relationships between the consultants and the adults who work with young children. It is theorized that with a strong alliance, consultants can help their clients to effectively address issues of culture, bias, and discipline.¹²⁵

Experimental research indicates that ECMHC is effective in reducing children's externalizing behaviors associated with exclusionary discipline.¹²⁶ One study found that teachers who had access to this approach expelled and suspended children at half the rate of teachers without access to such support.¹²⁶ Evaluations have found that programs using this approach have reduced rates of expulsion.¹²⁷ Emerging evidence finds that the ECMHC model may also be effective at reducing racial and ethnic disparities in exclusionary discipline, though more work in this area is warranted. A recent examination of Arizona's statewide ECMHC program found that implementation was effective at ameliorating gender and racial disparities in suspensions for young Black children.¹²⁸ Similar findings emerged in a related study, particularly when the consultants shared the same ethnic heritage as the teacher or when the consultant self-reported "expertise" in equity topics.¹²⁹ Though promising, these results depend on access to ECMHC. A recent review of access to this model found that White children were more likely to have access than children of color, thereby potentially increasing rather than decreasing disparities.¹³⁰

SOLUTION: OTHER CLASSROOM COACHING APPROACHES

Other smaller-scale models have an emerging base of support for reducing office referrals, which are associated with corporal punishment and exclusionary discipline in K–12 settings. For example, the Double Check Framework,

which uses educator trainings and coaching to improve culturally responsive practices in the classroom, has resulted in increased proactive behavior management and decreased disruptive behaviors and office referrals, with the largest reductions for Black students.¹³¹ Another model, My Teaching Partner, uses ongoing individualized coaching and feedback to address exclusionary discipline. A randomized control trial found that use of the model in a first case reduced and in a second case completely eliminated racial disparities in discipline referrals.¹³²

SOLUTIONS: APPROACHES THAT REDUCE RESTRAINT AND SECLUSION

A handful of intervention approaches have been effective in reducing the use of restraint and seclusion, though few have been implemented and tested in school or early childhood settings. One key approach is The Six Core Strategies.¹³³ This approach has been rigorously tested in mental health settings and meets the evidence threshold required by the Substance Abuse and Mental Health Services Administration (SAMHSA)'s National Registry of Evidence-Based Programs and Practices.¹³⁴ Researchers suggest that this approach likely generalizes to other settings, including schools.¹³⁵

A second approach to prevent and decrease restraint and seclusion is individualized crisis prevention plans that outline the challenging behavior, prevention measures, methods of de-escalation, and intervention approaches.¹³⁶ Importantly, these plans guide staff to effectively respond to challenging behavior and provide context for the child's behavior, such as history of trauma. The approach ensures that all staff have a basic understanding of child development and behavior, as well as how to prevent and de-escalate challenging behavior.

Although PBIS has primarily been used to reduce exclusionary discipline, there is promising evidence that points to its effectiveness in reducing the use of restraint and seclusion. One Texas school district found that restraints were reduced from 1,007 to 790 after two years of PBIS implementation.¹³⁷ An alternative school in the Northeast using PBIS was also able to significantly reduce its use of restraint and seclusion.¹³⁸ More research explicitly testing the effects of PBIS and similar models on restraint and seclusion is warranted.

RESEARCH TAKEAWAYS

The disparities in harsh discipline faced by Black children and children with disabilities are not new. They have been documented in the literature since research on the topic began over half a century ago. The effects of harsh discipline on young children's development, learning, and wellness are universally negative and can be severe and long-lasting. A variety of factors contribute to harsh discipline and disparities in discipline practices, including

implicit bias, school climate, demographics and resources, teacher wellness, skills, and support systems, policies, and implementation of policies. Existing approaches to address harsh discipline, most prominently PBIS (including the Pyramid Model) and early childhood mental health consultation, show promise in promoting children's social and emotional development, building teachers' skills, and improving school climate. Existing models to reduce seclusion and restraint have been tested in psychiatric facilities and health centers but must be modified and evaluated in education settings. The effectiveness of some of these models in closing racial disparities is promising but still emerging. All future research of these and other models targeted at decreasing harsh discipline must disaggregate data and examine effects on disparities, as opposed to solely child outcomes.

All future research of models targeted at decreasing harsh discipline must disaggregate data and examine effects on disparities, as opposed to solely looking at child outcomes, to understand if those models are truly effective.



HARSH DISCIPLINE AND ITS DISPROPORTIONATE APPLICATION IN LEARNING SETTINGS:

THE POLICY LANDSCAPE

EXCLUSIONARY DISCIPLINE

The exclusionary discipline policy landscape has swung back and forth like a pendulum over the decades. The 1990's and early 2000's saw an escalation of so-called zero tolerance policies. These policies, which were initially developed as a response to fears about school safety and school shootings, were narrowly focused on removing children from school for bringing weapons or making safety threats.

Before long, these policies escalated and expanded far beyond expelling children for bringing a weapon to school to being used to address a range of minor, non-threatening infractions like temper tantrums and dress code violations, as well as subjective infractions like defiance or disrespecting authority figures.¹³⁹ Minor behaviors that were previously handled at the classroom or administrative levels were increasingly referred to law enforcement and paralleled an increased presence of police in schools.¹⁴⁰ These outcomes contributed to ramping up the school-to-

prison pipeline.¹⁴¹ Children of color have suffered the most under these policies. Since the inception of zero tolerance, the number of children of color suspended and expelled has skyrocketed.¹⁴²

Unfortunately, very young children have not been immune to this climate. The trend of criminalizing developmentally typical behavior, such as a temper tantrum, has opened an earlier entry point into the school-to-prison pipeline. Today, the lingering effects of school climate partially created by zero tolerance policies can be seen on the news with children as young as 6 and 7 years old being handcuffed and arrested for having temper tantrums.¹⁴³ To make matters worse, an astounding 28 states and Washington, DC do not have a minimum age for criminal liability, which means it is legal to prosecute a 5-year-old in juvenile court. In States that do have a minimum age, the policy is barely better. South Carolina, for example, sets a minimum age of 6 years old. In another three states, the minimum age is 7 or 8 years old.¹⁴⁴ The strong linkage via policy between schools and the criminal justice system has been disproportionately devastating for children of color.

There are very few federal laws limiting harsh discipline, except for modest limits in IDEA — resulting in an extremely uneven policy landscape across and even within state lines.

In recent years, however, the exclusionary discipline policy landscape has evolved significantly, catalyzed by disturbing news reports, new data, awareness building, increased federal funding, and policy reforms spearheaded by the Obama administration, states and communities across the country. Dozens of pieces of legislation, regulation, and administrative action have been implemented at all levels of government. These policies have a range of effects, including disallowing or limiting exclusionary discipline, providing additional supports for professionals working with young children, and increasing accountability and data reporting requirements.

Federal Action on School Discipline

The year 2014 marked the start of a new wave of discipline reform in the United States. The first wave of CRDC preschool discipline data were released and highly publicized by President Obama and his cabinet secretaries. Later that year, President Obama launched the My Brother's Keeper Taskforce, aimed at closing opportunity gaps for boys and men of color. Among the Taskforce's key goals in early childhood was eliminating preschool expulsions and suspensions. Months into the initiative, the U.S. Department of Education (ED) and Department of Justice released [guidance](#) on school discipline, with recommendations to limit exclusionary discipline and attend to disparities and the potential disparate impact in such practices.¹⁴⁵ ED later released several [pieces of guidance](#) on effective interventions to positively address discipline.

In December of 2014, the U.S. Department of Health and Human Services (HHS) and ED released the first [policy statement](#) on exclusionary discipline in early childhood settings, recommending that states and early childhood programs establish policies to reduce and eventually eliminate exclusionary discipline.¹⁴⁶

In November of 2014, Congress reauthorized the Child Care and Development Block Grant with new language that required states to report to the federal government their policies on expulsion and suspension. This legislation also made social-emotional supports an explicit allowable use of federal dollars for the first time.¹⁴⁷

Key Recommendations in

HHS-ED Policy Statement

on Expulsion and Suspension

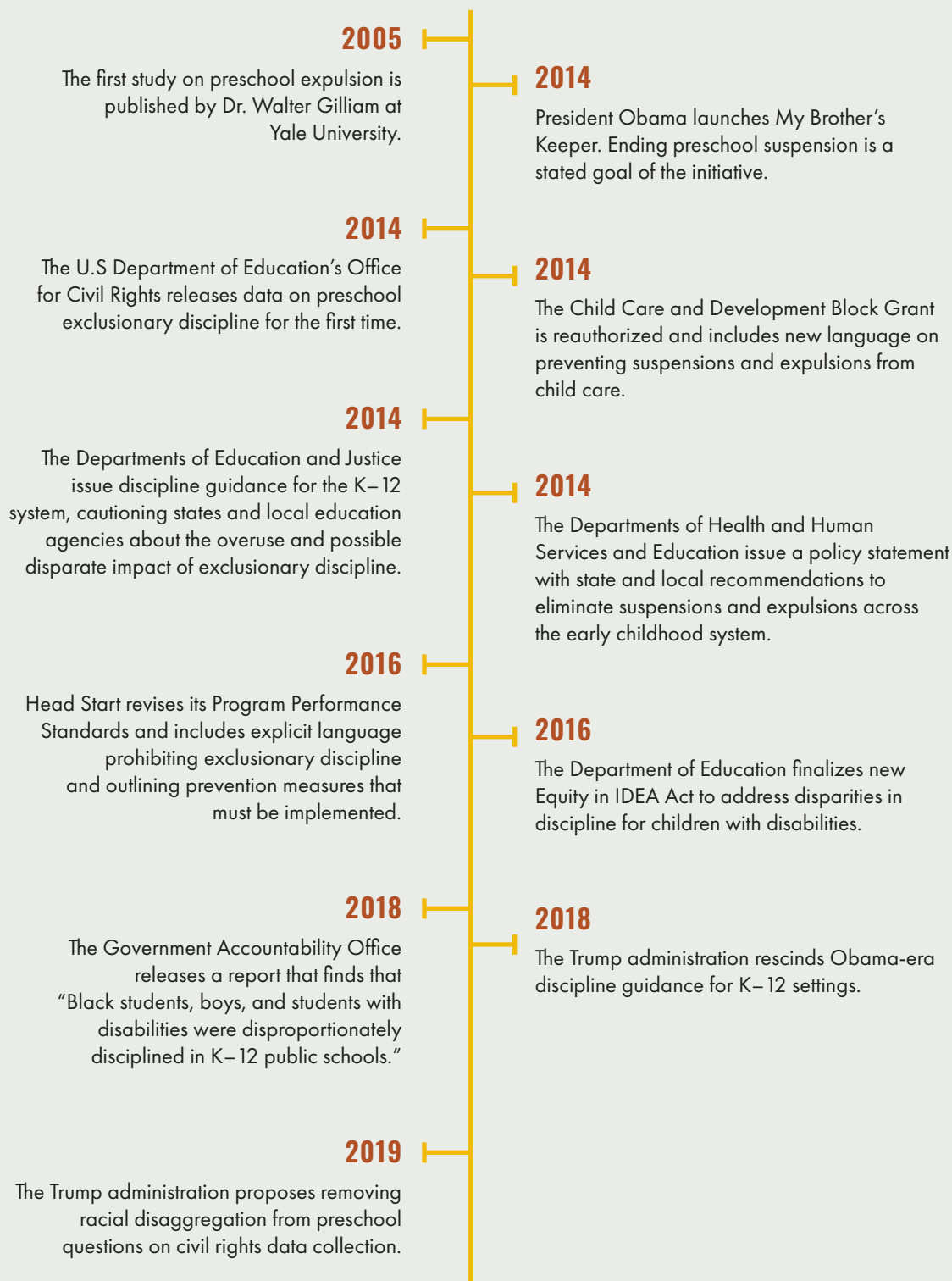
- ✓ Develop and clearly communicate expulsion and suspension policies that reduce and eventually eliminate exclusionary discipline in early childhood settings
- ✓ Set goals for improvement and analyze data to assess progress
- ✓ Invest in workforce preparation and development
- ✓ Establish and implement policies that improve overall program quality
- ✓ Access free resources to develop and scale best practices

Over the next two years, HHS issued several pieces of guidance to emphasize the detrimental effects of exclusionary discipline and the importance of attending to children's social and emotional development. In September of 2016, the agency finalized a child care regulation that further reiterated the requirement for states to report their exclusionary discipline policies for children in child care. That same month, HHS updated the Head Start Program Performance Standards for the first time since their inception. The new standards ban exclusionary discipline¹⁴⁸ and require that specific supports be provided for children with behavioral challenges.ⁱ At the end of 2016, the ED finalized a [new rule](#) under Part B of the Individuals with Disabilities Education Act (IDEA) to address pervasive disparities in the treatment of children of color with disabilities, including in identification, placement, and discipline decisions.

ⁱ Head Start programs must prohibit or severely limit the use of suspension due to a child's behavior. Such suspensions may only be temporary in nature and must be used as a last resort in extraordinary circumstances where there is a serious safety threat that cannot be reduced or eliminated by the provision of reasonable modifications. In addition, Head Start programs are encouraged to adopt practices set forth in the joint policy statement on suspension and expulsion in early childhood settings issued by the U.S. Department of Health and Human Services and the U.S. Department of Education (2016). Head Start programs cannot expel or unenroll a child because of their behavior.

Timeline of Research, Commentary, and Policy

Regarding Preschool Expulsions and Suspensions





Although federal recommendations influence local action, it is states, districts, and early childhood programs that have primary ownership over discipline policies.

These combined efforts added to modest protections already in place for children with disabilities through IDEA, which prohibits children with disabilities from being expelled or suspended if the behavior in question is related to their disability. If the behavior is not related to their disability, IDEA regulations require an Individualized Education Program (IEP) team to follow a series of steps to determine the length of the exclusion, future placement, and behavior plan moving forward.ⁱⁱ








With the change in presidential administration in January 2017, the federal policy pendulum swung again. The Trump administration rescinded the Obama-era discipline

guidance for K–12 settings and proposed significant rollbacks to the Civil Rights Data Collection. They also attempted to roll back the significant disproportionality regulation, though that action was later overturned by a court. President Trump’s budget called for a decrease in funding for civil rights enforcement. Although Congress responded to the President’s budget request with an increase, the Office for Civil Rights at the ED still experienced a 12% drop in full-time employees during the first two years of the administration. ED also stopped considering systemic issues and biases as part of investigating civil rights complaints. Given how recently these policy shifts happened, the effects on state and local policies and practices remain to be seen. It is important to note that many of the federal actions implemented by both the Obama and Trump Administrations have been guidance or recommendations and not requirements. Although federal recommendations influence local action, it is states, local districts, and early childhood programs that have ownership over discipline policies.

ⁱⁱ A child with a disability may be suspended for violating a code of student conduct for not more than 10 days. After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, the child must continue to receive educational services in the alternate setting. Removals less than 10 days only require continuation of services if they would be provided to a child without disabilities in a similar situation. If removal is a change in placement the IEP team determines appropriate services. A manifestation determination hearing must occur within 10 days of a removal to determine if the conduct in question was caused by, or had a direct and substantial relationship to, the child’s disability; or if the conduct in question was the direct result of the LEA’s failure to implement the IEP. If the conduct is determined to be a manifestation of the child’s disability, the IEP team must either: conduct a functional behavioral assessment and implement a behavioral intervention plan for the child; or if a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior and return child to original placement unless the parent and the LEA agree to a change of placement as part of the modification of the behavioral intervention plan. School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child’s disability for federal offenses or if the child has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA.

A wave of new state policies on harsh discipline have been implemented since 2014.

STATES THAT HAVE PASSED POLICIES THAT APPLY TO ALL PROGRAMS RECEIVING PUBLIC FUNDING:

-  Arkansas
-  California
-  Colorado
-  Georgia
-  Illinois
-  Oregon
-  Washington, DC

STATE SPOTLIGHT: ILLINOIS

The Illinois legislature passed legislation in 2017 that prohibits expulsion in early childhood programs, including licensed child care centers, family child care homes, group day care homes, school- and community-based programs receiving Early Childhood Block Grant funds, and licensed child care providers serving young children. Programs must also seek to provide professional development to teachers, administrators, school board members, school resource officers and staff members on the adverse consequences of exclusionary discipline and justice system involvement and on culturally responsive discipline and practices that promote healthy and positive school climates.

State Action on Harsh Discipline

Prompted by federal policy, new data, persistent advocates, and a heightened awareness of preschool exclusionary discipline, a wave of new state policies have been implemented since 2014. Nearly all states have taken administrative actions to curb exclusionary discipline in child care settings and more than half of all states have taken action in public Pre-K and the early grades.ⁱⁱⁱ

Most legislation exclusively offers protections for children in public school systems, whereas administrative action has primarily focused on the child care system. Notably, eight states (California, Illinois, Colorado, Arkansas, Georgia, Oregon, and Hawaii) and Washington, DC have

addressed both child care and public school settings. In general, these states have passed policies that apply to all programs receiving public funding or have had an existing policy in effect for part of their system and implemented a reform to align the remainder of their system.

In addition, a review of all state education agency websites revealed that 19 states have issued policy or position statements on the prevention of suspensions and expulsions, including Connecticut, Delaware, Florida, Indiana, Maine, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Jersey, New York, North Carolina, Oklahoma, Pennsylvania, South Carolina, South Dakota, Texas, and Virginia.

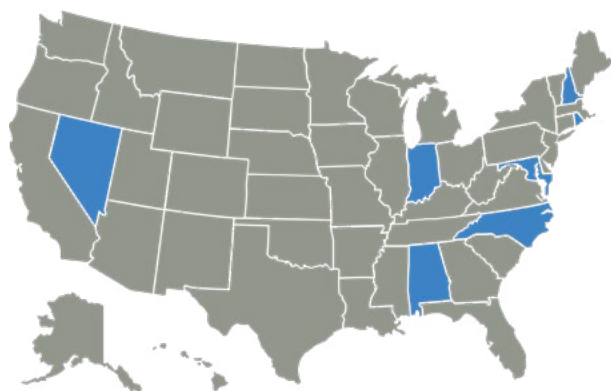
ⁱⁱⁱ State policies were compiled through manual searches of state websites and legislative search tools, such as legiscan, National Council of State Legislatures, and Education Commission of the States.

STATE EXECUTIVE ACTION IN CHILD CARE

A scan of states' Child Care and Development Fund (CCDF) plans for fiscal years 2019–2021 reveals that mechanisms leveraged for administrative action vary across state lines in the child care system.¹⁴⁹ Actions have included regulatory changes, modifications to quality rating and improvement systems, the incorporation of exclusionary discipline prohibitions into contracts that child care providers sign in order to accept CCDF payment, and increases in funding for social and emotional support. Key components of state policies are outlined below.

Exclusionary Discipline as the Last Resort

No state disallows the practice of exclusionary discipline in child care settings outright. Eight states indicate that child care programs should have policies that suggest expulsion only as a last resort or in cases where the child threatens their own or others' physical safety. Of those, seven states recommend that providers employ early intervention, consultants, and behavioral support specialists to address challenging behavior.



■ States that cite in their state plans that exclusionary practices should be used only as a last resort

Raising Awareness

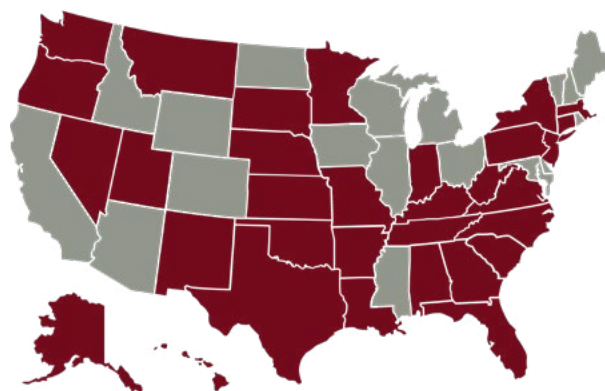
Three states—Missouri, Nevada, and South Carolina—have committed to raising awareness of exclusionary discipline and its negative effects to providers, families, and the general public.¹⁵⁰

Addressing Racial Disparities

Despite the consistently reported racial disparities in harsh discipline, only 11 states name equity issues in their state plans, and only three states propose actionable steps to address inequities. Wisconsin and Indiana offered implicit bias training to state officials, teachers, and providers to try and mitigate these disparities. West Virginia, in line with recommendations in the 2014 federal policy statement, inserted a clause in their plan prohibiting providers from including language that “suggest criminology”—such as “zero tolerance,” “probation plans” or “three strikes”—in their own policies.¹⁵¹

Professional Development

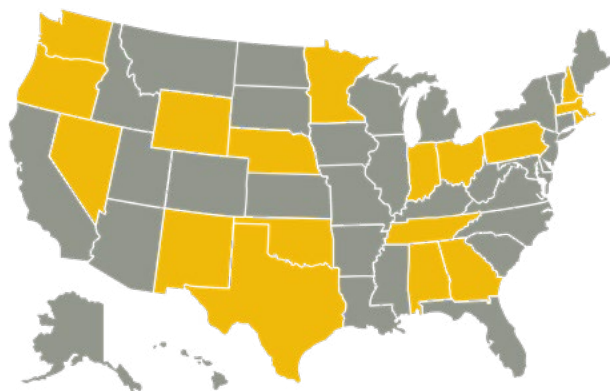
The most common component in state plans centered on professional development for child care providers. Thirty-three states explicitly mentioned supports for early educators to limit exclusionary discipline.



■ States that cite professional development and technical assistance opportunities to mitigate exclusionary discipline policies

Family Engagement

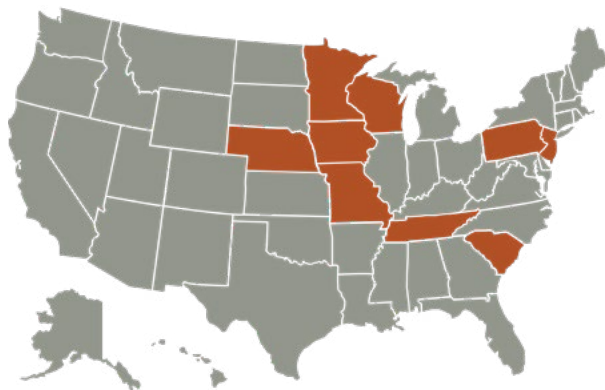
Nearly half of all states address family engagement in their policies, most of which specify that state and program expulsion policies must be shared with families upon enrollment in the program.



States that specify that state and program expulsion policies need to be shared with families upon enrollment in child care

Data

Ten states propose establishing data infrastructure to coordinate behavior management across providers and to monitor suspension and expulsion.



