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Virginia Early Childhood Policy Center

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## Public School Discipline Policies and Practices: Implications for Early Childhood Classrooms in Virginia

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*September 2019*

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## Executive Summary

As increasing state and federal funds are dedicated to the development and inclusion of public Pre-Kindergarten (PreK) and full-day Kindergarten classrooms across Virginia, the number of four- and five-year-old children being served within public school settings is rising. At the national level, this rise in increased school enrollments for young children has occurred alongside an increasing number of student expulsions from both public and private early childhood classrooms. As previous research has suggested that school expulsion and suspension practices are associated with negative educational and life outcomes, it is of central importance that state education disciplinary policies take into account the various developmental needs of students spanning the PreK-Grade 12 spectrum alongside the identified needs of students from special populations.

This policy brief explores state-level conduct and discipline policies across the United States as a means to compare and provide models for Virginia's practices and policies as related to preschool and primary age children. Further, we investigate the intersections between the guidance recommendations for early childhood students from NAEYC (2009), the U.S. Department of Education (2016), and adopted state policy. A thematic content analysis was used to develop an understanding of individual state conduct and discipline policies, thus, allowing us to explore the ways in which state-level conduct policies contribute to, address, or work to curb the rising number of expulsions and suspensions of Pre-Kindergarten and Kindergarten students from public school classrooms. This nationwide snapshot allows for a contextualized understanding of Virginia policy as compared and contrasted with other states. Finally, we provide recommendations for policy actions for Virginia that serve to support young children and families in public school settings.

## Public School Discipline Policies and Practices: Implications for Early Childhood Classrooms in Virginia

As increasing state and federal funds are dedicated to the development and inclusion of public Pre-Kindergarten (PreK) and full-day Kindergarten classrooms across Virginia, the number of four- and five-year-olds being served within public school settings is increasing. At the national level, the rise in increased enrollments for young children has occurred alongside an increasing number of student expulsions from both public and private early childhood classrooms.<sup>1</sup>

Early Childhood Disciplinary Statistics
2016 National Survey of Children’s Health estimated that in the United States: <ul style="list-style-type: none"> <li>• 174,309 preschoolers ages 3-5 (2%) are suspended annually</li> <li>• 17, 248 (0.2%) preschoolers ages 3-5 are expelled annually<sup>2</sup></li> </ul>

In this writing we are particularly interested in exploring how state-level policy addresses early childhood contexts within the public school system in order to identify the ways in which existing policies support, hinder, or pose challenges to the enactment of positive guidance practices. As such, this writing is informed by understandings of positive guidance practices as derived from both flexible understandings of the developmental and behavioral

needs of young children and the unique context of Virginia’s educational environments. In this brief, we explore the ways in which state-level guidance/conduct policies contribute to, address, or work to curb the rising number of expulsions and suspensions of PreK and K students from public school classrooms. We conclude this writing with recommendations for policy actions that serve to support young children and families in Virginia’s public school settings.

### Perspectives and Context -Public Pre-Kindergarten and Kindergarten

The U.S. Department of Education Office for Civil Rights 2013- 2014 Civil Rights Data Collection report, published in 2016, revealed inequalities in public education disciplinary practices at that preschool level. Black preschool children are 3.6 times as likely to receive one or more out-of-school suspensions as white preschool children.<sup>3</sup> Moreover, Black children represent 19% of public PreK enrollment, but represent 47% of preschool children receiving one or more out-of-school suspension. As a point of comparison, white children represent 41% of PreK enrollment but represent 28% of preschool children receiving more than one out of school suspension. Boys represent 78% of preschool children receiving one or more out-of-school suspension although boys only make up 54% of PreK enrollment. Additionally, young children with disabilities served by the Individuals with Disabilities Education Act (IDEA) make up 20%

<sup>1</sup> National Association for the Education of Young Children. (2016). *Standing together against Suspension and expulsion in early childhood*. Retrieved from

<https://www.naeyc.org/resources/blog/suspension-and-expulsion-early-childhood>

<sup>2</sup> Zeng, S., Corr, C. P., O’Grady, C., Guan, Y. (2019). Adverse childhood experiences and preschool suspension expulsion: A population study. *Child Abuse & Neglect*, 97, 1-9.

<sup>3</sup> U.S. Department of Education Office for Civil Rights. (2016). *2013-2014 civil rights data collection: A first look*. Retrieved from

<https://www2.ed.gov/about/offices/list/ocr/docs/2013-14-first-look.pdf>

of preschool enrollments but are 15% of the preschool children receiving one or more out-of-school suspensions. Young English language learners (ELL) make up 12% of preschool enrollments and represent 7% of the preschool children receiving one or more out-of-school suspensions.<sup>4</sup>