States that discuss establishing data infrastructure and/or data sharing for suspensions and expulsions in their state plans

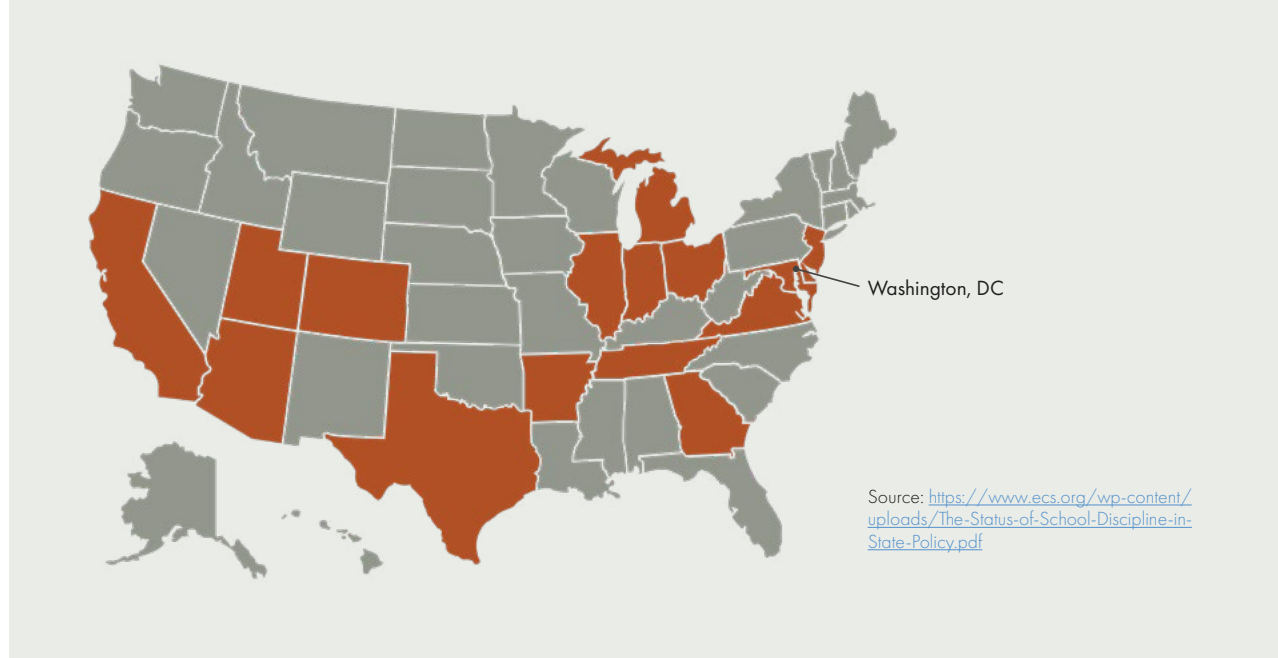
STATE SPOTLIGHT: ARKANSAS

Arkansas has taken a particularly comprehensive and innovative approach to reducing exclusionary discipline. The state added no-expulsion/suspension language to the contract that child care providers sign with the state in order to receive child care reimbursement through the CCDF. They also developed a statewide triage system of support to assist child care providers with addressing challenging behavior, doubled funding for early childhood mental health consultation, and methodically expanded access to supports by prioritizing child care programs that had a previous licensing infraction related to discipline. Prior to these executive actions, Arkansas revised their child care regulations, which included lowering teacher-child ratios and other improvements tied to lowering exclusionary discipline.



Enacted K–12 Legislation between 2017 and 2018:

Suspension, Expulsion, or Alternatives to Discipline



POLICY IN PRE-K–12 SETTINGS

State K–12 policies generally have some limits on exclusionary discipline. Most states limit the amount of time children can be excluded. Other limits tend to focus on minimum child age and types of infractions for which children can be excluded. According to the Education Commission of the States, approximately 16 states limit suspension and expulsion, with some exceptions, in the early grades.¹⁵² The most common exceptions include bringing drugs or weapons to school or posing a safety threat. Three of the 16 states and Washington, DC have extended their limits on exclusionary discipline to middle and high school children.

Twenty-nine states and Washington, DC prohibit exclusionary discipline for certain infractions, the most common of which is truancy. Notably, California recently banned suspension of children in grades Pre-K–8 for willful defiance or disruption, which are subjective offenses often cited as driving discipline disparities. Washington, DC, has also banned suspensions for Pre-K–8, with exceptions, and no longer allows suspensions of high school students for willful defiance.

Other policy efforts have focused on data reporting, monitoring requirements, and parameters around

district discipline plans. In some states, policymakers have outlined steps that teachers or administrators must complete prior to excluding a child. Although prevention is a key component of a good discipline policy, this approach in itself is insufficient. Unfortunately, in many cases these policies result in simply checking a box in order to exclude a child, as opposed to a good faith prevention effort. In such cases, the decision to exclude a child has all but been made, and the steps needed to execute the exclusion are bureaucratic as opposed to preventative. To our knowledge, no state has addressed the issue of “soft expulsions.”

An important and related stride that states have made in recent years is funding more mental health supports, particularly in K–12 settings. In 2019 alone, state legislators introduced 323 bills associated with children’s mental health and schools. Of those, 49 bills passed in 26 states.¹⁵³ This is due, at least in part, to the public dialogue concerning the steady stream of school shootings that have occurred in recent years. This increase in services will likely have a positive impact on school climate, children’s social and emotional development, and the use of exclusionary discipline; however, its effects on reducing disparities is less clear, especially in light of current disparities in access to mental health services.

INVESTMENTS FOR SUPPORTS PAIRED WITH POLICY

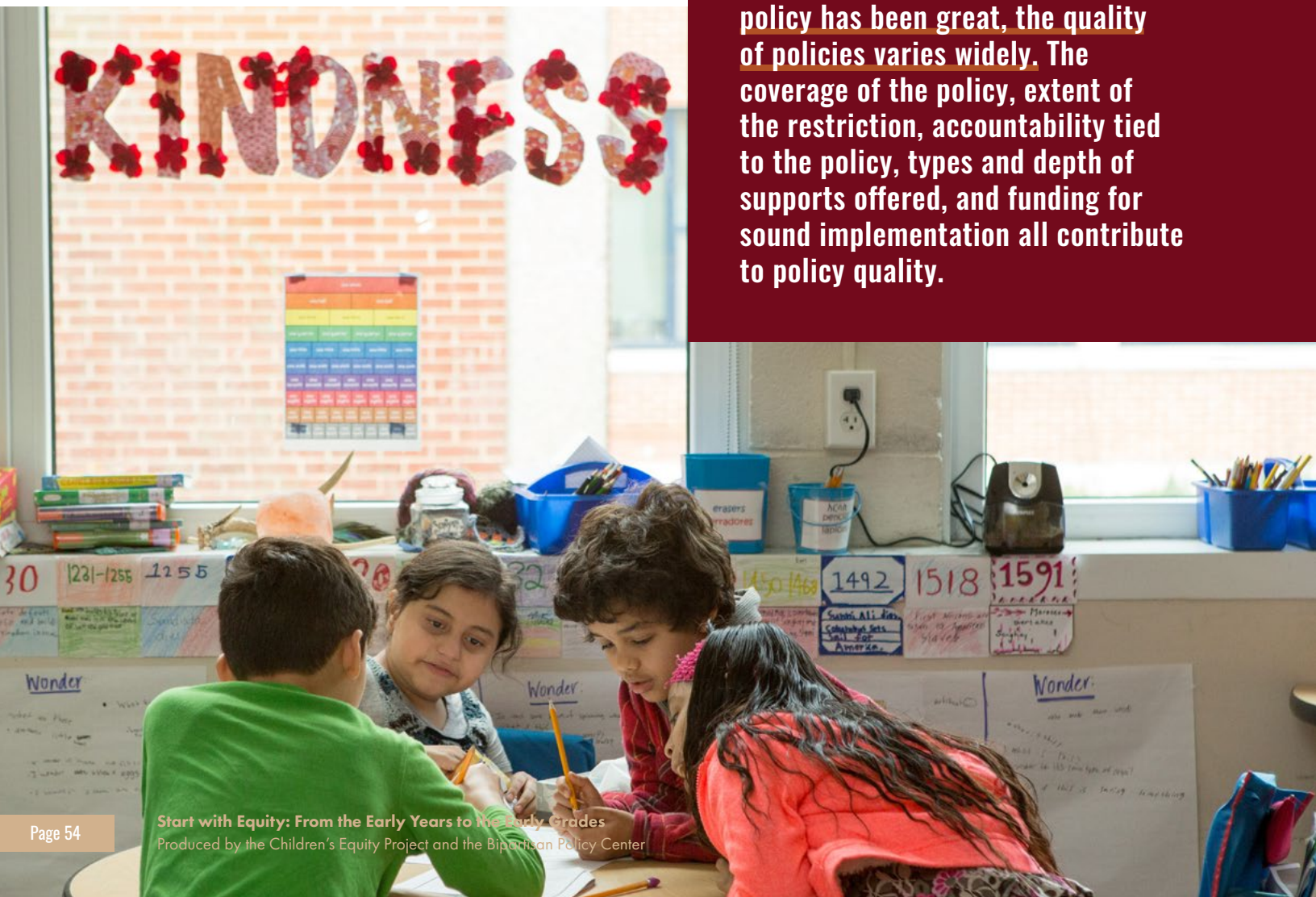
It is common for state policies to recommend alternatives to exclusionary discipline (e.g., professional development, social emotional supports), but it is uncommon for states to increase funding for such supports and implement policy reform.¹⁵⁴ Nonetheless, a limited number of states have made modest progress to this end. In 2019, Ohio more than tripled its early childhood mental health consultants and subsequently enacted the Supporting Alternatives for Education (SAFE) Act, which requires schools to implement positive behavior intervention support before excluding children in Pre-K through third grade, although exclusions are still permitted. Connecticut has the only universal ECMHC system in the country and passed accompanying legislation prohibiting exclusionary discipline in public Pre-K through second grade (with exceptions) in 2015.

Arkansas has implemented one of the most comprehensive reforms by modifying their child care state regulations to decrease child-to-adult ratios, doubling their ECMHC system and targeting new consultants to programs with

behavior licensing infractions, and developing a new triage and support system for child care providers. They also included a new policy that disallows exclusionary discipline in child care programs via the contract that child care providers sign with the state in order to accept reimbursement from CCDF.

Although these examples are promising, they are largely piecemeal. Some states have shown strength in prevention but lack accountability; others have invested in data systems but have neglected funding for mental health personnel. Few states have addressed the issue comprehensively and across systems, from the early years to the early grades. No state has implemented a comprehensive approach that addresses policy with accountability, funding for professional development and children's social-emotional development, data reporting and tracking, and structural reforms that address workplace conditions, ratios and group sizes.

Although the quantity of new policy has been great, the quality of policies varies widely. The coverage of the policy, extent of the restriction, accountability tied to the policy, types and depth of supports offered, and funding for sound implementation all contribute to policy quality.



CORPORAL PUNISHMENT

The use of corporal punishment is disallowed in prisons, the military, and juvenile correctional facilities.¹⁵⁵ Still, federal efforts to prohibit the practice in schools have failed. To date, there are no federal laws or regulations concerning school corporal punishment, other than those authorizing data collection of the practice via the federal CRDC. A 1977 U.S. Supreme Court decision ruled that corporal punishment is constitutional and that it does not violate the Eighth Amendment's protection against cruel and unusual punishment, nor students' right to due process under the Fourteenth Amendment. Individual cases have since appeared in lower courts; although many of these cases have been dismissed outright, others have resulted in small settlements to families.

Bills to prohibit corporal punishment from public schools have been introduced in the U.S. House of Representatives and Senate nearly a dozen times in the last two decades but have never come up for a vote. Most recently in January of 2019, the Ending Corporal Punishment in Schools Act was re-introduced and referred to the Education and the Workforce Committee, but no additional movement occurred. **As a result, corporal punishment is legal in 19 states. Notably, individual school superintendents can decide not to use corporal punishment in states where it is still legal.**

There has been some policy movement on the issue at the state level over the past several years. Lawmakers in both Tennessee and Louisiana passed legislation banning corporal punishment among students with disabilities. New Mexico passed legislation prohibiting corporal punishment statewide for all children in 2011. Other states, including Oklahoma and Georgia, have attempted to limit the use of corporal punishment by suggesting that it not be used as the "first line of punishment" and by providing educator trainings to address challenging behavior that would prevent corporal punishment. Prohibitions and limitations have been attempted this past year in other states, including Colorado and Kentucky, but have failed.

Four states recognize the right for parents to have input or at least to be kept informed about the discipline of their children. In Texas, parents can "opt out" of their children receiving corporal punishment.

To prevent school personnel from being charged with abuse, some states—including Mississippi, Wyoming, and Missouri—exempt school personnel from liability under state child abuse laws. This exclusion means that teachers are permitted to physically harm children in a way that could otherwise be considered child abuse if inflicted by a parent.

Corporal punishment is legal in public school settings in 19 states. It is legal in private school settings in all but two states: New Jersey and Iowa.



STATE SPOTLIGHT: GEORGIA

Corporal punishment is still legal in Georgia. However, the state has implemented a series of policies to decrease its use. For example, the state education agency formally recognizes schools with strong positive behavior intervention support implementation and those that show reductions in their use of exclusionary discipline. Schools must show zero incidents of corporal punishment to reach the highest level of recognition.

RESTRAINT AND SECLUSION

The policy landscape on the use of restraint and seclusion in schools also has a history of ebbing and flowing, the latter typically catalyzed by media stories highlighting death or injury from these practices. Over 20 years ago, a local Hartford newspaper conducted a national investigation about the use of restraint in psychiatric hospitals and group homes. The groundbreaking reporting found that 142 people, the vast majority people with disabilities and many of them children (the youngest was six years old), had died from restraint and seclusion while under care. The report prompted Congress to request the Government Accountability Office (GAO) to investigate the issue. The resulting GAO report confirmed and expanded on the disturbing findings.¹⁵⁶ This compelled HHS to launch an effort to eliminate restraint and seclusion in these settings and resulted in the agency committing millions of dollars to develop strategies to replace restraint and seclusion. The GAO report also influenced Congress to add legislative language in the Children's Health Act (2000) that requires HHS to regulate use of restraints and seclusions on residents of certain hospitals and health care facilities that receive federal funds, as well as on children placed in certain residential, non-medical, community-based facilities that receive funds under the Public Health Service Act.

A similar investigation was conducted in public and private school settings by the National Disability Rights Network in 2009. This investigation found 50 cases of restraint and seclusion abuse across 38 states. The findings, similar to those uncovered by the Hartford newspaper 10 years prior, caused public outrage and resulted in a GAO report that identified hundreds of cases of restraint and seclusion abuse over the last two decades in schools.¹⁵⁷ Then-Education Secretary Arne Duncan issued a letter to the Council of Chief State School Officers expressing his concern and affirming the agency's position that restraint and seclusion should not be used except when necessary to protect a child or others from imminent danger of serious physical harm.¹⁵⁸ Subsequently, the Education Department began collecting seclusion and restraint data through the CRDC.

In 2010, both houses of Congress drafted bipartisan legislation—the Keeping All Students Safe Act—that banned the use of mechanical and chemical restraints, as well as restraints that impeded breathing or otherwise compromised health and safety. The bills also required that states collect data and receive parental consent, staff training and certification, and develop their own policies. The bill was passed in the House but did not pass the Senate. A version of the bill has been reintroduced every year since 2009; a decade later, this legislation has still failed to pass the Senate floor. **IDEA, the federal law for special education, is silent on the issue, even though children with disabilities are significantly overrepresented in these practices.**

In early 2019, ED announced a new initiative to address the inappropriate use of restraint and seclusion on children with disabilities. The initiative, launched by the Office for Civil Rights in Partnership with the Office of Special Education and Rehabilitative Services, includes three components: (a) compliance reviews of schools' implementation of restraint and seclusion on children with disabilities, (b) support to schools on CRDC data reporting quality, and (c) support for schools on the appropriate use of interventions and supports to address the behavioral needs of students with disabilities.¹⁵⁹

Restraint and seclusion have also been disputed in court cases over the years. The 2009 GAO report examined 10 seclusion and restraint cases in which a criminal conviction, civil liability, or settlement was decided.¹⁶⁰ The cases all involved children with disabilities, many of whom were not physically aggressive and whose parents did not give consent. In half of the cases reviewed by GAO, the accused teachers and staff continued their employment as educators. **In one case, a 230-pound teacher placed a 129-pound child face down on the floor and laid on**

top of him for not staying in his seat, killing the child.

The death was ruled a homicide, but the jury did not indict the teacher. This teacher was still teaching at the time the GAO report was published.

With respect to state action, 30 states have policies addressing restraint and seclusion for all children and 39 states have similar policies for children with disabilities.¹⁶¹

Only two states ban seclusion outright, and five states ban it for children with disabilities. Nineteen states limit seclusion to instances involving a serious safety threat (for all children), and 24 states limit it for children with disabilities. Sixteen states allow for seclusion when there is no emergency or safety risk, either explicitly or via loopholes in policy. Nineteen states prohibit secluding children in locked rooms. Other states place various restrictions on how easily the door can be opened. Five states explicitly allow seclusion for threats of physical harm, destruction of property, or educational disruption. Notably, *educational disruption*, a subjective infraction, is the type of category that is most susceptible to bias and one where children of color are most overrepresented in discipline infractions.¹⁶²

With respect to restraint, 23 states have policies that allow restraints and seclusion in instances of immediate safety threats. Nineteen states have no limits on restraint of children, and 12 states have no limits for restraint of children with disabilities. States also have a variety of

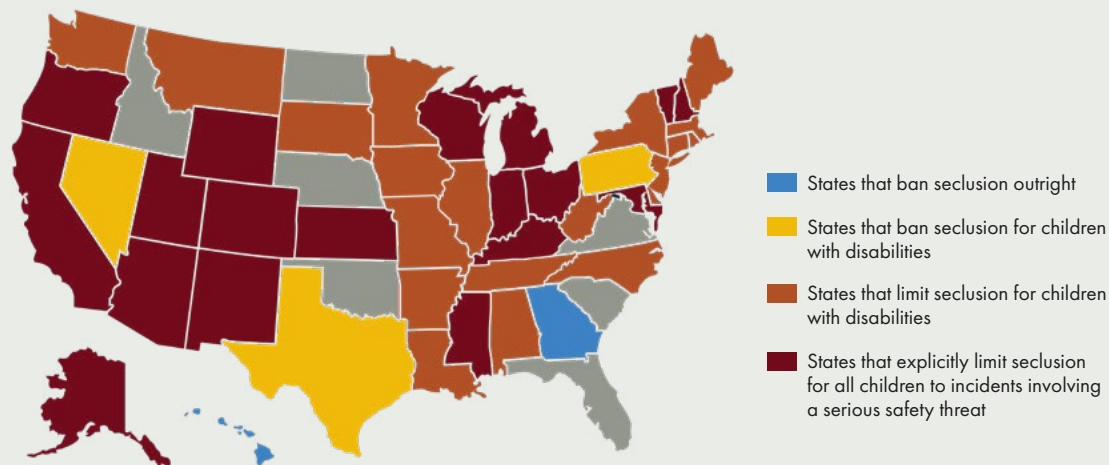
other policies on restraint and seclusion, including policies that address parental consent and notification procedures, data collection and reporting requirements, and various levels of monitoring and accountability.

Most recently, the Chicago Tribune and ProPublica investigated the use of seclusion in public schools in Illinois.¹⁶³ Journalists reviewed thousands of files documenting instances of seclusion for behaviors as miniscule as ripping a piece of paper or throwing a toy and as subjective as using a raised voice. The investigation documented stories of children screaming for their parents, crying for help, scratching the walls, wetting their pants, and even defecating and smearing it on the walls—all while adults watched and jotted down notes but did not intervene. Findings also showed that teachers and staff used seclusion out of frustration or for convenience, a break, or as punishment; they sometimes referred to it as “serving time.”

Less than 24 hours after the investigation was published, Governor Pritzker directed his Board of Education to pass emergency rules to restrict seclusion and signaled his plan to work with the legislature to codify the rules. The report also prompted a letter signed by U.S. Senators and House members to Trump’s Education Secretary Betsy DeVos, requesting that her agency provide guidance to states to eliminate seclusion and significantly limit the use of restraint.¹⁶⁴

Policies regarding restraint and seclusion

vary widely from state to state.



HARSH DISCIPLINE AND ITS DISPROPORTIONATE APPLICATION IN LEARNING SETTINGS:

TAKEAWAYS

Harsh discipline has a long history in U.S. schools and early childhood programs. Today, it happens early and often. Children of color, boys, and children with disabilities have consistently been the disproportionate targets of harsh discipline. These practices and their disproportionate application are fueled by implicit biases, misguided policies, and ineffective or missing accountability structures, inadequate teacher preparation and professional development, poor working conditions, and a lack of support for children's social and emotional development. They have been linked to several negative academic and social outcomes and have not produced any positive short- or long-term impacts on children. Over the last decade, there has been a significant wave of policy changes at every level of government to address

harsh discipline in schools. The quality of these policies has varied drastically, with varying types of limitations, levels of investment, and accountability measures. There is very little data available to evaluate the effectiveness of these policies. The recent uptick in high-profile school shootings caused the school discipline pendulum to swing, resulting in the familiar pitting of school safety against mental health. Some policy makers, including the highest education official in the nation, advocate for more police officers in schools and even arming teachers. With a new wave of civil rights protests against racial injustice, and renewed attention on the issue of police in schools, it is likely that the pendulum will swing again. Despite the consistency and clarity in the evidence pointing to the ineffectiveness of harsh discipline improving child behavior or school climate, the policy landscape will likely continue to be bogged down in politics, shifting with political rhetoric.

Despite consistent, clear evidence that harsh discipline is ineffective in improving child behavior or school climate, the policy landscape will likely continue to shift with political rhetoric.





PIVOTAL POLICY AREA 2:

SEGREGATED LEARNING

FOR YOUNG CHILDREN
WITH DISABILITIES

PIVOTAL POLICY AREA 2:

SEGREGATED LEARNING FOR YOUNG CHILDREN WITH DISABILITIES

At A Glance

- ✓ There is a robust evidence base and legal foundation supporting the inclusion of children with disabilities in general early learning and education settings.
- ✓ Despite this, the inclusion of young children with disabilities, especially preschoolers, has not substantially increased in decades.
- ✓ Although the vast majority of infants and toddlers receive their services in the natural environment, less than half of preschoolers with disabilities receive their special education services in general early childhood programs.
- ✓ Inclusion rates vary substantially across and within state lines.
- ✓ Children identified with certain disability types are less likely to be included in general early learning and education settings, including children with multiple disabilities, intellectual disability, and emotional disturbance.
- ✓ Cited barriers to inclusion are teacher and administrator attitudes and beliefs, lack of self-efficacy to teach children with disabilities, perceived policy or financial barriers, lack of workforce preparation, uncoordinated services and systems, lack of oversight and accountability, and lack of will to change the status quo.
- ✓ Monitoring and accountability of inclusion is lacking at the federal and state levels.
- ✓ Few states have engaged in meaningful structural reforms to increase inclusion.
- ✓ The expansion of public Pre-K has not resulted in an expansion of inclusive learning opportunities for children with disabilities. Public Pre-K continues to be an underutilized lever to expand inclusion for children with disabilities.

Authors

Evandra Catherine, PhD
*Arizona State University,
Children's Equity Project*

Shantel Meek, PhD
*Arizona State University,
Children's Equity Project
founder*

Mary Louise Hemmeter, PhD
Vanderbilt University

Richard Fabes, PhD
Arizona State University

Kelly Edyburn, PhD
*Arizona State University,
Children's Equity Project*

SEGREGATED LEARNING

FOR YOUNG CHILDREN WITH DISABILITIES

The inclusion of individuals with disabilities in all facets of society is a civil right. As such, the right to inclusion begins at birth and should be practiced fully in every system, starting with the early learning system. Young children with disabilities should have access to high-quality learning opportunities in early childhood programs^{iv} and schools alongside their peers without disabilities.

The legal foundation for inclusion is longstanding and robust. For over 45 years, the education of children with disabilities in the United States has been guaranteed under law. The goals of the law are clear: all eligible school-aged children with disabilities are guaranteed a free and appropriate public education in the least restrictive environment.

Today, the nation's civil rights law for the education of children and young adults with disabilities is the Individuals with Disabilities Education Act (IDEA). The Office of Special Education Programs within the U.S. Education Department is responsible for implementing IDEA at the federal level and ensuring that infants and toddlers with disabilities receive early intervention services in their natural environment. This law also ensures that children ages 3 through 21 receive a free and appropriate public education in the least restrictive environment.

Each child who receives services under IDEA has an individual family service plan or an individual education plan (IEP) developed by a team that includes parents, regular and special educators, related service providers, and others, such as advocates. The team determines where and how a child will receive services. Although IDEA requires that a continuum of placements be made available to all children with disabilities, the first option

“Inclusion in early childhood programs refers to including children with disabilities in early childhood programs, together with their peers without disabilities; holding high expectations and intentionally promoting participation in all learning and social activities, facilitated by individualized accommodations; and using evidence-based services and supports to foster their development (cognitive, language, communication, physical, behavioral, and social-emotional, friendships with peers, and sense of belonging. This applies to all young children with disabilities, from those with the mildest disabilities, to those with the most significant disabilities.”

Inclusion Policy Statement, U.S. Departments of Education and Health and Human Services

^{iv} Early childhood programs may include family or center-based child care, public or private preschool, Early Head Start or Head Start, or other community-based early care and education program.

considered should be the natural environment or the general early childhood or education setting, which is the learning environment the child would attend if he or she did not have a disability. Although this is the law, there is wide variability in practice and little accountability for placement decisions.

Despite robust science and policy, little progress has been made in increasing access to inclusive learning opportunities for children with disabilities, particularly in the preschool years. Although access to public Pre-K has rapidly accelerated across the country, in too many places children with disabilities have been left out and relegated to learn in segregated systems and settings. In this section, we will examine the data, research, and policy landscapes of the inclusion of children with disabilities in learning settings.

Despite robust science and policy, little progress has been made in increasing access to inclusive learning opportunities for children with disabilities.



SEGREGATED LEARNING FOR YOUNG CHILDREN WITH DISABILITIES:

THE DATA LANDSCAPE

Inclusion, as defined here, necessitates receiving early intervention or special education services within an early learning program or general education setting alongside children without disabilities. Thus, throughout this report and whenever children in inclusive settings are discussed, the reference is only to children who are enrolled in a general early learning program or education setting, with children without disabilities, and who receive their IDEA services within those settings. It is important to consider that for data collection purposes, the federal government defines a “regular early childhood program” as one that includes just under 50% children with disabilities.^v This means that children counted as receiving services in a “regular early childhood program” may be in special education programs where almost half of the children in the program have disabilities. Because of this, the number of children receiving services in truly inclusive settings is likely lower than what the data suggest.

Although half a century of research and many decades of federal policy have supported the inclusion of children with disabilities in regular early childhood programs, data indicate that inclusion efforts have increased at a very slow pace over the last several decades and stalled in recent years. From 1985-2015, the number of preschoolers with disabilities who received special education services in inclusive early learning settings increased by only 5.7%,¹⁶⁵ though it is important to note that data collection methodology changed over that time span. Nonetheless, today, over half of preschool children with disabilities still receive special education services in settings separate from their peers without disabilities.¹⁶⁶

IDEA requires that each state develop a state performance plan/annual performance report that evaluates the state’s efforts to implement the law’s requirements. The federal government uses data from these reports to make annual determinations of state implementation of IDEA. In 2014, ED implemented a revised accountability system known as Results-Driven Accountability, which shifts accountability efforts from a primary emphasis on compliance to a greater focus on improved results. Although the intent of the shift may have been to provide states with more flexibility in the processes they use to achieve outcomes and hold states accountable for those outcomes, one unintended consequence is that some critical indicators, such as the extent to which children receive services in the natural environment and least restrictive environment, are deprioritized or left out of determination decisions altogether. This influences the effort, resources, and monitoring that states and districts dedicate to inclusion.

Although half a century of research and many decades of policy have supported the inclusion of young children with disabilities in regular early childhood programs, inclusion efforts have been slow or have stalled altogether in recent years.

^v OSEP defines “regular early childhood program” as a program that includes a majority (at least 50%) of nondisabled children (i.e., children not on IEP’s). This category may include, but is not limited to: Head Start; kindergartens; preschool classes offered to an eligible Pre-Kindergarten population by the public school system; private kindergartens; preschools; and group child development center or child care. Data collection instructions can be found here: <https://www2.ed.gov/programs/osepidea/618-data-collection-documentation/data-documentation-files/part-b/child-count-and-educational-environment/idea-partb-childcountandedenvironment-2017-18.pdf>

IDEA PART C: INFANTS AND TODDLERS

Part C of IDEA is a federal grant program that assists states in implementing a comprehensive statewide early intervention program for infants and toddlers with disabilities. According to the most recently available IDEA data from the 2018-2019 school year, approximately 409,315 infants and toddlers received services under Part C.¹⁶⁷ Black and American Indian/Alaska Native infants and toddlers were slightly less likely to be served under Part C, while White infants and toddlers were more likely to be served than all other groups combined.¹⁶⁸

Part C requires that early intervention services be provided to the maximum extent possible in the natural environment—for example, in a child’s home or in a community-based setting like child care. Under the most recently available federal data, **the vast majority of infants and toddlers served under Part C received their early intervention services in the natural environment, with most children (90%) receiving services in the home and a smaller percentage (7%) receiving services in community-based settings.** There is little disproportionality across racial/ethnic groups in the location that children receive their services; although compared to other groups, a smaller percentage of American Indian/Alaska Native children receive their services in the home and a larger percentage receive their services in community-based settings.

Percent of Part C children served in the natural setting, by race/ethnicity

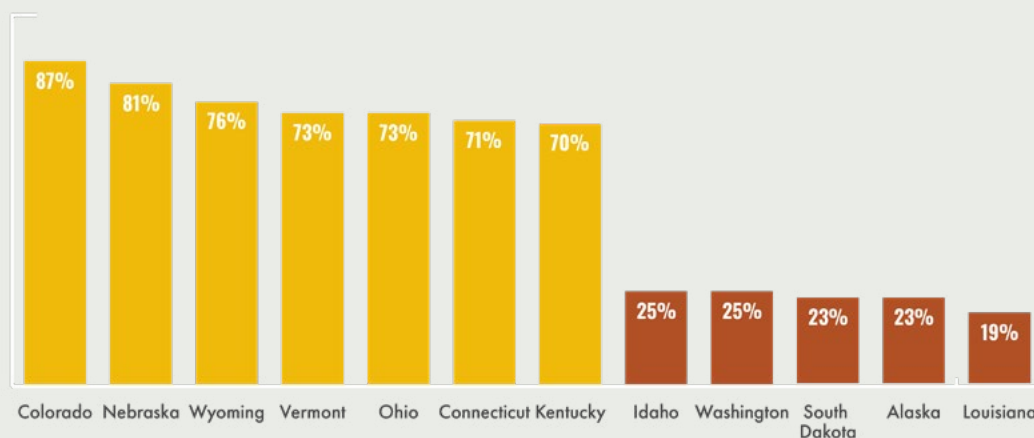
Race/ Ethnicity	% Served in the Home	% Served in Community-Based Settings
AI/AN	84%	14%
Black	87%	10%
Latinx	90%	7%
White	91%	7%

IDEA PART B SECTION 619: CHILDREN AGES 3–5

Section 619 of Part B of IDEA authorizes grants to states that make free and appropriate education available to all preschool-aged children with disabilities. According to IDEA data,¹⁶⁹ in the fall of 2018, 815,010 children ages 3-5 years received services under Part B, Section 619. **Of all eligible children ages 3- 5 years with disabilities, over half (53%) received the majority of their IDEA services in settings separate from their peers without disabilities.** There is considerable variation in placement practices across state lines; specifically, **there is a difference of 68 percentage points between the most and least inclusive states.**

Inclusion also appears to vary significantly across age categories. As data on Part B, Section 619 services include children ages 3-5 years, some proportion of 5-year-old children included in these data are kindergarteners (it is impossible to determine what percentage of 5-year-olds in the data are in kindergarten because up until 2020, OSEP did not disaggregate the data this way). Notwithstanding this challenge, examining the data by age group is critical to better understanding inclusion across the early learning and K–12 education systems. **Data from the 2018-2019 school year indicate that 53% of 5-year-olds received the majority of services in regular early childhood programs, compared to 44% of 4-year-olds and only 35% of 3-year-olds. These data indicate that the youngest children are most likely to receive services in more restrictive settings and the oldest children are most likely to receive services in inclusive settings.**

States provide services to preschool children in regular early childhood programs at widely varying rates.



Setting in which Part B, Section 619 services are received, by age

	Age 3	Age 4	Age 5
% of all children served	24%	35%	42%
% receiving services in home	4%	2%	1%
% receiving services in separate settings	61%	55%	46%
% receiving services in regular EC programs	35%	44%	53%

Percentages may not total 100% due to rounding

In terms of disparities in access by race/ethnicity, Latinx children are the least likely to be served under Part B, Section 619, while AI/AN and White children are most likely to be served. Data indicate modest differences by race/ethnicity with respect to placement where services are received.

Setting in which Part B, Section 619 services are received, by race/ethnicity

	AI/AN	Black	Latinx	Other races ^{vi}	White
% of all children served	1%	13%	27%	9%	51%
% receiving services in home	<1%	1%	2%	2%	2%
% receiving services in separate settings	46%	54%	52%	55%	52%
% receiving services in regular EC programs	52%	45%	46%	43%	46%

Percentages may not total 100% due to rounding

^{vi} Other races include Asian, Native Hawaiian or Other Pacific Islander, and Two or more races.

Again, disaggregating these data by state reveals substantial variability. In 13 states, the percentage of children of color, including AI/AN, Black, and Latinx children, receiving services in a regular early childhood program is lower relative to the state average. Idaho, Ohio, Mississippi, Virginia, and New York have the greatest discrepancies.^{vii}

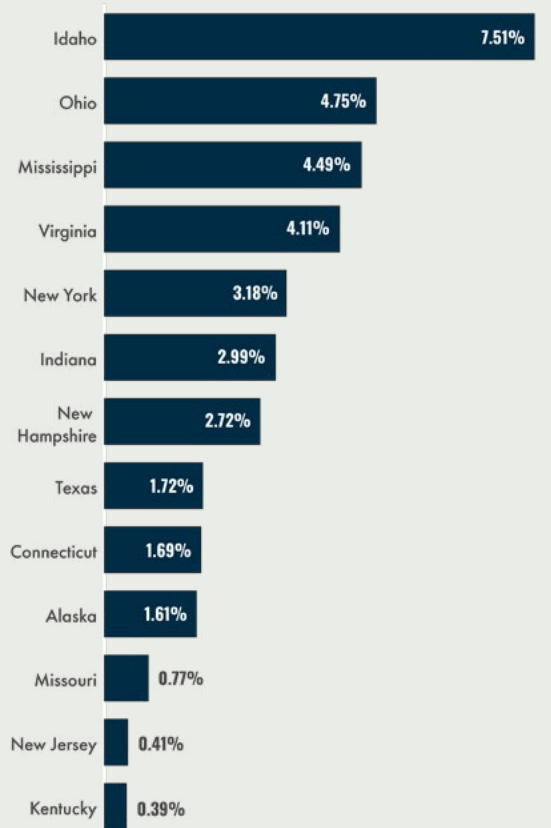
IDEA PART B SECTION 611: SCHOOL-AGED CHILDREN

According to IDEA data, 13% of all school-aged children ages 6-21 were eligible for Part B services.¹⁶⁹ Placement data for school-aged children is reported differently than for preschool-aged children. States report the percentage of the day that children spend in a general education classroom into three categories (i.e., 80% or more, 40-79%, or less than 40%). Nationally, almost two-thirds of K-12 children spend 80% or more of the day in regular classes and 13% spend less than 40% of the day in regular classes.

It is also critical to examine the intersection of race and disability category. Data indicate that Black children are at least twice as likely to be identified with an intellectual disability or emotional disturbance than all other racial/ethnic groups combined.

In 13 states, young children of color are included at rates lower than the state average.

STATES WITH DISPARITIES IN RATES OF INCLUSION FOR CHILDREN OF COLOR



vii Minnesota and Wisconsin did not report data disaggregated by race; Vermont's data were suppressed, that is not enough students were identified; and DC did not report AI/AN data.

As is the case for preschoolers, an analysis of state inclusion practices showed wide variation in the amount of time school-aged children with disabilities spent in regular classes. Although national-level data showed most school-aged children with disabilities spent most of the day in regular classes, children in Hawaii—the state with the lowest rate of inclusion—spent less than half their day in regular classes. By contrast, in Alabama—the state with the highest rate of inclusion based on this indicator—84% of children with disabilities spent most of the day in regular classes. These figures indicate wide variability between states but may obscure the substantial district- and school-level variability that is common within states.

Disparities by race/ethnicity, gender, and disability category also exist in school-aged children with disabilities. **Based on their representation in the general population, school-aged Black and American Indian/Alaska Native children are most likely, and White and Asian children least likely, to receive services—a notable departure from the early intervention and preschool special education systems. Black and Latinx children also have the lowest rates of spending 80% or more of the school day in regular classes.**

Boys are overrepresented in the population of children served by IDEA, comprising 65% of all school-aged children with disabilities. They are also heavily overrepresented across several disability categories, including emotional disturbance and ASD.

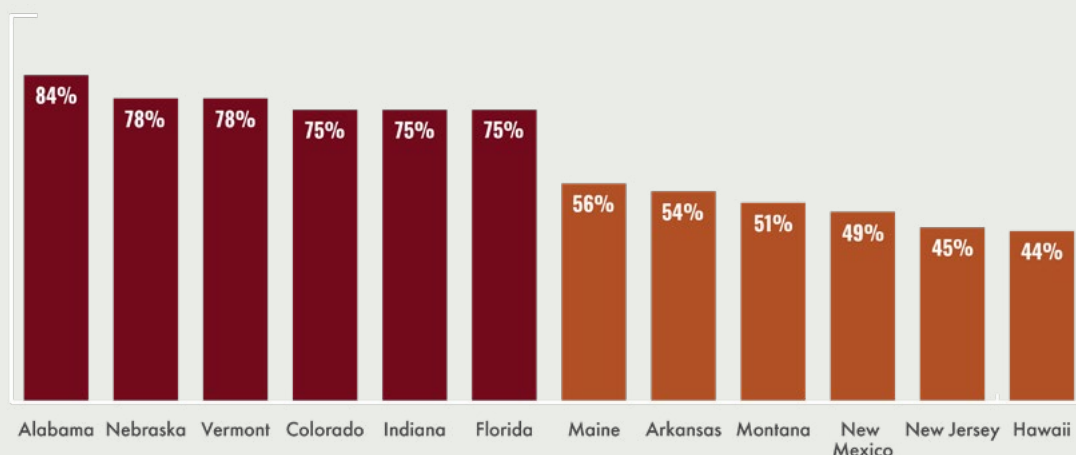
IDEA data also indicates that children identified with certain disabilities, particularly multiple disabilities, intellectual disability, and emotional disturbance are less likely to be served in inclusive settings. **Only 14% of children identified with multiple disabilities and 17% of children identified with an intellectual disability spend the majority of the day in regular classes, compared to about two thirds of all other children with disabilities.** Less than half of children identified with emotional disturbance, one-third of children with ASD, and just over one-quarter of children with deaf/blindness spend the majority of their day in a general education setting. Nearly half of children with an intellectual disability and children with multiple disabilities spend less than 40% of their day in general education settings, compared to 13% for the average of all children with disabilities.

Inclusion by Disability Category

Disability category	Spent 80% or more of day in general education classroom	Spent 40% or less of day in general education classroom
Speech or language impairment	87%	5%
Specific learning disability	73%	5%
Visual impairment	68%	8%
Other health impairment	67%	8%
Developmental delay	66%	14%
All disabilities	64%	13%
Hearing impairment	63%	10%
Orthopedic impairment	54%	21%
Traumatic brain injury	51%	20%
Emotional disturbance	49%	17%
Autism	33%	33%
Deaf-blindness	26%	36%
Intellectual disability	17%	49%
Multiple disabilities	14%	45%

It is also critical to examine the intersection of race and disability category in placement decisions. **Data indicate that Black children are at least twice as likely to be identified with intellectual disability or emotional disturbance than all other racial/ethnic groups combined.** Black children served under the intellectual disability and emotional disturbance categories combined make up half of all Black school-aged children with disabilities. As noted, these are two disability categories that are more likely to be served in restrictive settings and that have had very little, if any, improvement in inclusion over the past several years.

Rates of School-Aged Children with Disabilities in Regular Classes 80% or More of the Day



DATA TAKEAWAYS

Data indicate that access to early intervention and special education services, and receiving those services in inclusive settings, vary across state and district lines, age group, race, gender, and disability category.

White children are over-represented in early intervention and preschool special education services, and are under-represented in K–12 special education. The reverse is true for many children of color. Black children are less likely to receive early intervention and preschool special education services, but are more likely to receive special education in K–12 education. AI/AN children are also under represented in early intervention, and overrepresented in K–12 special education. Latinx children are proportionately represented across program types and ages. These trends may reflect the lag in diagnosis and disparities in access to early services that many children of color face, and conversely, the advantage that many White children have in accessing early supports at greater rates, potentially decreasing the need for such supports in the later years. It may also, in part, be a byproduct of children of color being diagnosed with more subjective diagnoses, such as emotional disturbance, that are assigned in later years. Both phenomena have been documented in research.¹⁷⁰

Data also show that the vast majority of infants and toddlers who receive early intervention services receive those services in the natural environment. Once children enter the preschool system, the percentage of children who receive services in the least restrictive environment lowers considerably. Of the children receiving preschool special education services, the youngest children (i.e., 3-year-olds) are the least likely to receive services in regular early learning programs. This is important because research finds that children who begin their education in segregated programs are more likely to stay in segregated programs as they progress through the K–12 years, a situation that compounds inequities over time.

In the K–12 system, Black and Latinx children are the least likely to spend the majority of the school day in a general education classroom. There are also disparities in inclusion

In the K–12 system, Black and Latinx children are the least likely to spend the majority of the school day in a general education classroom.

by disability type; children with multiple disabilities, intellectual disability, and emotional disturbance, among others categories, tend to spend less time in general education settings. Black children in particular are overrepresented in both intellectual disability and emotional disturbance, a representation that likely contributes to their spending less time in general education classrooms as a group.

Of note is the absence of a widely used measure of the quality of inclusive settings; the existing data simply rely on the amount of time in which a child receives services in a given setting. Further, OSEP's definition of a regular early

childhood program, which includes programs with up to 50% of children with disabilities, paired with the fact that kindergartners are included in Part B Section 619 data, suggest that the number of preschoolers served in inclusive settings may be overestimated. Therefore, it is likely that a substantially smaller percentage of children have access to high-quality inclusive learning experiences than data suggest.

It is likely that a substantially smaller percentage of children have access to high-quality inclusive learning experiences than data suggest.



SEGREGATED LEARNING FOR YOUNG CHILDREN WITH DISABILITIES:

THE RESEARCH LANDSCAPE

THE BENEFITS OF INCLUSION

Decades of research have consistently shown that high-quality inclusive classrooms are beneficial for children with and without disabilities.^{171, 172} Studies find that young children with disabilities in high-quality inclusive early childhood programs make larger gains in their cognitive, communication, and social-emotional development compared to their peers in segregated settings. The benefits of inclusion depend on children being included several days per week across social and learning experiences and simultaneously receiving individualized instructional strategies, alongside peers with and without disabilities.¹⁷³

Research on school-aged children shows similar benefits. More time spent in general education classes is associated with higher attendance rates and higher reading and math achievement.¹⁷⁴ Children in inclusive settings also show less reliance on adults and have more interactions with peers,¹⁷⁵ both of which are critical factors for learning.¹⁷⁶ These benefits are also observed among children with more severe disabilities. Studies have documented that children with severe disabilities in inclusive environments with differentiated and/or peer-mediated instruction have better social and communication outcomes and greater postsecondary success compared to their peers in segregated settings.¹⁷⁷ Parents of children with disabilities who move from segregated to inclusive settings cite that their children are more independent, participate more, and have greater access to inclusive settings in the larger community.¹⁷⁸

Importantly, high-quality inclusion that begins early and continues into the K–12 years produces the strongest outcomes for children with disabilities, with respect to peer interactions and social development.¹⁷⁹ Unfortunately, this finding is not reflected in policy. Data indicate that fewer than half of young children receive special education preschool services in regular early childhood programs; the youngest preschoolers at 3 years old are the least likely to receive services in inclusive settings.

BARRIERS TO INCLUSION

There are numerous cited barriers to fostering more inclusive environments for children with disabilities. One important barrier to consider, particularly for school-aged children, is the pattern in placements across disability categories. As reviewed, data indicate that children who are eligible for special education in certain disability categories, including intellectual disability and emotional disturbance, among others, are less likely to be included in general early learning and education settings. It is important to examine this issue in the context of race, as children of color are more likely to be categorized with disabilities that historically are granted fewer services in inclusive settings. Some scholars have posited that the overrepresentation of Black children in disability categories that are both: (a) more subjectively identified, and (b) more likely to be served in segregated settings, points to evolution in the practice of racial segregation that is hidden under the guise of disability.¹⁸⁰ Some experts have pointed out an important difference between the “incidence” of disability and the “documentation” of disability for children of color.¹⁸¹

Researchers have found that in some communities, segregated special education placements closely mirror historical redlining practices.¹⁸² Investigative reporters have found similar trends. A report published in *The New Yorker* recently examined this issue in the Georgia Network for Educational and Therapeutic Support (GNETS), a statewide system of schools for children with “emotional or behavioral challenges.” Beyond the neglect and abuse documented in these schools, reporters identified that some of these specialized schools were operating in the same buildings as Jim Crow-era schools and that the percentage of Black boys in the system was twice that of public schools in the state. Many of these children are identified with emotional disturbance. Nationally, data consistently indicate that Black children are overrepresented in the emotional disturbance category and have been for the past two decades.¹⁸³

Other systemic barriers to inclusion cited in the literature include ableism,¹⁸⁴ perceived policy or financial barriers, lack of workforce preparation and professional development, uncoordinated services and systems, and lack of commitment.¹⁸⁵ “Attitudes and beliefs” about children with disabilities and inclusion, undergirded by ableism, tend to be the most cited barriers by teachers

“Access refers to providing access to a wide range of learning opportunities, activities, settings, and environments; participation refers to individualized accommodations and supports that allow children and families to participate fully in play and learning activities with peers and adults; and supports refer to the infrastructure of systems-level supports that undergird the efforts of individuals and organizations.”

Division for Early Childhood, 2009

and systems leaders. Research finds that teachers’ beliefs are influenced by personal experience and the amount and quality of prior interaction with individuals with disabilities.¹⁸⁶ Negative beliefs have been associated with severity of disability to the extent that teachers have more favorable attitudes about inclusion of children with disabilities with perceived lower levels of need (e.g., speech and language) over those with perceived higher levels of need.¹⁸⁷ This research is in line with data that indicate that children with “significant disabilities” are the least likely to be included in general education and are most likely to receive services in self-contained special education classes, a trend that has not changed over the last decade.¹⁸⁸

One study that examined perceptions about inclusion found that Head Start and public Pre-K teachers shared positive beliefs about inclusion but did not feel comfortable implementing inclusion practices.¹⁸⁹ For example, 85% of Head Start and 70% of Pre-K teachers believed that young children with disabilities should receive services alongside their peers without disabilities, but reported discomfort with implementing individualized teaching strategies, including implementing IEPs, utilizing alternate forms of communication, and positioning young children with motor impairments. Only 7% of Head Start and 3% of Pre-K teachers held positive beliefs about their ability to implement inclusive strategies and adaptations.

Early childhood professionals also report several other related factors as urgent training needs, including: (a) addressing children’s behavioral issues, (b) teaching communication strategies, and (c) positioning children with motor impairments.¹⁹⁰ In a 2015 survey of early education and special education policy makers and practitioners, about 33% of respondents felt that attitudes and beliefs were the greatest challenges to inclusion, followed by fiscal and contracting policies and curricular differences.¹⁹¹ Importantly, ableism, which includes attitudes and beliefs held by education policy makers, administrators, and other decision makers, have been a primary barrier to implementing systemic inclusion reforms.

Ableism and other perceived barriers to inclusion manifest in a variety of ways. Families of children with disabilities report having fewer child care options, being turned away from care, and experiencing more instability in their child care arrangements than families of children without disabilities.¹⁹²

Coordination between systems also presents a notable challenge. There is little coordination between early intervention and child care at present, which results in

children receiving early intervention services separate and apart from, rather than in coordination with, their child care program. This lack of alignment may result in inappropriate or inadequate accommodations in the child care setting and represents a missed opportunity to optimize the time that children spend engaged in their learning and development goals. In the preschool system, there is often a similar lack of coordination between special education preschool programs and regular early learning programs, including child care, Head Start, and public preschool programs, though the extent of this varies across state and district lines. This gap may result in an IEP team not considering placement options in a child's community-based early childhood program, which—depending on the alternate setting—may run afoul of the requirement to provide a free and appropriate public education in the least restrictive environment. This is particularly important in states that do not have a robust public Pre-K system because slots for inclusive settings are primarily in child care settings and Head Start.












FEATURES OF HIGH-QUALITY INCLUSION

The defining features of high-quality inclusive early childhood programs (as defined by the Council of Exceptional Children's Division for Early Childhood (DEC) and the National Association for the Education of Young Children, and later affirmed by the U.S. HHS and ED in their 2015 policy statement) are access, participation, and supports. DEC also has a set of Recommended Practices that provide guidance to practitioners and families about the most effective ways to improve learning outcomes and promote the development of young children with disabilities.

A recent review of high-quality inclusive practices found that 12 practices, most of which are aligned with or overlap with DEC's practices, are essential for identifying high-quality early childhood inclusive environments.¹⁹³ Researchers suggest that these 12 practices are also essential for establishing quality environments for children with disabilities.¹⁹⁴

Recommended Practices Assessed

in the Inclusive Classroom Profile¹⁹⁵

-  **Practice 1:** Adaptations of space, materials, and equipment
-  **Practice 2:** Adult involvement in peer interactions
-  **Practice 3:** Adults' guidance of children's free-choice activities and play
-  **Practice 4:** Conflict resolution
-  **Practice 5:** Membership
-  **Practice 6:** Relationships between adults and children
-  **Practice 7:** Support for communication
-  **Practice 8:** Adaptations of group activities
-  **Practice 9:** Transitions between activities
-  **Practice 10:** Feedback
-  **Practice 11:** Family/professional partnerships
-  **Practice 12:** Monitoring children's learning

MEASURING INCLUSION

Global classroom quality assessments are a key component of continuous quality improvement and ongoing professional development. Unfortunately, quality assessment of inclusion is not common practice in learning settings in the U.S., although there are two existing tools that have been evaluated and are in use in some settings. The Inclusive Classroom Profile (ICP), modeled after the 12 aforementioned inclusive practices, is a classroom observation tool designed to assess the quality of supports that foster the developmental needs of children with disabilities in early learning settings.¹⁹⁶ A demonstration study of the ICP in over 50 inclusive settings found that the measure was feasible to implement and yielded valid and reliable outcomes. A second measurement tool, the SpecialLink Early Childhood Inclusion Quality Scale, is an inclusion quality assessment originally developed and evaluated in Canada.¹⁹⁷ The tool is a mandatory measure of the quality of inclusion in some Canadian provinces.

RESEARCH TAKEAWAYS

The literature base indicates that high-quality inclusion is beneficial for children with and without disabilities across a variety of developmental and academic domains. The benefits of inclusion are most pronounced when children start and continue their learning experiences in inclusive settings. Research has identified key components of inclusion that are critical for a child's success and center around meaningful inclusion across activities, individualized supports, and appropriate accommodations. Although not widely used, two measures have been developed to assess the quality of inclusion practices. Despite the robust evidence base, several barriers to inclusion have been cited in the literature, including the intersection between race, disability categories, and placement decisions. Other pervasive barriers include ableism, including misguided attitudes and beliefs, policy misperceptions on the parts of teachers and systems leaders, as well as a lack of coordination between early childhood and IDEA services.

Despite the robust evidence base, several barriers to inclusion have been cited in the literature, including the intersection between race, disability categories, and placement decisions.



SEGREGATED LEARNING FOR YOUNG CHILDREN WITH DISABILITIES: THE POLICY LANDSCAPE

FEDERAL POLICY

Federal law has mandated free and appropriate public education in the least restrictive environment for children with disabilities for over four decades. IDEA presumes that the first placement option considered for each child with a disability is the regular classroom they would attend if they did not have a disability. In recent years, the federal government has taken multiple actions reaffirming its commitment to the inclusion of children with disabilities via regulation, policy statements, and “dear colleague” letters, as well as through federal programs and funding streams such as Head Start, the Child Care and Development Block Grant (CCDBG), and the Preschool Development Grants (PDG).

In 2015, the U.S. Department of Education (ED) and Health and Human Services (HHS) released the first joint policy statement on inclusion of children with disabilities in early childhood programs. The policy statement reviewed the legal, policy, and research foundations of inclusion, and provided a set of recommendations for states and local communities to expand access to inclusive opportunities for children with disabilities.¹⁹⁸ Later that year, ED issued guidance that clarified the definition of “general education curriculum” for children with disabilities, emphasizing that the IEP is intended to support access to the general education curriculum rather than to create an alternate curriculum. The following year, ED issued another dear colleague letter highlighting that least restrictive environment requirements in IDEA are applicable to preschool children with disabilities.

Building on these actions, two federally-funded technical assistance centers—the Early Childhood Technical Assistance Center and the National Center for Pyramid Model Innovations—launched a workgroup of experts to

State Recommendations in ED-HHS

Inclusion Policy Statement

- ✓ Create a state-level interagency taskforce and plan for inclusion
- ✓ Ensure state policies support high-quality inclusion
- ✓ Set goals and track data
- ✓ Review and modify resource allocations
- ✓ Ensure quality rating frameworks are inclusive
- ✓ Strengthen accountability and build incentive structures
- ✓ Build a coordinated early childhood professional development system
- ✓ Implement statewide supports for children’s social-emotional and behavioral health
- ✓ Raise public awareness

develop indicators of high-quality inclusion that address inclusive policies and practices at the state, community, and classroom levels. The National Early Childhood Inclusion Indicators are currently being piloted in states across the country and may signify an important step toward bridging

the gap between policy and implementation.

The Obama Education Department also released [guidance](#) in response to the overrepresentation of children with disabilities who experience exclusionary discipline practices. ED clarified that states and districts must provide children with disabilities appropriate behavioral supports in order to comply with providing a free and appropriate public education in the least restrictive environment. The letter described alternatives to exclusionary discipline, including systems of tiered behavior supports, and warned that a failure to offer such supports could result in inappropriately restrictive placements.

In 2016, ED published the [Equity in IDEA Act](#), prompted by data that indicate certain categories of children with disabilities are over-identified for special education services and that this over-identification leads to placement in inappropriately restrictive environments.¹⁹⁹ Shortly before the rule was set to take place, the Trump administration delayed its implementation, which prompted a lawsuit that the federal government ultimately lost in 2019. The rule is now in effect. Since its publication, six states (DE, IO, LA, MI, NJ, and RI) have updated their monitoring protocol to include language from the regulation. Three other states (CA, GA, and IL) have published state guidance.

Funding

Federal IDEA funding incrementally increased each year from the program's inception through the most recent reauthorization in 2004. Part B appropriations rose an average of 18% annually in the years between the two most recent reauthorizations, i.e., 1997 and 2004.²⁰⁰ Since then, funding has generally stagnated. Per-child funding for Parts C and B Section 619 have decreased from their high points by 64%, adjusting for inflation. The lack of funding has prompted several states to narrow eligibility criteria and charge families for services.

The allocation of federal IDEA funds is determined by a formula. Originally, that formula was based on the number of children found eligible for special education services in the state. However, this formula was changed in 1997 over concerns about the over-identification of children with disabilities, particularly children of color. The funding formula has since changed but minimally; today, it considers the state's fiscal year 1999 base grant, overall population of children, and population of children living in poverty.²⁰¹

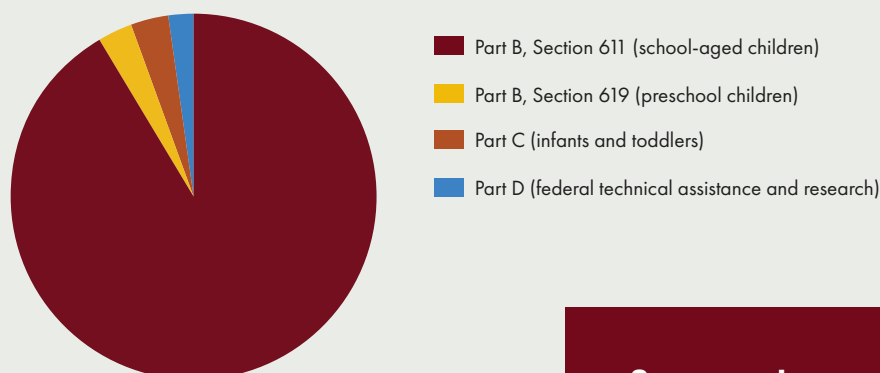
National Early Childhood

Inclusion Indicators

- ☒ Cross-sector leadership
- ☒ Policy/guidance
- ☒ Family engagement
- ☒ Accountability, data use, and continuous quality assurance systems
- ☒ Funding
- ☒ State early learning standards/guidelines
- ☒ Program standards
- ☒ Allocation of resources to support personnel
- ☒ Coordinator of professional development resources
- ☒ Early childhood personnel standards, credentialing, certification, and licensure requirements
- ☒ Pre-service education and personnel preparation
- ☒ Public awareness

The maximum federal share of funding determined by Congress is 40% of the national average per pupil expenditure. This 40% figure has come to be known as "full federal funding" for IDEA. **Congress has never met the goal of fully funding its share of IDEA. Today, Congress funds about 18% of what it costs to educate children with disabilities.**²⁰² In 2019, the U.S. House and the Senate introduced versions of the IDEA Full Funding Act. The same year, a bipartisan group of representatives also introduced the Funding Early Childhood is the Right IDEA Act, to restore funding to Parts C and B Section 619. To date, neither chamber has garnered enough support to pass either bill. This failure to even approach full funding exacerbates inequities for children with disabilities.

Breakdown: IDEA Funding Categories



Congress has never met its goal of fully funding its share of IDEA. Today, Congress funds about 18% of what it costs to educate children with disabilities.

Monitoring and Accountability

ED monitors states' performance on a variety of results and compliance indicators and makes determinations regarding whether states meet the requirements in the law. States that do not meet requirements are subject to specific technical assistance or enforcement actions. If a state is determined to need substantial intervention, ED is required to take immediate enforcement action, such as withholding funds or referring the matter to the Department's inspector general or to the Justice Department.

Least restrictive environment and the natural environment are two of the indicators states report for Parts C and B; however, the federal government does not consider those data in making state determinations of compliance. In addition, the government does not consider any preschool indicators at all when assessing state determinations, though OSEP has indicated that it is considering adding preschool indicators as determination factors in the next school year.²⁰³

Other Federal Early Childhood Programs and Funding Streams

Federal programs and funding streams outside of IDEA have also reinforced the importance of inclusion through policy and practice. For example, the Head Start Act

requires that at least 10% of program enrollment be children with disabilities. Head Start's long-standing practice and policy has been to fully include children with disabilities across all program activities. Implementation of the provision varies across grantees, with some grantees citing the inability to identify and recruit enough children with disabilities to meet that provision of the law.

With respect to the child care system, the Child Care and Development Block Grant requires that states prioritize services for children with very low incomes and children with special needs (which includes children with disabilities), and requires that HHS penalize states that fail to meet these priority service requirements. HHS can withhold 5% of the discretionary funds allotted for a state for any fiscal year if they fail to comply with the provision.

In 2019, 28 states prioritized enrollment for children with disabilities, including 26 states that paid higher rates to providers who cared for children with disabilities, 24 states that did not place children with disabilities on waitlists, six states that waived co-payments for families of children with disabilities, and 3 states that used grants to reserve slots for children with disabilities.²⁰¹ A recent analysis of child care state plans by Child Trends found that 30 states allocated funds to expand access to child care for vulnerable populations; however, only six states targeted

funds to expand access specifically for children with disabilities.²⁰⁴ Notwithstanding these policies, gaps remain in the meaningful inclusion of children with disabilities in child care. Families frequently report being turned away for care and poor coordination between Individual Family Service Plan and Individual Education Plan teams and child care programs.

A third and much smaller federal early learning funding stream is the Preschool Development Grants, which was originally designed and implemented in 2015 under the Obama administration. Under this initial version of the program, ED provided grants to states to expand access to high-quality preschool, as defined by a set of standards that covered inclusion of children with disabilities. In 2015,

the program was authorized, significantly modified, and renamed Preschool Development Grant Birth through Five program in the Every Student Succeeds Act (ESSA). Among major changes to the program was the removal of the quality indicators and a stronger emphasis on coordination across the early childhood system. Although these changes likely limit the development of additional slots in preschool, along with access to inclusive opportunities for children with disabilities, the focus on coordination can be an important funding mechanism to implement meaningful inclusion reforms across systems.

Notwithstanding various policy interventions, gaps remain in the meaningful inclusion of children with disabilities in child care.



CASE LAW

“When all is said and done, a student offered an educational program providing ‘merely more than de minimis’ progress from year to year can hardly be said to have been offered an education at all.”

CHIEF JUSTICE ROBERTS IN *ENDREW F. V. DOUGLAS COUNTY SCHOOL DISTRICT DECISION*¹⁹²

For decades, least restrictive environment has been debated in the courts. *PARC vs. Pennsylvania* (1972) and *Mills vs. Board of Education* (1972) pre-dated the first disability education law, but laid the groundwork for least restrictive environment. The first cases to challenge least restrictive environment emerged in the early 1980s.²⁰⁵ The decisions in those cases influenced the 1997 reauthorization of IDEA, which for the first time included 10 provisions to support inclusive education.²⁰⁶ Today, meaningful monitoring and accountability, in part, explain low-quality implementation and slow progress.

Most recently, the Supreme Court took up the issue of quality in the education of children with disabilities in the landmark *Endrew F. vs. Douglas County School District* (2017) case.²⁰⁷ The plaintiff in the case was a family of a child with a disability who had withdrawn their child from public school due to insufficient progress and enrolled the child in a private school, where he made greater gains. The family then sued the Colorado State Department of Education to recover the private school tuition. The central question surrounding this case was whether schools have the obligation to give children with disabilities a meaningful education that results in significant progress or whether a basic education—of no specific standard of quality—in which children make minimal progress is sufficient. The court unanimously agreed that it was the former: minimal progress is inadequate and children with disabilities have the right to a higher standard of education.

10 Provisions to Support Inclusion

in 1997 IDEA Reauthorization

- ✓ General education curriculum must maintain high expectations for all students
- ✓ Factors other than a child’s disability must be considered when determining least restrictive environment
- ✓ IEP team must include a general education teachers
- ✓ Any decision to exclude a student from general education must be justified
- ✓ General education curriculum must be treated as the norm for all students
- ✓ Performance goals must be established
- ✓ IDEA funds may be used to benefit all students
- ✓ Parents of children with disabilities are provided with enhanced rights
- ✓ IDEA funds are provided for personnel preparation of general educators
- ✓ Placement neutral funding to assure that state funding formulas do not encourage more restrictive placements

STATE POLICIES

In recent years, the early childhood system has seen important gestures across many states toward inclusion. A review of state education agency websites revealed that since the release of the 2015 HHS-ED inclusion policy statement, 27 states have developed state-level taskforces or policy statements with stated principles, primarily focused on preschool. Few states, however, have implemented significant reforms to increase inclusion, such as increasing investments targeted to inclusion, adjusting staffing structures and budgets to transition from segregated to inclusive learning settings, or monitoring LEAs or local programs on the least restrictive environment provision of IDEA.

Child Care

A review of state child care licensing standards indicates that 31 states have updated or revised their child care licensing standards in the past five years. However, only Georgia, Indiana, Iowa, and Tennessee have included language to support the inclusion of children with disabilities. These state licensing standards include requirements for providers to receive training on working with children with disabilities, coordination with families and IEP or IFSP teams, and provision of appropriate accommodations and specialized instruction.

Beyond licensing standards, states have also reported addressing the needs of children with disabilities by improving communication and coordination of services through interagency councils, improving communication and training with parents and families, expanding and enhancing professional development and training of the early learning workforce, and developing “help lines” to provide assistance to child care personnel.

It is clear that the public Pre-K system is not being used to its full potential to include children with disabilities.

With respect to Quality Rating and Improvement Systems, a review of 45 systems reveals that most states include some indicators associated with inclusion and supporting children with disabilities, although a sizeable minority—16 states—include no indicators on disability or inclusion. Of the 29 states that do, 13 include indicators associated with environmental and curricular accommodations for children with disabilities in regular early learning settings, six include indicators related to developing an inclusion plan for children with disabilities, five include indicators for training for child care personnel on inclusive practices in their system, and three include indicators for serving children with disabilities. No states included a comprehensive set of inclusion indicators—nor meaningful measurement of existing indicators—across levels to address all of the critical components of inclusion, including planning and policy, professional development, screening and referral, coordination with service providers and families, and instructional accommodation.²⁰⁸

State-Funded Pre-K

Though there has been an expansion in public Pre-K in recent years, there has not been a corresponding increase in inclusive Pre-K opportunities for children with disabilities. States with more robust public Pre-K systems should, in theory, have a higher percentage of children with disabilities receiving services in regular early learning settings, given the greater number of public slots. Conversely, we might expect that states with less overall Pre-K access would face challenges in providing access to inclusive public preschool to children with disabilities and that these states require more intentional partnering with Head Start and local child care programs. **Our independent analysis of 2017-18 IDEA Section 618 and NIEER data did not find this to be the case. Access to state public Pre-K for 4-year-olds was not significantly associated with the proportion of children with disabilities receiving services in inclusive settings.**

Some states, such as Vermont and New York, had very close alignment between the percent of 4-year-olds with access to public Pre-K and the percent of children with disabilities receiving services in inclusive settings. Other states with high access to public Pre-K, like Florida and Oklahoma, had much lower percentages of children with disabilities receiving services in regular early learning settings; these two states each showed a difference of over 40 percentage points between children with disabilities who have general access and children with disabilities

General Access to Public Pre-K and Access to Inclusive Settings Among 4-Year-Olds

State	% of 4-year-olds enrolled in state Pre-K	% of 4-year-olds with disabilities attending a regular early childhood program
District of Columbia	85%	49%
Florida	77%	32%
Vermont	76%	76%
Oklahoma	74%	31%
Wisconsin	68%	*
West Virginia	67%	37%
Iowa	65%	43%
Georgia	61%	35%
New York	51%	46%
Texas	49%	30%
South Carolina	46%	43%
Maine	42%	54%
Maryland	38%	58%
California	37%	35%
Kansas	36%	39%
Nebraska	33%	81%
Arkansas	32%	13%
Michigan	32%	26%
Louisiana	31%	26%
New Mexico	31%	46%
Connecticut	30%	68%
Massachusetts	30%	55%
Kentucky	29%	74%
Alabama	28%	57%
New Jersey	28%	46%
Illinois	27%	42%

State	% of 4-year-olds enrolled in state Pre-K ²⁰⁹	% of 4-year-olds with disabilities attending a regular early childhood program ²⁴
Colorado	23%	93%
North Carolina	23%	38%
Tennessee	22%	22%
Virginia	18%	34%
Pennsylvania	14%	63%
Oregon	12%	50%
Ohio	11%	71%
Minnesota	10%	*
Rhode Island	10%	44%
North Dakota	9%	23%
Washington	9%	22%
Delaware	5%	38%
Mississippi	5%	48%
Nevada	5%	28%
Arizona	4%	28%
Alaska	3%	17%
Hawaii	2%	22%
Missouri	2%	25%
Montana	2%	23%
Idaho	0%	17%
Indiana	0%	32%
New Hampshire	0%	57%
South Dakota	0%	24%
Utah	0%	38%
Wyoming	0%	62%

Available data suggests that only Vermont was in the top 10 of all states in both access to Pre-K and access to inclusive learning for preschoolers with disabilities. Alaska, Hawaii, Missouri, South Dakota, and Idaho were in the bottom 10 for both Pre-K access and access to inclusive learning for children with disabilities.

* No data available

who actually receive services in inclusive settings. Some states with relatively low access to public Pre-K, such as Colorado, Nebraska, and Kentucky, had higher numbers of children with disabilities receiving services in regular early learning settings. NIEER data for 2018-19 show little change from the previous year. There was only a 3% increase in enrollment of 4-year-olds from 2017-18 and from 2018-19. Consistent with the previous year's data, alignment between access and inclusion remains imbalanced.

It is clear that the public Pre-K system is not being used to its full potential to include children with disabilities. Part of the challenge is that rather than integrate children with disabilities into growing public Pre-K systems, states may create, grow, or perpetuate parallel programs for children with disabilities. This parallel track is often lower in quality and has limited access to the general curriculum.

It is also possible that the lack of association between access to public Pre-K and access to inclusive learning for children with disabilities is, in part, a data collection issue. For example, the overly broad definition of regular early childhood program in the federal data collection system may obscure true inclusion. More investigation of this phenomenon is warranted.

States with high access to public Pre-K, like Florida and Oklahoma, had much lower percentages of children with disabilities receiving services in regular early learning settings. These two states each showed a difference of over 40 percentage points between children with disabilities who have general access and children with disabilities who actually receive services in inclusive settings.

The K-12 System

States' efforts to enable greater inclusion of school-aged children with disabilities have also been minimal. Most state policy action has been within states' administrative codes, regulations, special education handbooks or standards. Frequently, the language on least restrictive environment and inclusion in state codes and handbooks simply reiterates IDEA requirements or includes generic language that is difficult to enforce. There appears to be very little accountability for states and local agencies on least restrictive environment, outside of individual legal action.

ESSA requires that states have detailed plans for intervening in low-performing schools and addressing the needs of academically low-performing subgroups, which often include children with disabilities, via technical assistance, professional development, and other supports. A recent analysis of ESSA implementation at the state level found that most states were failing to address the needs of students with disabilities.²¹⁰ The report identified that almost half of all states did not meaningfully support students with disabilities through their ESSA implementation, and almost all states (46) could do more to develop inclusive policies. Only 18 states had long-term goals for students with disabilities, and 33 states lacked a performance measure for children with disabilities. Half of all states did not include a description of how they align the goals of ESSA and IDEA.



SEGREGATED LEARNING FOR YOUNG CHILDREN WITH DISABILITIES:

TAKEAWAYS

Despite a robust body of research and a long history of legislation, litigation, and policy that affirms and reaffirms inclusion, the number of children receiving special education services in inclusive settings has not substantially increased in several decades. The data are particularly concerning for specific groups of children, including preschool children, children of color, and children in specific disability categories.

Research finds that children who start their educational trajectories in segregated settings are more likely to be placed in segregated settings when they transition into kindergarten, resulting in a trajectory of separation. This makes the preschool years particularly pivotal in a child's educational journey. Because of the importance of placement decisions made in these years, states must increase monitoring and accountability for placing children in segregated settings in preschool. Integrating children with disabilities in the general early education

system, as opposed to creating or perpetuating dated parallel systems of learning, is paramount to ensuring inclusion is considered as a first resort for every eligible child.

The severe underfunding of IDEA has also undoubtedly contributed to the lack of high-quality inclusive learning opportunities for children with disabilities. States and communities often perceive and cite segregated learning as a less costly policy than inclusion, although some research has found that this is not the case.²¹¹ Whether or not inclusive learning is more costly than segregated learning, restructuring and merging systems requires upfront costs. When funds are scarce, policy makers may be more resistant to necessary change. Further, although all children should have access to inclusive settings, the lack of appropriate and high-quality supports—primarily due to a lack of funding—often prevents children from being integrated into inclusive settings within the current system. Finally, although the federal government and most states uphold the importance of inclusion for children with disabilities, monitoring and accountability measures have been insufficient. What's more, the highly individualized nature of services for children with disabilities—which is a strength of IDEA—has inadvertently created a system in which it is difficult to monitor whether least restrictive environment requirements are being implemented as required under IDEA. Few states and communities have engaged in meaningful reforms by investing more funds, reallocating funds, restructuring systems and staffing structures, and meaningfully monitoring least restrictive environment and inclusion practices.

Integrating children with disabilities in the general early education system, as opposed to creating or perpetuating dated parallel systems of learning, is paramount to ensuring inclusion is considered as a first resort for every eligible child.



PIVOTAL POLICY AREA 3:

INEQUITABLE ACCESS

TO HIGH-QUALITY LEARNING
OPPORTUNITIES FOR DUAL
LANGUAGE AND ENGLISH LEARNERS

PIVOTAL POLICY AREA 3:

INEQUITABLE ACCESS TO HIGH-QUALITY LEARNING OPPORTUNITIES FOR DUAL LANGUAGE AND ENGLISH LEARNERS

At A Glance

- ✓ Dual language learners (DLLs) and English learners (ELs) are a large, diverse, and growing population in the United States.
- ✓ DLLs and ELs do better academically in dual language immersion or similar bilingual models and do worse in so called “English-only” models.
- ✓ Dual language immersion models foster bilingualism. Bilingualism has cognitive, social, academic, and economic benefits.
- ✓ Emerging data suggest that DLLs and ELs have less access to instructional models that support bilingualism.
- ✓ Individual child assessments appropriate for DLLs are largely lacking in most languages other than English, with a few exceptions in Spanish. Global classroom quality assessments to measure specific supports for DLLs in learning settings are not widely available or used. These deficits affect systems’ ability to track, appropriately support, and improve services for DLLs and ELs.
- ✓ Federal standards for DLLs and ELs vary. Head Start has the most stringent standards to support DLLs. The reauthorization of the federal education law in 2015 delegated to states much of the responsibility to support school-aged ELs.
- ✓ Federal funding specifically for ELs, Title III of the nation’s education law, has been stagnant for years, not accounting for inflation or the increase in the EL population. This has resulted in less funding today than in the past.
- ✓ State funding and policies to support DLLs and ELs vary greatly across the country.
- ✓ No state has a comprehensive, high-quality set of standards or supports sufficient to bridge inequities in opportunities and improve outcomes for DLLs and ELs.

Authors

Kelly Edyburn, PhD
*Arizona State University,
Children’s Equity Project*

Shantel Meek, PhD
*Arizona State University,
Children’s Equity Project*

Conor Williams, PhD
The Century Foundation

Eugene Garcia, PhD
Arizona State University

Ruby Takanishi, PhD
*The New America
Foundation Fellow*

**Oscar Jimenez-
Castellanos, PhD**
Trinity University

Ryan Pontier, PhD
*Florida International
University*

INEQUITABLE ACCESS

TO LEARNING OPPORTUNITIES FOR DUAL LANGUAGE AND ENGLISH LEARNERS

Dual language learners (DLLs) are children “who are learning two (or more) languages at the same time, or learning a second language while continuing to develop their first language [and] who come from homes where a language other than English is spoken.”²¹² This large, diverse, and growing population of children possesses a host of linguistic, cultural, social, and cognitive strengths that often go unacknowledged or untapped, and young DLLs in the U.S. continue to face persistent social and

academic inequities. The following analysis of the data, research base, and policy landscape related to DLLs and dual language learning illuminates those inequities, as well as potential paths for better supporting young, linguistically diverse children.

Dual language learners and English learners possess a host of linguistic, cultural, social, and cognitive strengths that often go unacknowledged or untapped.



INEQUITABLE ACCESS TO LEARNING OPPORTUNITIES FOR DUAL LANGUAGE AND ENGLISH LEARNERS: THE DATA LANDSCAPE

Researchers and analysts frequently note that DLLs are one of the fastest-growing student groups in U.S. schools.²¹³ Although this appears to be the case, more detailed information can be hard to find, as there is no comprehensive data collection effort that tracks DLLs in the U.S. or DLLs' access to and enrollment in early learning or education systems. This lack of data in the early years is, in part, a product of the lack of data gathered on young children prior to school entry. Even in places or within systems that do collect data on young children, DLLs' diverse language backgrounds are often overlooked. Nonetheless, the U.S. Census, individual states, and standalone programs (e.g., Head Start) collect data that researchers and policymakers often use as proxies. Informed by these measures, we can estimate that DLLs make up an increasingly large proportion of the population of young children in the United States. U.S. Census data and surveys of early childhood education programs conducted by the Migration Policy Institute estimate that the birth-through-age-8 population of DLLs is around 11 million, which is 32% of all children age 8 and under.²¹⁴

As DLLs enter the K–12 education system, schools formally classify some of them as English learners (EL).^{vii} The counts in these grades appear to be somewhat more systematic; however, their accuracy is difficult to determine, as both English proficiency benchmarks and EL classification procedures vary across states, and identification is particularly challenging in the early elementary grades. About 4.9 million students, or 9.6% of the total K–12 population, were classified as ELs in fall 2016.²¹⁵ Notably, ELs make up a greater share of the population in the early elementary years, as many children from homes where languages other than English are spoken are formally

exposed to English for the first time when they reach kindergarten. In 2016, over 16% of U.S. kindergarteners and first-graders were classified as ELs. As ELs progress through the elementary and middle school grades and reach English language proficiency, they are reclassified as proficient in English and exited from the “English learner” classification. Thus, their share of the student population decreases across grades. For instance, in 2016, just 5% of U.S. high school juniors and 4.1% of seniors were classified as ELs.²¹⁶

DLLs and ELs are diverse groups of children by almost every measure. Despite their diversity, about two thirds of them live in homes where Spanish is spoken.²¹² The next most commonly spoken languages include Chinese (3.3%), Tagalog (1.9%), Vietnamese (1.9%), and Arabic (1.9%).²¹¹ Many states have a different set of top 5 languages that are most commonly spoken in DLLs' homes,²⁰⁹ and in 13 states no single language is spoken by the majority of DLL/EL children.²¹⁷

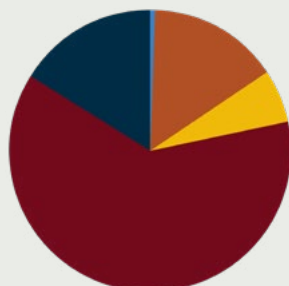
Of the DLL population age 8 and under, approximately 62% identify as Latinx, 16% as White/Other, 15% as Asian, 6% as Black, and 0.8% as American Indian.²⁰⁹ About 77% of children in the K–12 EL population identify as Latinx.¹⁵⁶ Countries of origin, generational status, and cultural identities of DLL and EL children and their families vary significantly.²¹⁸ It bears noting that while DLLs and ELs frequently come from families where at least one parent or grandparent is an immigrant, the overwhelming majority of these children are U.S. citizens.

DLLs also come from economically diverse families, although they are disproportionately more likely than non-DLLs to live in low-income families and have a parent who

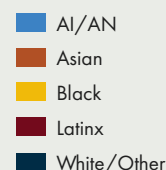
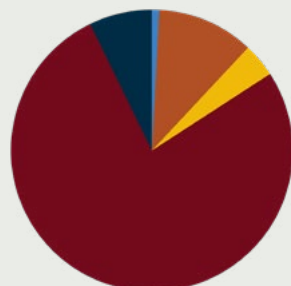
vii “English learner” (EL) is a label used by the U.S. Department of Education to describe children in K–12 schools who are in the process of learning and developing multiple languages and require additional supports to participate in school settings where English is the primary language of instruction (Every Student Succeeds Act, 2015).

Children of color, and especially Latinx children, make up an overwhelming majority of the DLL and EL population.

DLLS AGE 8 AND YOUNGER



ELS IN K-12



has less than a high school education.²⁰⁹ Nevertheless, parental educational attainment is relatively evenly distributed: about 26% of parents of DLLs have less than a high school education, 23% have a high school diploma, 23% have some college, and 30% have a bachelor's degree or higher.²⁰⁹ In terms of family structure, DLLs are more likely than children from monolingual English-speaking families to live in a two-parent household.²¹⁹ Latinx, Asian, and immigrant children, many of whom are DLLs, are also more likely to live in multigenerational households.²²⁰

Due to the lack of national early childhood education data on DLLs, there is no national figure representing the number of DLLs served under IDEA Part C (birth through age 2). Among children ages 3-5 served under IDEA Part B, Section 619, approximately 8% are identified as "limited English proficient".²²¹ An estimated 9% of children in the K-12 EL population have diagnosed disabilities.²²²

The number of young DLLs nationally is substantial but varies across states and early learning sectors. Currently available data indicate that DLLs make up about 23% of the preschool-age population nationally, though percentages vary drastically across state lines (e.g., 3% in West Virginia and 44% in California).²²³ Notably, fewer than half of all state Pre-K programs collect data on home language use, including some states that have large Latinx populations like Arizona, Florida, and New York. Of the 23 state Pre-K programs in 19 states that assess home

language use, 29% of children enrolled in a program are DLLs.²¹⁸ In Head Start programs, about 28% of all children enrolled nationally are DLLs and 22% are from families that speak primarily Spanish at home.²²⁴ Scarce data exist on DLLs in the child care sector, which is where a substantial proportion of children—including Latinx and DLL children—receive early learning services in the years prior to kindergarten.

To address the data gaps, the field needs a standardized method to identify and document the number of young DLLs in the general population and in the early childhood system. It is problematic that the field largely relies on Census data, which assesses the number of children who live in households with a person who speaks a language other than English, as a proxy count of DLLs. Although there may be overlap between these populations—children who speak a language other than English at home and children who are still developing their English and home language proficiencies in their early years at school—they are not perfectly overlapping groups. This conflation is especially concerning, given that children under age 5 and young Latinx children in particular, have been significantly undercounted in previous Census data.²²⁵ It is also critical to better understand within-group diversity at scale for this group, given the diversity of DLLs and the implications of that diversity for developmental and learning supports.²²⁶

Another major data gap in dual language learning is an understanding of the availability and access to dual language immersion (DLI) models for DLLs and ELs. These programs present academic content in two languages in classrooms with enrollment that is roughly balanced between native speakers of each of the instructional languages. DLI models are associated with improved developmental, linguistic, and academic outcomes for DLLs, ELs and their monolingual English-speaking peers, but emerging evidence suggests that DLLs and ELs may be underrepresented in DLI models.²²⁷

More comprehensive analysis of this challenge is difficult, given the field's significant data limitations. The Center for Applied Linguistics previously housed a registry of DLI programs across the country, though it lacked enrollment data and is no longer updated. Local data on access to DLI models are more available for school-aged children, though conducting aggregate data analyses presents significant challenges due to the local nature of the data. There are no national data on the number of children, including DLLs or ELs, in DLI programs and no enrollment numbers for high-quality DLI programs. Some school systems that have implemented DLI models have reported on the underrepresentation of ELs in their models. For example, Montgomery County Public Schools in Maryland reported disproportionate overrepresentation of White students and underrepresentation of students of

color and EL students in its elementary dual immersion programs.²²⁸ As DLI programs continue to expand, inequitable access to these programs, which are especially effective at fostering long-term academic success in DLLs and ELs, remains an ongoing concern.²²⁹

DATA TAKEAWAYS

In sum, the current data landscape reflects that DLLs are a diverse, young, and growing population. About two thirds of DLLs speak Spanish at home but there is a long list of languages spoken by DLLs in the United States. Based on the available data, several equity issues are evident. First, data collection on DLLs, particularly before they enter formal K–12 school systems, is incomplete. Some state preschool systems with large populations of DLLs do not count these students. Challenges with tracking ELs in school systems is also challenging, given the varying thresholds for exiting the EL categorization across state lines. Additionally, emerging data suggest that DLLs may face inequitable access to DLI programs relative to monolingual children, despite the research base documenting the effectiveness of DLI for supporting DLLs' academic achievement, bilingualism, and social-emotional development. Considerably more data and analysis is necessary to support comprehensive reform, as much of the very limited data pool has been local school districts as opposed to national, state, or even city-level analyses.

Emerging data suggest that DLLs face inequitable access to DLI programs, even though research documents the effectiveness of DLI in supporting DLLs' academic achievement, bilingualism, and social-emotional development.



INEQUITABLE ACCESS TO LEARNING OPPORTUNITIES FOR DUAL LANGUAGE AND ENGLISH LEARNERS:

THE RESEARCH LANDSCAPE

DUAL LANGUAGE DEVELOPMENT AND THE BILINGUAL ADVANTAGE

The diversity of DLLs' backgrounds and early life experiences contributes to parallel diversity in their dual language development trajectories. Although our understanding of the cognitive processes involved in DLLs' bilingual language development is still developing, DLLs' language development appears to be shaped by both biology and experience. This includes the quality and quantity of language they are exposed to, the number of different speakers in each language the child is exposed to, language-mixing practices, the number and context of opportunities a child has to use each language, and sociocultural influences.²³⁰

Findings from neuroscience indicate that infants are born with a capacity to learn an unlimited number of languages.²³¹ Research has also found neurological differences between children exposed to more than one language from early childhood and children raised in monolingual settings. Bilingual exposure results in greater neural plasticity, which appears to physically change the structure of the brain and enhance the neural encoding of sound and speech from infancy through childhood.²³² Children who are continuously exposed to more than one language have greater grey matter density than monolingual children.²³³ This is significant, as grey matter contains most of the neurons in the brain and the brain regions involved in memory, emotions, speech, decision-making, and other cognitive functions.

Research indicates that DLL children experience numerous cognitive benefits associated with dual language exposure, particularly in the area of executive functioning. Executive functioning entails a group of critical cognitive processes that shape how children learn and is associated with school readiness and success.

Overall, the bilingual advantage has been observed in children during the early childhood period, from ages 2-6, although some studies have detected such effects in infants as young as 7 months.²³⁴ These differences between DLL and monolingual children hold across different language pairs, even when controlling for socioeconomic status and other demographic factors. Scholars suggest that these executive functioning advantages may emerge due to the need for a bilingual individual to be constantly selecting between their languages and suppressing one while using the other, although causal mechanisms remain unclear.²³⁵ Although this research is compelling, researchers continue to debate the extent of, and context surrounding, the bilingual advantage.²³⁶

Neuroscientific findings indicate that bilingual exposure results in greater neural plasticity and a higher density of grey matter, which contains most of the neurons in the brain and encompasses the regions involved in memory, emotions, speech, and decision-making.

DLLS AND SOCIAL-EMOTIONAL DEVELOPMENT

Developing bilingual language skills is consistently associated with increased social-emotional skills. This is understandable, given that language learning is inherently social.²³⁷ For example, several studies have found evidence that DLLs develop precocious abilities to understand the perspective of others and distinguish it from their own experiences, relative to monolingual children.²³⁸ Young DLLs also appear to have greater self-regulation, faster skill development in self-control, higher social competence, and lower externalizing behaviors than their non-DLL peers.²³⁹

There is evidence that some of these findings may be related to contextual factors. For instance, when rated by teachers, DLLs tend to have higher ratings of self-control and interpersonal skills and lower levels of behavior problems compared to monolingual children.²⁴⁰ However, these results may differ depending on teacher and classroom characteristics. For Spanish-speaking children in Pre-K, more classroom interactions in Spanish were related to higher teacher ratings of DLL children's social skills and assertiveness, as well as higher ratings of the quality of teacher-child relationships.²⁴¹ Other studies have found that social-emotional differences between DLLs and non-DLLs were diminished after accounting for socioeconomic status.²³⁵

Young DLLs appear to have greater self-regulation, faster skill development in self-control, higher social competence, and lower externalizing behaviors than their non-DLL peers.

SOCIETAL BIASES ABOUT LANGUAGE AND EFFECTS ON HOME LANGUAGE MAINTENANCE

Another complex aspect of bilingualism relates to the maintenance or loss of home languages. The home language is often a fundamental vehicle for culture and heritage among immigrant families, and the maintenance or loss of home language skills can impact communication and family relationships, which may in turn can affect children's social-emotional development and wellbeing.²⁴² DLL children and families are exposed to the dominant English monolingual ideology that pervades U.S. culture and schools, and they may receive implicit or explicit messages about English being a more worthwhile language for children to learn or maintain than their home language. Some studies suggest that DLL children and families may internalize these messages or myths about dual language learning, although further research is needed to examine how this may affect their language use, social-emotional growth, and identity development.²⁴³

These ideologies are reinforced by the omnipresence of the English language across the overwhelming majority of American media outputs, advertising, and entertainment. Even as the percentage of DLLs and ELs in U.S. schools has grown, the dominance of English in American cultural life helps ensure that the country continues to be stubbornly monolingual.²⁴⁴ It is possible that these messages about home languages having lower social status impact the language and academic development of DLLs and ELs. **Notably, in other countries where multiple languages have social prestige and much of the population is bilingual, differences in academic achievement between monolingual and bilingual children are smaller or non-existent, even when controlling for other relevant variables.**²⁴⁵

This monolingual environment very likely has an effect on DLLs' development and long-term outcomes. Research finds that among Latinx DLLs and ELs specifically, developing and maintaining skills in Spanish and English

is related to lower high school dropout rates, higher occupational prestige, and higher income in young adulthood. On the other hand, taking into account cognitive ability, educational attainment, and familial socioeconomic status, Latinx DLLs and ELs who have a decline in their Spanish language proficiency over time are more likely to be unemployed as young adults, compared to peers with balanced bilingual skills.²⁴⁶ DLLs who keep their home language are more likely to enter a four-year university after high school. Research also finds that the average difference in earnings between children who lose their home language compared to those who keep their home language and become bilingual is more than \$5,400 annually.²⁴⁷

Taken together, these findings highlight the importance of DLLs simultaneously developing and maintaining their home languages and also learning English, as bilingual skills appear to buffer the otherwise negative outcomes. These findings also highlight the value of society and systems supporting home language development to improve DLL outcomes.

THE GAP BETWEEN DLLS' POTENTIAL AND ACADEMIC ASSESSMENTS

In public discussions of U.S. schools, DLLs' and ELs' academic performance is often flagged as lagging behind that of non-DLLs and ELs. There is clearly an inconsistency between research findings on DLLs' potential, particularly considering the bilingual advantage, and what assessment data generally imply about their school readiness and academic success. These differences can be explained, in part, by two factors. First, assessments are typically conducted in English, so even tests of academic skills also test a child's English skills. For example, a poor math score does not necessarily reflect poor math skills; rather, it may instead reflect a child's English proficiency. Second, most DLLs do not have access to learning opportunities that uniquely foster their development, including early learning or educational opportunities that support bilingualism and biliteracy. **Having access to learning experiences in the home language (alongside**

English) strengthens the language foundation upon which all future language and literacy grows and provides meaningful access to the curriculum, strong relationships with teachers, and more robust peer relations. For DLLs, bilingual learning in education is not an optional opportunity for enrichment; rather, it can make or break their access to a quality education altogether.

Although there are significant data and research gaps on language exposure and instruction in early learning contexts that serve DLLs, one nationally representative study found a pattern of decreasing exposure to the home language for DLLs at 9, 24, and 52 months of age across all early care program types. Care settings may also impact DLLs' exposure to their home language. DLLs in non-center-based care contexts across all ages are more likely to have a care provider who speaks their home language; conversely, DLL children in center-based care are less likely across all ages to have a provider who speaks their home language compared to relative care.²⁴⁸ However, it is important to note that the care provider's knowledge of the home language does not necessarily reflect use of that language with the child for care and instructional purposes.

Similar findings were identified in Head Start and public preschools. The *Report to Congress on Dual Language Learners in Head Start and Early Head Start* states that Head Start does not currently have descriptive data on the nature of language instruction for DLLs, although English is the language used most often for reading to children. Additionally, the data on general instructional support, which includes language modeling, indicate that average quality nationally is low,²⁴⁹ though this is also true in preschool settings more broadly.²⁵⁰ Research and policy analyses likewise find that most academic instruction for DLLs in Head Start, public preschool, and

In countries where multiple languages have social prestige and much of the population is bilingual, differences in academic achievement between bilingual and monolingual children are smaller or non-existent.



early elementary settings is provided in English and home languages are generally used for behavioral support,²⁵¹ which does not confer the same benefits as does intentional bilingual instruction, such as the DLI approach.

The lack of bilingual education programs and linguistically responsive teaching practices is at least in part attributable to policy and funding decisions that have resulted in insufficient training and preparation of educators and other school personnel in issues related to serving DLLs.²⁵² Nationally, there is a shortage of teachers with the appropriate credentials to teach in English as a second language courses or bilingual education programs.²⁵³ Further, most early childhood teacher preparation programs and in-service professional development provide limited, if any, training on competencies for working with the DLL and EL population effectively.²¹³

Taken together, this research suggests that despite the advantages of bilingualism in the early years, DLLs and ELs have limited and inequitable access to models that support bilingualism and their comprehensive development. As DLLs and ELs are primarily served in English-dominant or English-only instructional settings, their language and academic skills are rarely assessed in their home languages. When DLLs and ELs are assessed only in English, the alleged academic disparities in performance, as compared with English monolingual children, are at least partly a reflection of the medium of comparison. This is borne out in research on DLLs' academic trajectories.

For DLLs, bilingual learning in education is not an optional opportunity for enrichment; rather, it can make or break their access to a quality education altogether.

Among DLLs, those who enter kindergarten already proficient in English have higher reading and math proficiency than those who are not yet proficient, at least in part because the assessments are in English.²⁵⁴ Across the elementary years, DLLs who enter kindergarten proficient in English tend to grow in their English reading and math skills at a similar or even greater rate than their monolingual English-speaking peers. DLLs who are not proficient in English upon entry to kindergarten or by the end of kindergarten generally have lower rates of growth in these areas than their peers who were proficient in English by the end of kindergarten; thus, initial reading and math gaps are maintained and widen across elementary school.²⁵⁵

Similarly, **research suggests that for DLLs who enter kindergarten relatively fluent in English, EL classification may have a significant negative effect on achievement in English language arts and math through at least the middle school years, which grows in magnitude over time. However, the negative effects of EL designation are concentrated in English immersion (i.e. English-only) classrooms,**

which may indicate that the English-only model, not the classification, may be driving the negative outcome.²⁵⁶

DLLs' and ELs' academic achievement patterns also have a complex relation with demographic factors. In high-poverty schools, reading growth is depressed among all students (compared to low-poverty schools), and the difference in reading scores between DLLs who are not proficient in English upon entry to kindergarten and non-DLLs is significantly reduced. On the other hand, DLLs entering kindergarten proficient in English show reading growth trajectories that surpass non-DLLs in high-poverty schools.²⁵⁰

Based on these findings, it appears that only DLL children who begin learning and developing proficiency in English early in life develop English-language reading and math skills on par with monolingual peers in English-dominant instructional environments. Meanwhile, DLLs who are first exposed to English in kindergarten and remain in English-dominant instructional environments are likely to fall further and further behind their early-proficient and monolingual English-speaking peers on academic skills (as measured in English). However, as there are few studies and little national data on DLLs' and ELs' academic skills in languages other than English, it is not possible to know if such academic disparities exist when all of a bilingual or multilingual child's languages are considered.

The general lack of linguistically responsive instruction and assessment practices across early childhood and K–12 settings and inappropriate comparisons to monolingual children result in a misleading pattern of discrepancies. These academic disparities are observed on a national scale via EL performance on the U.S. Department of Education's National Assessment of Educational Progress (NAEP). These data indicate significant gaps between ELs and their peers on a range of outcomes. For example, in 2019, 91% of ELs were not proficient in reading in fourth grade compared to 62% of their non-EL counterparts.²⁵⁷ However, these gaps on English-language tests of achievement are largely expected, as ELs are a fluid group of children who are, by definition, classified as ELs only if their language abilities necessitate additional support in order to access the curriculum in English.²⁵⁸ As ELs become more proficient in English, they tend to perform better on achievement assessments; however, at that point, they are often then reclassified out of the EL designation. This policy all but ensures that the EL group appears to be an underperforming group relative to non-ELs.²⁵⁹ Notably, when former ELs are tracked after they are reclassified out of that designation (i.e., as "former ELs" or "ever

Research suggests that for DLLs who enter kindergarten relatively fluent in English, EL classification may have a significant negative effect on achievement. However, the negative effects are concentrated in English-only classrooms, which may indicate that the English-only model, not the classification, may be driving the negative outcome.

ELs"), they tend to outperform children who were never designated as ELs on achievement tests of reading and math and in on-time graduation rates.²⁶⁰

In addition to the complexities of DLL or EL classification and achievement, there are numerous issues with the evaluation and identification of young DLLs with disabilities. **Young DLLs are less likely than non-DLLs to be referred for early intervention and special education during early childhood, which is a particularly critical window for intervention for many disabilities.** Even when young DLLs are in home visiting or other early intervention programs, they are less likely than their peers to be correctly identified as having a disability, due in part to assessment approaches that pay insufficient attention to dual language development.²¹³

In K–12, the patterns of over- and underrepresentation of DLLs with disabilities in special education are complex.²⁶¹ For instance, **DLLs and ELs appear to be disproportionately underrepresented in grades K-3 and overrepresented in secondary grades.**²⁶² There also appears to be disproportionality based on disability category. As training on DLLs and language development is lacking for school psychologists and special educators, current assessment procedures often do not adequately account for the process of bilingual language development.²¹⁵ Under-identification in the early years is a significant concern, as early intervention can prevent the development of more serious issues in the future; conversely, over-identification and inaccurate identification and placement in special education can

contribute to DLLs and ELs remaining in an inappropriate educational setting and having fewer opportunities to engage in general education or advanced curricula.²⁶³

Finally, efforts taken to contain the novel coronavirus pandemic in spring 2020, including school closures and implementation of remote learning, are likely exacerbating educational inequities that affect DLLs. DLLs disproportionately live in low-income families, which means they are more likely to have less stable and high-speed access to the internet at home—necessary conditions for fully engaging in remote learning instruction.²⁶⁴ Further, even when DLLs have internet access and can participate in online learning, they are likely not receiving sufficient support to access the curriculum. DLLs' parents may be less able to help their children with lessons or homework or communicate with teachers, due to work schedules or limited proficiency in English.²⁶⁵ With shortened school days and constraints on opportunities for expressive language use and dialogic exchange, remote instruction also limits the richness of bilingual language input to which DLLs have exposure—input that is needed to support DLLs' language development and academic growth.²⁶⁶ Many educators and schools are making dedicated efforts to use more accessible means to reach children and families (e.g., texting), using translation apps, writing handwritten notes, and modifying assignments and assessments;²⁶⁷ however, such efforts are not systematic across locales and their effectiveness for enabling equitable access to the curriculum is unclear. On the other hand, more time at home and with families can be valuable for a host of reasons, not the least of which is more exposure to the home language and being in a culturally affirming environment, which are critical to language, cognitive, and social-emotional

development.²⁶⁸ Still, given the significant opportunity gaps and academic disparities that DLLs already face and the particular vulnerability to summer learning loss,²⁶⁹ DLLs stand to lose more from the persistence of the status quo in educational systems. They also stand to gain more from improved, more equitable approaches to instruction when schools reopen.

BIAS, SEGREGATION, AND EFFECTS ON DLLS' LEARNING

Teacher and administrator implicit bias and expectations for ELs are also important considerations. A robust body of research finds that teachers' expectations of students are associated with student achievement.²⁷⁰ **A recent study using a nationally representative dataset showed that teachers had lower academic expectations for children classified as ELs. Those lower expectations were modest in kindergarten but grew over time as children progressed through elementary school. Importantly, the authors found that in bilingual schools, teachers did not have significantly lower academic expectations for children based on EL status.**²⁷¹ Previous research has also found that bilingual teachers are more effective with EL students.²⁷² Bias and expectations may be important mechanisms underlying this association.²⁷³

COVID-19 and public health measures to curb its spread may exacerbate opportunity and outcome inequities for DLLs.



The potential interactions between teachers' expectations and student achievement may be particularly salient when DLLs and ELs are in segregated settings, which is a frequent occurrence. The current context of systemic segregation has emerged out of a long history of segregating children who speak languages other than English in schools. For decades before *Brown v. Board of Education*, Mexican-American children in the Southwest were educated in separate English-only schools. White school administrators justified this practice by positing that separate settings would facilitate Mexican-American children's English language development and assimilation to U.S. culture.²⁷⁴ Presently, DLLs and ELs largely live in communities and attend schools that are racially, socioeconomically, and linguistically segregated.²⁷⁵ As a group, DLLs and ELs are more likely to attend schools that are more racially homogenous, have fewer resources and greater proportions of students from low-income backgrounds, and enroll large percentages of other students who are DLLs or ELs.²⁷⁶ Nationally, just 25 school districts account for almost a quarter of all ELs enrolled in K–12 schools.²⁷⁷ ELs also tend to be segregated at the classroom level, as their EL designation generally involves placement into separate English language development courses for at least some period of the school day.²⁷⁸ Thus in some states, ELs are segregated as a matter of misguided policy.

The impact of segregation on DLLs' and ELs' language, social, and academic outcomes is significant. As with students with disabilities, pulling DLLs and ELs out of general education settings (i.e., for specialized language instruction) may perpetuate deficit ideologies surrounding DLLs and ELs among educators.²⁷⁹ Unfortunately, teachers' lowered expectations and beliefs that DLLs and ELs cannot be served in a typical general education classroom may be reinforced when DLLs and ELs do not thrive academically in segregated settings, thus potentially contributing to a damaging cycle of continued segregation.²⁸⁰

Linguistic isolation at the classroom level also contributes to DLLs and ELs having less time with and exposure to peers who are native speakers of English, which supports language learning.²⁶⁵ When ELs are pulled out or placed in separate classes for language instruction, they may have less access to other grade-level content and enrichment instruction. In Arizona and California, for example, placement in sheltered English immersion classes in high school often results in ELs being systematically restricted from participating in courses needed to graduate or to attend state universities.²⁸¹ Segregation at the school, community, and district level also affects

DLL and EL achievement. **One analysis of national achievement data identified that the degree of school segregation was the greatest predictor of disparities in achievement between EL and non-EL students.**²⁸²

As DLLs and ELs disproportionately attend segregated and under-resourced schools, they are less likely to have access to high-quality instruction, qualified teachers, and strong programs of parent engagement.²⁶⁵ These and other factors likely contribute to the pattern of low academic achievement and poor long-term academic outcomes among DLLs and ELs.²⁵⁰

Even when ELs receive high-quality instruction, oral language proficiency in a second language may take around three to five years to develop and academic language proficiency generally takes several years longer.²⁸³ Therefore, over the course of their academic careers, many ELs never attain the level of academic proficiency in English that is purportedly needed to achieve on par with their monolingual English-speaking peers. As a result, these "long-term English learners" may not be exited from EL services before the end of high school.²⁸⁴ This may limit their access to the rest of the academic curriculum in elementary school and to advanced, college preparatory coursework in middle and high school.²⁸⁵ Together, this research suggests that DLLs' and ELs' lack of access to research-based models that support their comprehensive development, including English and home language development, compound over time and are associated with an array of negative outcomes across trajectories.

Overall, many of the disparities faced by DLLs are staggering and start early in their educational experiences. As a result, there is considerable room to improve practice and policy with a focus on equity for DLLs. A growing evidence base has identified promising strategies and programs for supporting the linguistic, social-emotional, and academic development of young DLLs.

As mentioned previously, high-quality early learning, which generally supports positive developmental outcomes for all children, may be particularly important for DLLs. The timing is important, as research suggests that children who enter high-quality ECE programs before age 3 and who remain enrolled longer demonstrate higher language scores and better teacher-rated initiative and self-control skills; these effects are stronger among DLLs than monolingual children.²⁸⁶ Thus, it appears that high-quality early learning experiences in the years before preschool may be particularly helpful for young DLLs, although there is little research defining the nature of high-quality early childhood education for infant and toddler DLLs specifically. Characteristics of general high-quality infant and toddler programs, including a responsive and

nurturing environment, exposure to complex language use and literacy activities, and a strong program of family engagement, may be applicable but not sufficient for DLLs.²¹³

One analysis of national achievement data identified that the degree of school segregation was the greatest predictor of disparities in achievement between EL and non-EL students.

DUAL LANGUAGE IMMERSION AND BILINGUAL EDUCATION

Multiple studies suggest that oral language development (e.g., receptive/expressive vocabulary, listening comprehension, expressive language skills) is particularly key for young DLLs.²⁸⁷ All children benefit from learning to speak and use language in these early years, and DLLs benefit from using all of their developing languages. As such, dual immersion early learning programs that permit DLLs to access academic content in both their home languages and English can be particularly powerful for these students.²⁸⁸

DLI has been documented as the most effective approach for supporting the development of both languages, resulting in DLLs attaining higher rates of growth in academic skill areas (i.e., reading, math) and sustaining positive academic outcomes over the long term.²⁸⁹ In DLI, teachers alternate between English and a partner language for instruction across content areas, sometimes switching within the course of the school day or alternating days/weeks for each language. The ratio of use of the two languages varies by program and across grades. One-way DLI involves classrooms composed entirely of children who share as their home language only one of the two languages of instruction, whereas two-way DLI

involves equal numbers of speakers of both languages being used for instruction. In contrast to transitional bilingual programs, which also utilize the home language for instruction but are designed to fade home language instruction over time and eventually transition DLLs to an all-English instructional environment, DLI focuses on building social and academic language skills in both languages. Considering the cognitive, social, and economic benefits of bilingualism, particularly for DLLs, the DLI model seems to be particularly important and superior to the transitional bilingual model and certainly to other more English-dominant models.

Partly as a result of these successes, DLI programs appear to be growing rapidly across the United States. A number of states and districts, including Utah, Delaware, North Carolina, New York City, and Washington, DC, are engaged in projects to expand DLI access. Much of the enthusiasm for these programs reflects growing demand from English-dominant families seeking paths for their children to become bilingual. Similarly, 38 states and Washington, DC, have adopted the Seal of Biliteracy initiative, which recognizes students who have become biliterate by their high school graduation.²⁹⁰ However, many have raised concerns that ELs do not have equitable access to these programs or when they do have access, ELs are required to meet higher expectations in their second language (English) than native English-speaking students are in their second language.²⁹¹ These trends represent an opportunity for DLLs' and ELs' families, and DLI advocates, as they support the growth of bilingual instruction in American public schools and push for equitable access to such programs.

Although there is less research on the impacts of DLI in the early childhood years than in K–12 settings, research indicates that more Pre-K instruction in the home language helps children develop skills in English without sacrificing home language skills and is associated with higher reading and math scores.²⁹² A recent study in Head Start programs in California and Florida found that children in DLI classrooms demonstrated significantly greater growth in English and Spanish oral language proficiency from the beginning to the end of the school year, relative to children in classrooms with primarily English instruction and some home language support.²⁷⁷ The positive effects associated with preschool DLI are not limited to academic skills; for instance, one study documented that increased use of Spanish in the Pre-K classroom was associated with Spanish-speaking DLL children's ability to better tolerate frustration and orient to tasks.²³⁶

Although there is an emerging base of knowledge about young DLLs and growing evidence for interventions and practices that support these children, there is still much to learn. Additional research is needed to examine how specific early childhood programs work for DLLs, what the relative contributions of language of instruction and other early interventions are, and whether/how instructional practices need to be modified for DLLs specifically.²⁹³ This is particularly true for infants and toddlers. Given what we know about early brain development, particularly early brain development in young DLLs, it is critical to better develop more explicit infant/toddler learning models for DLLs that are centered on continued home language development, including English exposure, and that strongly support bilingualism.

There is also a need for a stronger conceptualization of high-quality DLI. Although individual DLI models across the country are producing impressive results for DLLs and ELs, as well as for their monolingual English-speaking peers, there is no national model or set of models that define the components of high-quality DLI, which makes high-quality scalability a challenge.

Defining high-quality DLI must also extend to classroom quality assessment. There is currently insufficient validity evidence for use of existing measures of general early learning quality as it relates to DLI quality with DLL populations. However, in order to measure children's language development across time, methods must be developed to assess bilingual language proficiency accurately and from a strengths-based perspective—that is, comprehensively assess a child's language skills in all of

their languages and not borrow inappropriate norms from monolingual children who have fundamentally different developmental trajectories. Nearly all existing measures of early childhood language proficiency are separated by language and designed and validated with monolingual speakers front of mind. Even some assessments that are designated as bilingual require items to be administered first in English and only administered in the child's home language if the child does not respond.

Still other instruments allow a child to respond in their home language to English item prompts. In many assessments, scores are compared or combined across languages, even though the item content, item difficulty, and norming are not equated in each language. These assessments may (and often do) provide extremely misleading information regarding DLL children's actual language abilities,²⁹⁴ thus calling into question instructional decisions and research findings made on the basis of test scores. The content and structure of existing assessments used with DLLs lack sufficient validity evidence, which undermines the use and interpretation of the scores and qualitative classifications that they yield.²⁹⁵ Developing early childhood bilingual language proficiency assessments that comprehensively measure language skills in all of a child's languages, and that are sufficiently valid and reliable for use with DLLs, is an urgent need.

Dual immersion early learning programs that permit DLLs to access academic content in both their home languages and English can be particularly powerful for these students.



RESEARCH TAKEAWAYS

The review above draws on the most recent research related to DLLs. A number of conclusions about equity issues for DLLs and ELs emerge:

- Bilingualism has cultural, cognitive, social, academic, and economic benefits.
- It is particularly beneficial—across domains—for DLLs and ELs to maintain their home language.
- DLL and other bilingual education models that strengthen the home language, alongside English, are optimal approaches for DLLs and ELs. Despite this, emerging evidence suggests that DLLs and ELs do not have equitable access to such programs.
- DLLs and ELs generally score below their native English-speaking peers on an array of school readiness and academic assessments conducted in English, although this trend is heavily influenced by the language of assessment, instructional model to which the child has access, initial English proficiency, social–emotional skills, socioeconomic status, as well as how U.S. schools define the DLL and EL student subgroup(s).

- The contrast between DLLs’ and ELs’ potential and their performance on assessments is, at least in part, due to: (a) assessments almost exclusively conducted in English and not capturing the full breadth of children’s knowledge, (b) a lack of resources and supports that uniquely foster children’s development, (c) institutionalized policies that have historically segregated ELs and DLLs from their peers and deprived them of opportunity and the general education curriculum, and (d) a societal bias in support of monolingualism and a general valuing of English and devaluing of other languages, in particular languages associated with people of color (most predominantly Spanish).

Based on the above conclusions, and as recent research indicates, it seems viable that barriers to DLLs’ academic, social, and economic success and mobility dissipate as they enter more supportive culturally and linguistically responsive early learning and educational venues. An optimal learning community for DLL and EL populations recognizes that academic learning has its roots in both out-of-school and in-school processes. When linguistic diversity is treated as a resource for teaching and learning instead of a problem, schools and programs come to focus on what students bring to the classroom, instead of bemoaning what they lack. Within this kind of culturally and linguistically responsive and engaging learning environment, a student’s previous knowledge is seen as a tool for acquiring and using new knowledge. Unsurprisingly, it helps children, including DLLs and ELs, do better in school.

When linguistic diversity is treated as a resource for teaching and learning instead of a problem, schools and programs come to focus on what students bring to the classroom, rather than what they lack.



INEQUITABLE ACCESS TO LEARNING OPPORTUNITIES FOR DUAL LANGUAGE AND ENGLISH LEARNERS:

THE POLICY LANDSCAPE

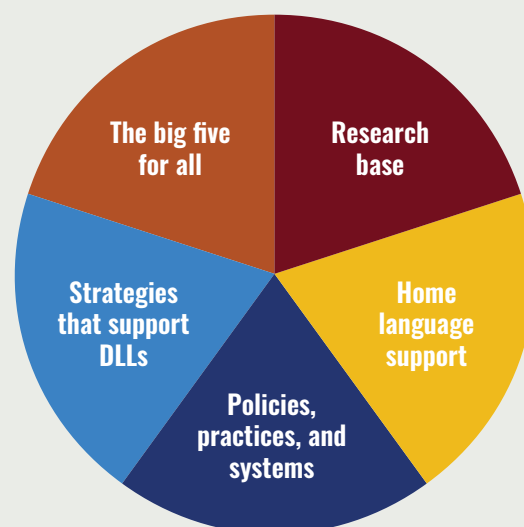
The policy landscape for young DLLs in early childhood has shifted in important ways over the course of time. In general, policy has increasingly attended to DLLs as a subgroup of the early childhood population. In 2016, the U.S. Departments of Health and Human Services and Education released a [joint policy statement](#) on supporting DLLs. This policy statement includes robust state- and local-level recommendations for supporting all of DLLs across early childhood settings. Today, DLL policy varies widely across the country and across systems, primarily because policy is driven by states (with the exception of Head Start) that have different standards and requirements.

HEAD START

Head Start is an exception to the general state-driven pattern in American educational governance. Across the early childhood system, Head Start has the most uniform and comprehensive standards for DLLs. Included in the [Head Start Program Performance Standards for DLLs](#) (amended in 2016) are requirements for programs to:

- Recognize bilingualism and biliteracy as strengths and implement research-based teaching practices that support their development;
- Employ teaching practices that focus on the development of the home language and provide experiences that enable English exposure for infant and toddler DLLs, as well as employ teaching practices that focus on both English language acquisition and the continued development of the home language for DLL preschoolers;
- Have a bilingual staff person who speaks the home language of the children in the program, if more than half of children in the program are DLLs with the same home language;

Planned Language Approach (PLA)



Source: Office of Head Start, retrieved from [https://edlkc.ohs.acf.hhs.gov/publication/what-planned-language-approach#:~:text=A%20planned%20language%20approach%20\(PLA,dual%20language%20learners%20\(DLLs\)\)](https://edlkc.ohs.acf.hhs.gov/publication/what-planned-language-approach#:~:text=A%20planned%20language%20approach%20(PLA,dual%20language%20learners%20(DLLs)))

- Assess children in English and in their home language across all domains of development, with a qualified assessor who knows and understands the child's language and culture; and
- Conduct culturally responsive family engagement services in the family's preferred language, or through a qualified interpreter, that include sharing information and resources about the benefits of bilingualism and biliteracy.

In addition to these Program Performance Standards, Head Start and Early Head Start require that programs have a planned language approach, which is a systematic approach to supporting the language and literacy skill development of all children.²⁹⁶ One component of a planned language approach is supporting children in their home language as a foundation for helping them learn English, as well as utilizing evidence-based strategies that support DLLs in both their home language and English. Having a planned language approach helps Head Start programs comply with the Program Performance Standard that require teaching practices tailored to the language needs of DLLs. The Head Start Program Performance Standards and planned language approach help center the unique strengths and needs of DLLs in early childhood programs and have informed similar policies in other early childhood contexts. However, limited information is available on how widely scaled these practices are within Head Start, including fidelity of implementation, application to DLL populations for less common languages, and relation to DLL-specific outcomes.

STATE FUNDED PRE-K

Among state-funded preschool programs, only 26 state preschool programs in 24 states and Guam currently collect information on a child's language background, and collection is usually done via home language surveys.^{viii} ²¹⁸ Nineteen state programs prioritize DLLs in enrollment by specifically including "having a home language other than English" as an eligibility criterion for preschool. Using home language as an eligibility criterion may help increase access to preschool for DLLs. This hypothesis aligns with previous research that indicates families of DLLs are likely to attend early learning programs when provided access.²⁹⁷ As of 2016-17, only 11 state-funded preschool programs allocate additional funding for serving DLLs.²¹⁸

Thirty-five state-funded preschool programs have policies specifically aimed at supporting DLLs. The National Institute for Early Education Research recently reviewed these policies in a 2018 publication and found that:

- 34 states explicitly *permit* but do not require bilingual instruction;

As of 2016-17, 18 states had no policy supports related to preschool DLLs specifically.

- Only Illinois explicitly requires bilingual instruction if there are 20 or more DLLs of the same home language background enrolled in the same program, although the mandate is for transitional bilingual education—not DLL or similar models;
- 14 states require monitoring of the quality of bilingual education;
- 17 states require an approved written plan for how programs will support DLLs;
- 19 state programs have policies for assessing children in their home language;
- 7 state programs require staff to have training or qualifications for working with DLLs;
- 33 state programs have a policy that specifies communicating with families of DLLs in their home language for recruitment and outreach and/or program- or child-related issues.

As of 2016-17, 18 states had no policy supports related to preschool DLLs specifically.²¹⁸

STATE EARLY LEARNING GUIDELINES AND QUALITY RATING IMPROVEMENT SYSTEMS

Beyond our understanding of the aforementioned policies, the field lacks information about the implementation of such policies and the overall quality of DLLs' early learning experiences. An analysis of state Early Learning and

viii It is important to note that many scholars have identified that, regardless of language background, it is difficult to develop reliable and valid assessments of preschool-age children's language skills (Dockrell & Marshall, 2015). Home language surveys are a common tool used to obtain parent-reported information about language use in the home, but these and other widely used tools have limitations and often lack sufficient reliability and validity evidence.

Development Standards in 2015 identified that 15 states discussed the learning and developmental needs of DLLs to some degree in their standards. Seven states' standards addressed how to assess DLLs, and 12 states had some guidelines for teaching practices for DLLs. Of these seven states, only New Jersey was identified as having a dual language approach; all others had an English immersion (4 states and Washington D.C.) or an English language development approach (16 states).²⁹⁸ It is difficult to know the extent to which early childhood programs are held accountable for meeting these standards.

Quality rating and improvement systems (QRIS) have expanded greatly over the past decade.²⁹⁹ Presently, nearly all states have a QRIS framework that is used to obtain and track data on various elements of early childhood settings, including environment, instruction, staff training and qualifications, and family-school partnerships.³⁰⁰ However, most QRIS do not have indicators of quality that capture the unique needs or experiences of DLLs and their families.³⁰¹ As of 2017, only 40% of systems nationally included any indicators specific to DLLs.³⁰² Even when DLL indicators were included, the standard of quality was often low (e.g., providing resources for families in their home language). Further, many states have systems that do not require obtaining strong ratings on DLL-specific indicators to achieve ratings of high quality.³⁰³

BILINGUAL PRESCHOOL EDUCATION

Some states have made a dedicated effort to establish regulations for bilingual education in preschool.³⁰⁴ These states' regulations require the establishment of bilingual programs, including Pre-K, in any school district enrolling at least 20 DLLs and/or ELs from the same background.³⁰⁵

STATE SPOTLIGHTS

Illinois: Transitional bilingual education is mandated for *preschool* programs that have 20+ DLL children from same language background.

New Jersey: Bilingual education programs are required when a district has 20+ K–12 EL students enrolled from same language background. All districts are required to provide “appropriate instructional programs” to eligible preschool ELs based on need, which includes programs and activities that promote oral language and early literacy skills in the home language and English. These guidelines are closely aligned with those of Head Start.

Texas: Dual language bilingual education programs are required for students in Pre-K-5 for a district with 20+ DLL and/or EL students in any language classification and in the same grade level.



CHILD CARE

The child care system on a state level lacks DLL-specific data and policies to an even greater degree than state Pre-K and Head Start. The Child Care and Development Block Grant requires states to ensure that training and professional development are appropriate, to the extent practicable, to serving ELs. The law also requires that consumer information efforts, including a state hotline and website, are as accessible as possible for all families, including those who speak a language other than English. States have taken a variety of approaches to comply with the law, although none have implemented comprehensive reforms or supports for DLLs and their families.

Multiple states reference DLLs in their professional development plans, namely allowing (but not requiring) child care providers the option of taking professional development opportunities related to DLLs. Some states provide trainings in languages other than English. Many states include requirements through their consumer information websites related to communicating with families in their home language, primarily for outreach and recruitment. With few exceptions, states include very little information in their state plans related to teaching practices or instructional approaches for DLLs or ELs.

THE K–12 POLICY LANDSCAPE

In examining the policy landscape for DLLs and ELs in the K–12 education system, it is critical to understand the federal Every Student Succeeds Act (ESSA). Similar to its predecessor No Child Left Behind, ESSA requires that schools provide specific instruction to support ELs’ development of English language proficiency; however, ESSA requires that states’ accountability plans detail more information about how they will support ELs, including standardized EL entry and exit criteria, short- and long-term goals for English language proficiency, and disaggregated and reported EL-specific achievement results and assessment practices.³⁰⁶ In contrast to the previous law, ESSA shifts the responsibility for accountability and decision-making to states, which means that states have increased flexibility in deciding

Policies and Supports for DLLs

in State Child Care Plans

State references DLLs in their professional development plans	AL, AR, CA, CO, DE, FL, NM, KA, MI, NH, NJ, OK, OH, OR, PA, RI, WA, DC
States provide trainings to workforce in languages other than English	AK, CT, DE, NE, NV, OR, WA
State requires communicating with families in the home language	AK, CT, DE, NE, NV, OR, WA
State uses bilingual caseworkers for recruitment, outreach, and support	AL, AK, CA, CT, DE, FL, ID, IL, IA, NE, NV, NJ, NM, NY, OK, PA, UT, VA, WA, WV, WI, DC
State leverages public and/or private funds to provide quality coaches who focus on DLLs and other populations with unique needs.	CA, CO, CT, IL, NJ, SC, WI
State addresses teaching practices or instructional approaches for DLLs	DE, OR

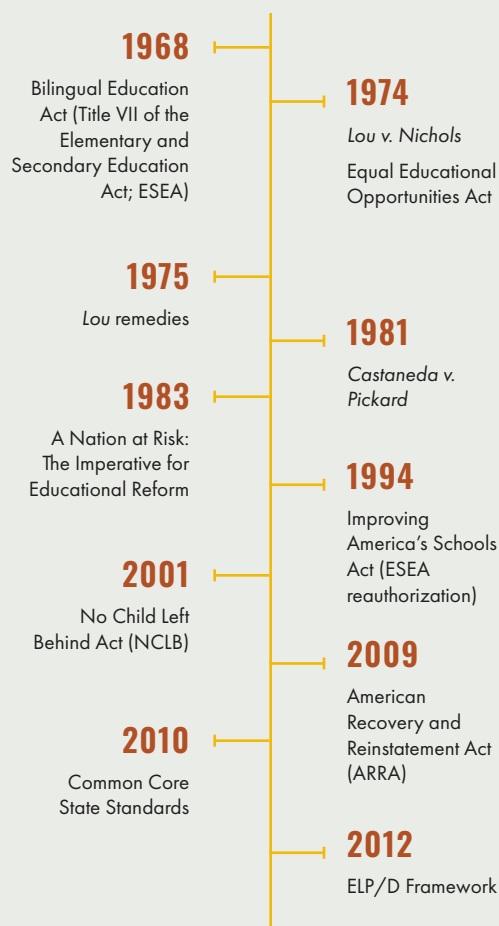
how to identify and help improve schools that may not be adequately serving ELs—as well as additional responsibility for prioritizing ELs’ success.³⁰⁷

Funds to help schools support ELs remain in ESSA’s Title III section, which remains significantly underfunded. When No Child Left Behind was originally passed in 2002, Title III was authorized at \$750 million, though funding only occasionally met that level. During this time, there were approximately 3.8 million ELs in the U.S. Today, there are nearly 5 million ELs in the U.S. To simply keep up with inflation, \$750 million in 2002 is about \$1.1 billion in 2020, but this does not account for the large increase in ELs. **In order to simply keep the No Child Left Behind-era commitment to ELs, funding for Title III would need to be increased by about \$1.42 billion to reflect inflation and population growth.** This increased funding level is only adequate if the original funding commitment proved sufficient to support ELs.³⁰⁸ Given the stubborn outcome gaps between many ELs and their peers on a range of English assessments, the original funding commitment appears insufficient.

Though funds to support ELs remained in Title III of ESSA, accountability provisions were moved to Title I. With this change, states are now required to include English proficiency rates as an indicator in their school accountability calculations for Title I.²⁹⁵ This change was aimed at raising ELs’ profiles in state plans. Because ESSA’s Title I supports schools serving large numbers of low-income students, it represents a much larger funding stream than Title III.³⁰⁹ Naturally, this advantage also has costs. For instance, student privacy protections mean that many schools with small numbers of ELs will likely be excluded from ESSA’s EL accountability system. In states with widely dispersed EL populations, this can mean that ESSA would actually reduce the number of ELs whose progress will be included in federal school accountability and oversight systems.³¹⁰

Other changes under ESSA have also raised concerns about state accountability for ELs. For example, the new federal law allows states to treat former-ELs—students who have demonstrated full English proficiency and exited the EL subgroup—as if they were still ELs, when calculating how well schools are serving students on statewide accountability measures. This results in inflated academic performance of schools’ EL subgroups, since former-ELs’ performance on state literacy and math assessments tends to increase as they demonstrate English proficiency and are reclassified out of the EL subgroup. Advocates are concerned that this new approach may mask weak academic performance from current ELs. In response,

Timeline of major EL Education policies



Source: National Academies of Science Engineering and Medicine, Promoting the Educational Success of Children and Youth Learning English. Retrieved from: <https://www.nap.edu/catalog/24677/promoting-the-educational-success-of-children-and-youth-learning-english>

Illinois has begun tracking former-ELs’ academic progress separately, and treats ELs as a separate subgroup of students for the purpose of school accountability.³¹¹

ESSA’s decentralization of decision-making authority reflected and extended a recent trend towards state policy activity related to DLL and EL policy issues. This environment has made significant room for state policymakers to explore new ideas for serving these students. In 2017, Massachusetts passed legislation that largely ended its statewide mandate requiring schools

The Every Student Succeeds Act

(2015) and English Learners

- ☑ Replaces the term “limited English proficient” with “English learner”
 - ☑ Acknowledges the heterogeneity of the English learner (EL) population including recently arrived ELs, long-term ELs, ELs with disabilities
 - ☑ States are directed to develop policies designed to forge closer connections between early learning programs and K–12 education, specifically K–3
 - ☑ Shifts the locus of decision-making authority for accountability to states and localities and limits federal authority in allowing exceptions
 - ☑ States are encouraged to be more innovative in their assessment and accountability systems, including being allowed to use a variety of readiness and engagement indicators
- ☑ Schools, rather than districts, are now accountable for ELs’ progress toward English language proficiency
 - ☑ States must describe their rules for how student progress toward English proficiency is to be accomplished
 - ☑ States are required to develop standardized entry and exit procedures for determining whether a student is an EL that are consistent across districts within the state
 - ☑ States may include students formerly classified as ELs in the EL subgroup for academic assessment purposes for a period of up to four years (as opposed to two years)
 - ☑ Includes requirements for family engagement under Titles I, III, and IV Part A

to serve most ELs solely in English-only settings.³¹² The year before, California voters passed Proposition 58, a referendum which reversed the English-only mandate that had been in place in the state for nearly two decades. California is building on this momentum by joining a number of states, including Texas, Utah, Delaware, New York, and North Carolina, in launching new efforts to expand DLI programs.³¹³ Notably, Arizona is the only remaining state with an English-only mandate for ELs, although a measure to repeal the law is on the ballot in November 2020.³¹⁴ Only four states (CO, HI, NM, and TX) assess DLLs and ELs in languages other than English; however, some states are currently in the process of advancing legislation to conduct academic assessments in the home language with K–12 DLLs and ELs.³¹⁵

The downward drift of leadership on DLL and EL issues has meant that local policymakers are newly empowered to make critical decisions about allocating resources to

support ELs in their schools. As a result, the state landscape for funding provided for ELs varies greatly in several aspects,³¹⁶ including:

- 1. Provision of additional funding:** Nearly all states, except Delaware, Mississippi, Montana, and Rhode Island, provide additional funds for ELs at the K–12 level.³¹⁷
- 2. Use of additional funding:** Not all states provide the additional funding in a similar manner. For instance, most states include an additional weight in the state’s funding mechanism or provide an additional full-time staff person per every 100 EL students, while other states provide an additional grant outside of the state’s funding mechanism to support ELs.³¹⁸ Funding outside of the funding mechanism is much easier to modify or eliminate than funding embedded within the funding mechanism.

3. Criteria for funding ELs: States use different criteria to fund ELs. For instance, Texas uses the term “bilingual” student and only funds EL students in bilingual settings, whereas other states, such as Arizona, use terms such as “English Language Learner” or “Limited English Proficient” and fund EL students regardless of instructional setting.³¹⁹

4. Amount of funding: There is great variation in the amount of funding ELs receive across states. For instance, Maryland provides double the amount of base funding for ELs, whereas other states provide no additional support. The average additional weight across all states is about 40%.³²⁰

Although the amount of supplemental funds provided to ELs is an important factor to consider in the adequacy EL supports, it is important to note that base funds are also woefully inadequate.³²²

A supplemental weight does not compensate for inadequate overall funding. Moreover, there is a lack of transparency and accountability regarding how districts and schools are allocating funds to provide instructional programming for ELs.

It is also important to focus on how funds are used. In most contexts, educators and administrators continue to view ELs through a deficit lens and hold low expectations for their academic success, believing that they benefit most from compensatory low-skilled curricula and test preparation strategies.³²³ **Schools tend to invest their supplementary funds in remedial activities that contribute to low-quality programs and in effect institutionalize low achievement.**³²⁴ **This type of program is in contrast to asset-based approaches, such as tailored gifted and talented programs, enriching the curriculum to focus on project-based learning, and building on ELs’ linguistic and cultural strengths through rigorous DLI programs that begin in early childhood.**³²⁵

Nonetheless, some states have taken on the challenge of trying to improve their use of resources to better support DLLs and ELs. Currently, three states—Connecticut, Michigan, and New Mexico—provide funds specifically

It is important to consider that base funds provided to ELs are woefully inadequate.

Mechanisms for Providing

Additional Funding for ELs³²¹

25 STATES use a flat weight system to allocate additional funding to ELs (districts receive funding for each EL regardless of individual student characteristics).

11 STATES use a multiple weights system to allocate additional funding to ELs (district receive funding for each EL with individual student characteristics assigned specific weights).

5 STATES use a block grant to allocate additional funding to ELs.

5 STATES use a resource allocation model to allocate additional funding to ELs.

2 STATES use a reimbursement system to allocate additional funding to ELs

4 STATES allocate no additional funding to ELs.

Source: Education Commission for the States (2019). 50 State report K-12 funding: English language learner funding. <https://c0arw235.caspio.com/dp/b7f9300064bf196be0e34f3bba4d>

designated for bilingual education programs, including DLI.³²⁶ As of April 2019, New Mexico also created a process by which consortia can obtain funding for technical assistance and educator professional development, with an aim to support the educational needs of culturally and linguistically diverse students.³²⁷

California began allocating education funding through a new Local Control Funding Formula (LCFF) mechanism in 2013–14. This reform was aimed at streamlining the state’s many different categorical funding streams into a larger, less prescriptive grant that would be weighted to give additional resources to districts and charter schools serving greater numbers of ELs, children from low-income families, and/or foster children. In return for this new flexibility, local policymakers are required to actively engage their school communities to draft a Local Control and Accountability Plan (LCAPs) that sets goals and

explains how schools will use LCFF funds. Each LCAP must be approved by the local county office of education.³²⁸ EL advocates in the state have warned that the additional resources the LCFF provides for DLLs and ELs have not always been allocated equitably.³²⁹ In particular, they have raised concerns that LCAPs are frequently developed without sufficient engagement with linguistically diverse communities.³³⁰ In some cases, civil rights groups have resorted to legal action to pressure their local school districts to try and ensure that the additional state funds are aimed at serving historically underserved groups.³³¹

In sum, decentralized control of DLL and EL policies is neither inherently good nor bad. Ultimately, the decisions that states make can have positive or negative effects on short- and long-term outcomes for this group of children. Decentralization resettles the policymaking terrain and frees local and state policymakers to make more choices—but that new terrain only becomes available at the cost of eliminating federal civil rights oversight and a fragmented funding landscape.

Decentralized control of DLL and EL policies is neither inherently good nor bad, and the decisions that states make can have positive or negative effects on short- and long-term outcomes for this group of children.



INEQUITABLE ACCESS TO LEARNING OPPORTUNITIES FOR DUAL LANGUAGE AND ENGLISH LEARNERS:

TAKEAWAYS

DLLs and ELs are a diverse group of children by every measure. A robust and growing body of brain, developmental, and education research indicates that bilingualism from a young age has cultural, cognitive, social-emotional, academic, and economic benefits. Despite this great potential, DLLs' and ELs' bilingualism and biliteracy potential is rarely fostered, and in many instances is suppressed in favor of mastering English in isolation. **The evidence is clear that approaches such as English-immersion or "English-only," which many times require segregation, are ineffective and harmful.** Although dual language approaches have expanded in recent years, emerging evidence finds that DLLs and ELs are underrepresented in these programs. In some places, DLLs and ELs are explicitly locked out of dual-language approaches, despite evidence that they are the most effective model for supporting DLLs and ELs.

States have pursued a variety of approaches to support DLLs through Pre-K and child care in the early years, and throughout the K–12 system, although no state has adopted a comprehensive model with strong standards, measurable accountability, and accompanying investments to adequately and appropriately foster these children's learning and development. Even in states, such as Minnesota and New York, that have relatively sound education policies governing DLLs' and ELs' educational

opportunities, implementation is key and may vary due to local oversight. The challenge and effects of an inadequately prepared workforce to foster the dual language learning and broader development of this group of children cannot be overstated. The lack of diversity in the workforce, including racial/ethnic and language diversity, is also a barrier to expanding access to language-rich positive learning opportunities for DLLs and ELs.

Despite inequitable access to opportunity, the academic profiles of DLLs and ELs are more complex than basic test scores would suggest. Though there is great variability within DLL and EL achievement, influenced by factors such as poverty status and access to evidence-based programming in the early years through K–12, research finds that some DLL and EL students outperform their non-DLL/EL peers when provided with a base level of support. Still, ELs have the lowest graduation rates in the country compared to all other groups, as well as less access to high-quality educational opportunities, from the early years and across the educational continuum. Undoubtedly, more needs to be done across systems to harness the great potential of this diverse group of children.

Approaches such as English-immersion or "English-only," which often require segregation, are ineffective and harmful.



A young child with dark hair and a joyful expression is the central focus, wearing a dark-colored t-shirt with a grey graphic. The background is a softly blurred playroom filled with various toys, including a yellow chair and colorful blocks. The overall image has a semi-transparent dark blue overlay.

A CHILD EQUITY POLICY AGENDA

A CHILD EQUITY POLICY AGENDA

In the past several years, the social and political climates for policy reform have been difficult across an array of issues, including education and especially as it pertains to equity. Revenue has generally decreased, and investments in programs that support young children have fluctuated at the whims of a Congress and state legislatures bitterly divided across partisan lines. These conditions were further exacerbated by the economic and health catastrophes prompted by the COVID-19 pandemic.

But, there are promising signs of hope. The national uprising prompted by police violence and renewed, wide ranging calls for justice and equality have forcefully opened a window of opportunity for change that may transcend the challenges that have held this nation back from greater progress, to date. Stimulus bills to remedy the economic downturn caused by COVID-19 included funding for child care and paid sick leave—two critical supports to keep children safe and learning. And, despite the general turmoil in policymaking in the months and years leading up to this point, early childhood programs enjoyed increases in federal investments. Democratic and Republican governors prioritized (albeit modestly) early learning in their budgets. Pre-K–12 teachers successfully advocated for higher pay in multiple states, including some of the most poorly resourced education states in the nation.

Under this context, and informed by the data, research, and policy landscapes, we propose a concrete policy agenda that addresses the equity issues reviewed in this report. They are even more pressing today than they were six months ago. Some of our policy recommendations are intersectional and applicable across all of the issue areas discussed here. These intersectional recommendations represent key themes that emerged as potential contributors to building more equitable systems, including funding, accountability, policies that prioritize equity and integration, professional development, and data and research. Other recommendations are specific to each issue area. These recommendations drill down deeper into reforms of new or existing laws, policies, funding streams and practices that can bridge disparities in specific issue areas. Our recommendations focus heavily on federal and state governments, and touch on local change.

We believe that implementing the reforms in this child equity policy agenda can help us progress toward bridging opportunity gaps in a comprehensive, specific, and measurable way, and can ultimately begin to transform children’s learning experiences. Understanding the deep and historical inequities that pervade our systems, we humbly acknowledge that addressing these pivotal issues will not address all of the inequities young children face beyond and even within the walls of early learning and education systems. There is far more work to be done, but this agenda provides us with a concrete path forward.

Implementing the reforms in this child equity policy agenda can help us progress toward transforming children’s learning experiences.



A CHILD EQUITY POLICY AGENDA:

CROSSCUTTING RECOMMENDATIONS

Funding

Congress and state legislatures should fully fund laws that were intended to provide opportunity to children from historically marginalized communities, including IDEA (Parts C and B), Titles I and III of ESSA, and Head Start. Population change, inflation, need, historical marginalization and inequitable access to resources should be taken into consideration. Congress should include funding in any future economic stimulus bills that address equitable access to quality early education.

Policies Prioritizing and Planning for Equity

The Education and Health and Human Services Departments should provide guidance to states to examine and reform policies across systems that disproportionately harm children from historically marginalized communities. This should build on but go beyond the Equity in IDEA regulation that the Education Department finalized in 2016. Guidance should strongly recommend reforms to harsh discipline policies and require tracking its disproportionate use, English-only policies, and policies that promote segregated learning. States should report to the federal government their plans for addressing these areas of inequity via state child care plans, education plans, and through other applications for federal funding.

Accountability

States should incorporate equity indicators, such as inclusion of children with disabilities, dual language opportunities for DLLs, positive discipline strategies, and racial, gender, and language disparity tracking across all of these, into early childhood and education monitoring systems. These should include state licensure of learning settings and personnel, quality rating and improvement systems, state education codes, and state Pre-K and child care regulations. The Federal government and States should develop or strengthen accountability systems for these equity indicators. The Federal government and States should also monitor disparate impacts of COVID-19 and develop accountability structures and support systems to address such disparities.

Preparation and Professional Development of the Workforce

States, in partnership with institutions of higher education (IHE) and credentialing bodies, should ensure a base level of workforce support and competence aligned with the National Academies of Science, Engineering and Medicine's report "Transforming the Workforce for Children Birth Through Age 8". Building on those reforms, leading bodies should ensure that equity indicators are incorporated into all preparation and development efforts for personnel who work in learning settings with young children, including people in leadership and direct service positions. Equity indicators in professional

development should include (but not be limited to) an understanding of dual language learning, disabilities, systemic racism, and role of culture in learning; implicit bias and its manifestation in decision making; individualized pedagogy and assessment methods; and building partnerships with diverse families. Government at all levels, credentialing bodies, and IHE—including and especially Historically Black Colleges and Universities, Hispanic Serving Institutions, and Tribal Colleges—should prioritize diversifying the workforce.

Data and Research

Congress should maintain the integrity of the Civil Rights Data Collection effort and ensure that all data indicators continue to be collected and disaggregated by race, disability, language background, and gender. They should require the Education Department to partner with HHS and expand the effort to include data beyond Pre-K–12 to other learning settings, including child care environments. Congress should fund the National Institute for Child Health and Human Development to conduct an ongoing, comprehensive data collection effort to monitor the development, learning, and well-being of America’s young children; ensure that data are disaggregated by race/ethnicity, disability, income, gender, and home language; and ensure that key disaggregated findings are shared broadly every year, as is the National Assessment of Education Progress.

Advance Integrated Learning

In any new laws or re-authorization of all education and early learning laws, Congress should encourage racial, ethnic, linguistic, socioeconomic, and ability-based integration. Congress should also adequately fund the U.S. Department of Education’s and Health and Human Services’ Offices for Civil Rights and ensure that they use their authority to address civil rights abuses across learning settings, as well as invigorate federal support for desegregation. States should ensure that integration efforts are included in monitoring protocol and that local programs and districts are held accountable for violations.

Fund Equity-Focused Technical Assistance

To facilitate systemic change through equity policy planning and workforce development, the U.S. Departments of Education and Health and Human Services should fund a technical assistance center specifically to address inequities across the early learning and K–12 systems. This center should develop tools and resources for systems and programmatic leaders, frontline providers, and other staff to address inequities in policy and practice, and, should at a minimum include foci on addressing the manifestations of systemic racism, implicit and explicit bias, the disproportionate application of harsh discipline, equitable and meaningfully inclusive learning for children with disabilities, and high-quality dual language learning policy and pedagogy for dual language learners. This technical assistance center should also be tasked with ensuring that equity is explicitly infused across all federally funded materials, training, and technical assistance efforts.

A CHILD EQUITY POLICY AGENDA:

RECOMMENDATIONS TO PROMOTE POSITIVE DISCIPLINE

Congress

1. Congress should Pass discipline reform legislation that would apply to all programs that receive federal funding and serve young children. Such legislation should a) prohibit corporal punishment, b) seclusion, and c) exclusionary discipline (except in very rare cases where there is an immediate and serious safety threat, not based on stereotypes or bias). It should also limit restraint, including the type and duration of restraint; ensure that it is only used as an emergency measure for the shortest amount of time possible, and require training for those restraining children, timely incident reporting, and the triggering of intervention and support. Such legislation should authorize federal agency monitoring and accountability measures in cases of misuse.
2. Congress should address discipline in IDEA by eliminating the existing 10-day allowance for exclusionary discipline for children with disabilities, prohibiting seclusion, mechanical and chemical restraint, and providing parameters around the use of restraint to ensure child safety and prevent abuse.
3. Congress should increase funding for prevention, promotion and intervention in social-emotional development and mental health through proven models and personnel, including by reallocating funds used for school resource officer programs.
2. HHS and ED should provide state guidance on how to use funds from Title I, Title II, and Title IV Part A of ESSA, the Child Care and Development Fund's quality set aside, Head Start technical assistance, and other relevant funding streams to reduce harsh discipline and disparities. Investments should be made in prevention, promotion and intervention, professional development, data infrastructure, and parent awareness and support.
3. HHS and ED should conduct a public awareness campaign on the effects of harsh discipline, and the laws and regulations that protect children and family rights.
4. HHS should require states to report disaggregated data on the use of harsh discipline on children in child care settings.

States

1. States should prohibit the use of corporal punishment and seclusion across all places where children learn. Mechanical and chemical restraint should be disallowed in all instances and physical restraint should be used only in emergency situations. Statute should include specific accountability measures in cases of misuse; limits on the duration and type of restraint; and require a) training for those restraining children, b) timely incident reporting, and c) the triggering of an intervention and support plan. States should incorporate these policies in state child care licensing standards and regulations, and state education agency codes and regulations. Such policies should be accompanied by technical assistance, monitoring, and accountability measures.

Federal Agencies

1. HHS and ED should reinstate and promote guidance on positive discipline, and reinstate efforts to address bias and disparate impact in their use.

2. States should prohibit suspension and expulsion in the early years and early grades, except in very rare cases where there is an immediate and significant safety threat that cannot otherwise be remedied. In such cases, states should outline parameters around its use, including a maximum number of days for suspension (e.g., three days) that are used to develop a clear intervention and support plan, timely reporting requirements, the triggering of a district or state level review process, and a process for rapidly deploying necessary supports to teachers, administrators, and children.
3. States should restrict the use of any public funds by programs, districts, or schools that engage in harsh and inappropriate forms of discipline for young children, including corporal punishment, seclusion, exclusionary discipline and inappropriate use of restraint.
4. States should protect young children from the school to prison pipeline by setting an appropriate minimum age for criminal liability no younger than age 14.
5. States should build and expand data infrastructure that collects disaggregated data on equity indicators, including the disproportionate application of harsh discipline, starting in infancy and toddlerhood and extending through the school years.
6. States should invest in professional preparation and development infrastructure that makes training, coaching, and technical assistance available to all providers on an array of equity issues, and on the equitable use of prevention and intervention strategies. States may do this in the form of developing state-level technical assistance centers, developing coaching corps focused on this issue, leveraging existing coaching infrastructure and expanding the focus, or statewide, regionally-based technical assistance teams that provide tailored support.
7. States should use child protective services hotlines and related infrastructure to receive complaints from families and others on harsh discipline. States should develop processes to respond to complaints and accountability measures to implement if complaints are substantiated.
8. States should incorporate discipline indicators into their quality rating improvement systems, including but not limited to, equitable access to culturally responsive social-emotional and behavioral coaching and consultation models, interventions or approaches that explicitly address the role of implicit bias in discipline decision-making; policies that eliminate and/or meaningfully restrict harsh discipline; and collecting, analyzing and using disaggregated data for continuous quality improvement and accountability.

District/Local

1. Districts should always manage children's behavior challenges within the school context, and strictly prohibit all negative interactions between school resource officers and young children, including intimidation, threats, handcuffing, unnecessary restraint, and arrest.
2. Districts and early learning programs should prohibit corporal punishment, seclusion, and exclusionary discipline and set clear limits around restraint for young children, whether or not states permit their use.
3. Districts should invest in systems for training, coaching, and evaluating the use of positive discipline and anti-bias approaches.
4. Districts should reallocate funding for punitive discipline measures, such as school resource officers, to prevention, promotion, and intervention efforts to to build workforce capacity and support children's mental health.

A CHILD EQUITY POLICY AGENDA:

RECOMMENDATIONS TO INCREASE INCLUSION OF CHILDREN IN WITH DISABILITIES IN LEARNING SETTINGS

Congress

1. Congress should fully fund its portion of IDEA, including Part B 619, and increase funding for Part C to ensure the quality and quantity of services that children receive is appropriate. Congress should also increase funding for Part D of IDEA to ensure that monitoring, technical assistance, and professional preparation and development efforts are robust enough to implement the law, especially the least restrictive environment and natural environment provisions of the law.
2. Congress should request a Government Accountability (GAO) report to examine the true cost of providing high-quality services to children with disabilities in inclusive settings.
3. Congress should request a GAO report to examine the effects of IDEA underfunding on inclusion placements and on children's outcomes.
4. Congress should request a GAO report to examine the implementation at federal, state, and district levels of the significant disproportionality regulation of Part B of IDEA.
5. Congress should give the U.S. Department of Education authority to hold states accountable for funding their share of IDEA services, in line with findings from the GAO cost report referenced above, that are sufficient, of high quality, and delivered in the natural or least restrictive environment.

Federal Agencies

1. ED should include adherence to the least restrictive environment, in preschool and K–12 settings, as factors for state determinations in monitoring. Given the influential role that preschool placement decisions have on children's long-term trajectories, ED should provide additional scrutiny to placement patterns in Part B 619 services.
2. ED should require that all state reported data, for every indicator, are disaggregated by race, ethnicity, gender, and English learner status.
3. HHS and DOJ should partner to ensure that early childhood programs are informed of ADA requirements, supported in compliance, and held accountable for violations.
4. ED should change the definition of "regular early childhood program" to programs that have "natural proportions" of children with and without disabilities.
5. ED should disaggregate their IDEA 618 data collection for Part B 619 so that kindergarten data can be examined separate from preschool data.
6. HHS and ED should incentivize inclusion through all federal grants, including the Preschool Development Grants, by awarding more points to states that propose meaningful, structural inclusion reforms and have agreements with special education programs for embedded service delivery.

7. ED and HHS should provide joint guidance to states to reiterate the importance of including children in the general early childhood system, as opposed to creating and maintaining dated parallel and segregated systems of learning for children with disabilities. Any relevant state applications for early childhood or special education funding should include a description of how states plan to include children with disabilities into the general system.
 8. HHS should encourage states to invest child care quality funding in meaningful inclusion reforms and supports.
 9. ED should use Part D funds to support states to develop, test, and scale personnel models that enable inclusion. ED should also provide technical assistance on the Equity in IDEA regulation to help states identify and address racial disproportionality in the discipline, identification, and placement of children with disabilities.
 10. HHS and ED should incentivize, monitor, and enforce coordination efforts between child care, early intervention, and Pre-K–12 special education programs.
 11. ED should submit an annual report to Congress, states, and the public on implementation of the Equity in IDEA regulation, that includes state status and progress on racial disproportionality in identification, placement and discipline of children with disabilities.
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5. States should use existing infrastructure, such as State Advisory Councils or State Councils for Developmental Disabilities to build and deploy teams that work at the community level to expand inclusive learning. These teams should prioritize communities with high rates of segregated placements, work to adjust funding models, staffing structures, and personnel training, and build and formalize connections with community-based early learning settings to expand inclusive slots.
 6. States should review all written early childhood policies and integrate inclusion of children with disabilities throughout, including quality rating improvement systems, early learning guidelines, Pre-K standards, state child care subsidy policy, early care and education licensing standards, and early childhood personnel standards and credentialing/certification.
 7. States should ensure that all early childhood coaches, including quality and behavior coaches, are trained in inclusion practices and work explicitly to advance the success of children with disabilities in inclusive settings.
 8. States should ensure that all classrooms are assessed on inclusion practices, as part of any classroom quality monitoring, and include the results of the assessment in their accountability framework.
 9. States should use state or federal funding, such as IDEA, Title I of ESSA, or child care quality funds, to transition self-contained classrooms to inclusive classrooms across systems.

States

1. States should monitor districts on placement patterns in the least restrictive environment, including preschool, and develop accountability structures tied to funding. They should accompany this with technical assistance to remediate deficiencies.
2. States should ensure individual education program (IEP) and individual family service plan (IFSP) teams are trained and held accountable for making inclusive placement decisions that align with the natural and least restrictive environment provisions in the law.
3. States should align their early learning systems with the Head Start Program Performance Standard that 10% of enrolled children be children with disabilities or developmental delays.
4. States should encourage Parent Training Information Centers to prioritize inclusion, which should include sharing information with families about child rights for

District/Local

1. Districts and early childhood programs should make meaningful reforms to expand access to inclusive learning for children with disabilities. These reforms should include restructuring budgets; modifying staffing structures to shift to itinerant teaching, co-teaching and consultative models; developing formal agreements with high-quality community-based early childhood programs; training IEP teams on IDEA and the expectation of least restrictive environment placements; and providing joint training and technical assistance opportunities for early childhood teachers, elementary school teachers, early interventionists, and special educators on supporting children with disabilities in inclusive settings.

A CHILD EQUITY POLICY AGENDA:

RECOMMENDATIONS TO EQUITABLY EXPAND ACCESS TO BILINGUAL LEARNING

Congress

1. Congress should at least double Title III funding to keep pace with inflation and to account for the increase in the number of English learners since 2002, when No Child Left Behind was initially passed.
2. Congress should request a GAO report on specific Title I and Title III EL investments, implemented by states, and the effectiveness and/or shortcomings of such investments on student outcomes.
3. Congress should fund a national effort to expand the number of qualified bilingual educators who can enable the expansion of bilingual learning and optimally meet the needs of DLLs and ELs.
4. Congress should hold hearings on best practices and funding models that optimally support English learners and Dual Language Learners.
5. Congress should use the aforementioned GAO reports and hearings to inform necessary investments, over and above doubling Title III, in reauthorization of the Every Student Succeeds Act.
6. Congress should align policy with research and prioritize dual language and strengths-based approaches as optimal language instructional education programs and tie prioritization to federal funding. They should phase out ineffective English-only approaches.

Federal Agencies

1. ED should provide guidance and technical assistance to states on how to invest Title III in effective, research-based ways.
2. ED should publish an annual review of Title I and III EL expenditures.
3. ED and HHS should pilot, test, and disseminate lessons learned on new strengths-based models that support dual language learners' and English learners' participation in bilingual education programs, especially dual language immersion models.
4. ED should identify and lift up strategies to support dual language learners' and English learners' entry into and success in gifted and talented programs.
5. HHS should provide more technical assistance on the Planned Language Approach and make a specific effort to ensure that states, districts, and child care programs are targeted in this technical assistance. The Office of Head Start should update their monitoring and accountability systems to ensure that dual language learners are receiving formal exposure to their home language and English through instruction and other social learning opportunities, in line with Head Start Program Performance Standards. Formal exposure requires bilingual staff, and curricula and assessments in the home language, as well as English.
6. ED and HHS should invest in developing new assessments to measure the effectiveness of dual language immersion and similar bilingual learning models for advancing dual language learners' and English learners' bilingual, academic, cognitive, social, emotional, and behavioral development.

7. ED and HHS, via their research branches (e.g. Institute for Education Sciences, the Office of Planning Research and Evaluation, the National Institute for Child Health and Human Development at the National Institutes of Health) and other federal research agencies (e.g., National Science Foundation), should invest in child-level assessment tools for dual language and English learners, including the development of reliable and valid assessments on language, as well as academic assessments for Math and English Language Arts, in at least the top five most commonly spoken languages.
8. Require states to report their plans to equitably expand access to dual language programming.

States

1. States should discontinue segregated programs for English learners, including pull-out ESL models.
2. States should discontinue all English-only or structured English immersion programs.
3. States should adopt Head Start dual language learner standards in state-funded Pre-K, incorporate standards into accountability frameworks, and make local Pre-K funding contingent on adherence to these standards.
4. States should invest in producing the workforce necessary to support dual language and English learners, including strategies that: (a) create new nontraditional pipelines for future teachers and providers, particularly those who are linguistically diverse (e.g., “grow your own” models); (b) improve existing teacher preparation pathways in higher education to reflect research on dual language learning; and (c) support the existing workforce, using Title II funding, child care quality funding, Head Start technical assistance funding, Part D of the Individuals with Disabilities Education Act funding, and other relevant state and federal funding streams.
5. States should revise workforce credentialing and licensing standards to incorporate knowledge and competencies required for dual language instruction, including strategies to promote bilingualism and holistic development of dual language and English learners, appropriate assessment, and family engagement strategies for families who speak a language other than English at home.
6. States should fund new grant programs to expand dual language immersion and other proven models that support comprehensive learning grounded in children’s home language and culture, in early childhood settings and Pre-K–12. They should use Title I and Title III funding to supplement (not supplant) these and similar investments, with guiding principles and accountability measures to support effective implementation at the local level.
7. States should prioritize dual language and English learners in dual language immersion expansion in all educational settings by: (a) reserving seats for students who speak the program’s non-English language of instruction at home and/or giving preferential weighting in enrollment lotteries, (b) using community demographics to prioritize areas of dual language immersion expansion, and/or (c) prioritizing dual language immersion placement for English learners.
8. States should require all learning programs to assess children in their home language and English, using valid and reliable tools (whenever they exist) that have been tested and normed on dual language and English learners and that are administered by trained assessment professionals.
9. States should require all early childhood programs to conduct a home language survey at program entry across all systems and to include data across all enrollment databases.
10. States should provide sequential high-quality trainings paired with coaching on dual language learning, effective approaches/models, trauma-informed approaches—particularly related to immigration and the fear of or actual family separation—and awareness of implicit bias’ influence on expectations and behavior specific to dual language learners, among other relevant areas.
11. States should require bilingual teaching staff in public schools and ensure that dual language and English learners have access to such staff, if at least 20% of a campus’ students are dual language or English learners. They should also encourage such staffing in child care settings through quality rating improvement systems.
12. States should include dual language learner measures across every level of quality rating improvement system, including the requirement for bilingual staff, assessments and instruction in the home language, dual language learning training for all staff, and the use and equitable access to dual language immersion models.

District/Local

1. School districts and early childhood programs should discontinue segregated programs for ELs, including English-only and pull-out ESL models.
2. School districts and early childhood programs should expand access to DLI programs and prioritize access to DLLs and ELs.





CONCLUSION

CONCLUSION

Children of color and children with disabilities face steep, historically entrenched inequities, starting at birth and continuing throughout their lives. These inequities have a profound influence on their experiences, both in and out of learning systems, and an outsized impact on their outcomes. As has been the case throughout American history, demographic characteristics in 2020 still predict outcomes for children across nearly every domain of life, including health, education, housing, income, and incarceration.

Although this report was developed before COVID-19 arrived in the U.S., this crisis has brought structural inequities into sharper focus. It is tragic, but not surprising, that people from marginalized communities are getting sicker and dying at higher rates of COVID-19. People of color are less likely to be insured than White people,³³² making it less likely that they get timely access to affordable preventative care. They are more likely to face bias within the healthcare system.³³³ They are more likely to be exposed to air pollution, live near toxic sites and landfills, drink contaminated water, and be exposed to lead.³³⁴ The full effects of COVID-19 on financial wellness, education, and other systems will be unknown for some time. But it is a fact that a long legacy of discriminatory policies have resulted in people of color having less wealth—by some estimates, ten times less³³⁵—and dramatically lower upward economic mobility than their White counterparts.³³⁶ It is a fact that children of color are more likely to attend high-poverty, underfunded schools.³³⁷ Given the inequity baked into our American systems, it is almost certain that people from marginalized communities will suffer more from this pandemic and its aftermath in ways that include, but also extend far beyond, health consequences.

In examining child equity, it is common for interventions to focus on “fixing the child,” as opposed to fixing systems.

These compounded injustices, underlie the multi-racial, multi-generational uprising, led by Black Americans, taking hold across small towns, rural communities, and large cities across this nation today. And although addressing equity issues, even within one system, can be daunting, particularly after the exacerbation of inequities from COVID-19, this movement has forced Americans to envision, and demand, a new reality.

In this report, we outline specific steps to make progress toward that new reality within learning systems. We reviewed three major policy areas that today, result in fewer opportunities, resources, and supports for children from historically marginalized communities and that significantly affect children’s outcomes. They include: (a) harsh discipline and its disproportionate application in learning settings, (b) the lack of inclusion of young children with disabilities in learning settings, (c) and the inequitable access to high-quality learning opportunities for dual language and English learners. Our choice to identify three concrete areas of change was strategic; this allowed us to deeply engage with the data, research, and policy landscapes, identify common themes, and provide concrete recommendations. Our resulting analysis yields systems-level recommendations that, if implemented, will not address every inequity young children face, but will make significant progress in bridging opportunity gaps in the earliest years and set children’s trajectories in a positive direction from the start.

We acknowledge that intersecting systems and identities affect children’s lives in complex and consequential ways. The issues discussed here affect children across race/ethnicity, family resources, disability status, home language, and other characteristics. For example, English learners with disabilities, as a function of their intersecting identities, have to navigate at least two severely underfunded systems, both of which have institutionalized policies that disadvantage children. The disadvantage is not simply doubled in such cases; it is multiplied many times over.

In examining child equity, it is common for interventions to focus on “fixing the child,” as opposed to fixing systems. It is not surprising that children of color are deemed less likely to be ready for school and that discussion around



the achievement gap remains alive and well. This common framing obscures a more sobering reality: schools, and learning systems more broadly, were not built—and are still not prepared—to educate and support children from diverse backgrounds. Our review of the data, research, and policy landscapes confirm this. The responsibility for readiness lies with the system, not with the child. **From an unprepared workforce that lacks supports specific to working with children from diverse backgrounds, to a range of policies and practices that have a disparate impact on certain populations of children or well-meaning policies that lack an accountability structure, it is clear that the systemic deck has been stacked against children from marginalized communities.**

The responsibility for reform is shared and wide-ranging. Changes must come at the national, state, and local levels. Recommendations in this report focus on the levers of government, primarily state and federal, but also recognize the important role of local government and communities, the courts, nongovernmental organizations, the private sector, and especially families in demanding that reforms are made to optimize learning conditions for all children.

The early learning and education systems, like all systems in the U.S., were not designed with all children in mind, and in some cases, explicitly designed to exclude, stunt outcomes, and prevent children from reaching their potential. **As a result, these systems can exacerbate—**

We can and must do better, especially now—not only to recognize the human dignity in every child, but because the promise and future of our American democracy depends on it.

rather than diminish—inequality. COVID-19 adds to the already flawed and inequitable American status quo, making equity issues, including those discussed here, all the more urgent to address.

Undoubtably, child advocates have a larger and more daunting task ahead in a post-COVID-19 world. Intentionally focusing on policies, practices, and investments that support more equitable systems for our youngest learners is a starting point. Most young children in the U.S. are now children of color, and in many communities children of color make up much more than half of the young child population. Redesigning our systems with these and all children in mind is not only the right thing to do—it is necessary. Inaction has too often rendered our early learning and education systems ineffective, and continued inaction risks rendering them irrelevant. We can and must do better, especially now—not only as a matter of fairness and justice and to recognize the human dignity in every child, but because the promise and future of our American democracy depends on the functioning, contributions, and cohesion of all of its members.

A photograph of several children sitting on a blue mat, focused on reading books. In the foreground, a girl with dark hair in a ponytail, wearing a red and white striped shirt, is looking down at an open book. To her left, another child in a white shirt is also reading. The books have colorful illustrations, including a knight on a horse. A clear plastic water bottle is on the mat near the girl. The background shows other children and more books, creating a classroom or library setting.

ENDNOTES

ENDNOTES

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