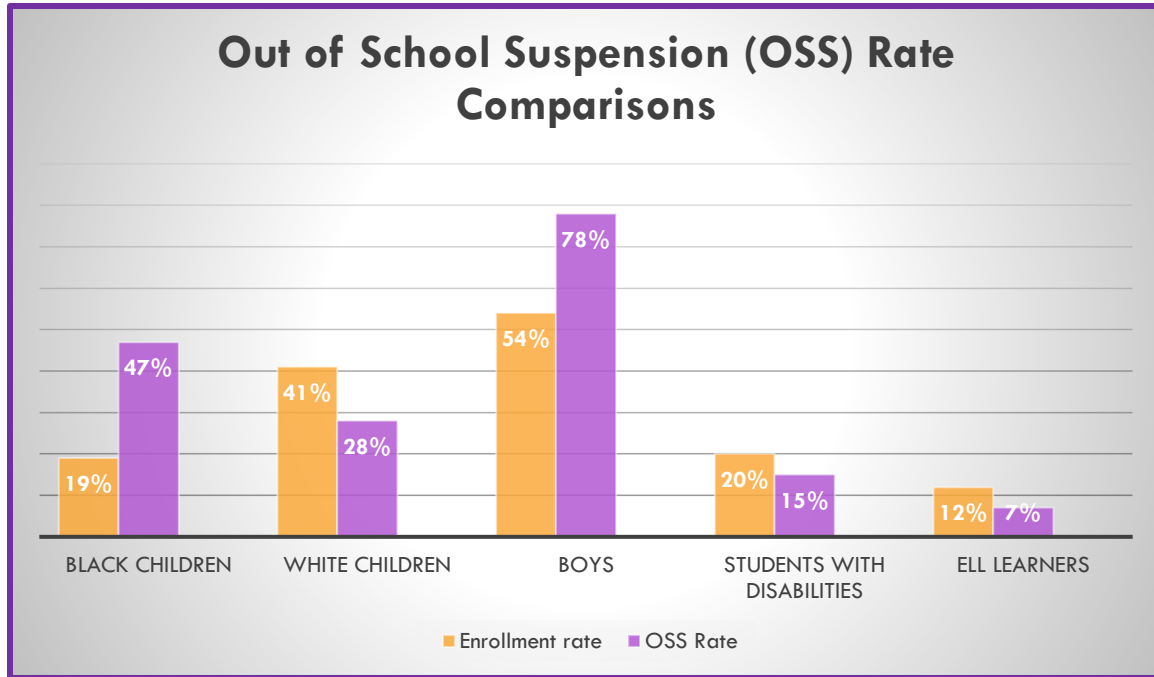


Figure 1. Enrollment rate by category compared to OSS rates.

These numbers are a cause for concern as young children are developing social and emotional skills, dispositions towards schooling, and understandings of themselves as learners during the early childhood years. Supportive educational policies can create an environment which fosters children’s development of positive social and emotional skills along with supporting them to develop positive, trusting relationships with the adults in public and private PreK settings. Punitive discipline policies that include suspension and expulsion practices for young children disrupt these relationships and punish children for behaviors that are often considered age or developmentally appropriate in spite of being undesirable within the learning environment. The use of suspension and expulsion in PreK settings has only recently been examined and documented by researchers as states across the US have begun consistently reporting their early childhood suspension and expulsion rates. Given the increase in publicly funded Pre-K and Kindergarten programs housed within public elementary schools, it is important to examine the extent to which state policy guidelines address appropriate discipline and guidance practices and the teaching of prosocial skills for young children within the public school PreK-12 settings.

<sup>4</sup> U.S. Department of Education Office for Civil Rights. (2016). *2013-2014 civil rights data collection: A first look*. Retrieved from <https://www2.ed.gov/about/offices/list/ocr/docs/2013-14-first-look.pdf>

## Virginia Discipline Policies

### **§ 22.1-276.2. Removal of students from classes.**

- A. Teachers shall have the initial authority to remove a student for disruptive behavior from a class.
- B. Each school board shall establish, within the regulations governing student conduct required by § 22.1-279.6:
1. Criteria for teachers to remove disruptive students from their classes;
  2. Requirements for incident reports of disruptive behavior to school administrators and any other documentation to support such removals from class;
  3. Procedures for the written notification of a student and his parents of any incident report and its contents and for the opportunity to meet with the teacher and school administrators to discuss the student's behavior and the possible consequences if such behavior does not cease;
  4. Guidelines for the alternative assignment and instruction of such students and for the duration of such removals; and
  5. Procedures for the return of students to class, for teacher participation in any decision by the principal to return a student to the class from which he has been removed, and for the resolution of any disagreements between such principal and teacher regarding such return.
- C. The principal shall, unless a student who has been removed from class is suspended or expelled from school attendance, ensure that such student continues to receive an education.
- D. Any teacher whose evaluation indicates deficiencies in the management of student conduct may be required by the school board to attend professional development activities designed to improve classroom management and disciplinary skills.
- E. Application of this section to students with disabilities shall be in accordance with state and federal law and regulations.

### **§ 22.1-277. Suspensions and expulsions of pupils generally.**

- A. Pupils may be suspended or expelled from attendance at school for sufficient cause; however, (i) in no case may sufficient cause for suspension include only instances of truancy and (ii) except in cases pursuant to subsection B, an incident that occurs in any setting other than on a school bus, on school property, or at a school-sponsored activity shall not be deemed sufficient cause for suspension or expulsion.
- B. Any student for whom the division superintendent of the school division in which such student is enrolled has received a report pursuant to § 16.1-305.1 of an adjudication of delinquency or a conviction for an offense listed in subsection G of § 16.1-260 may be suspended or expelled from school attendance pursuant to this article.

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C. The authority provided in § 22.1-276.2 for teachers to remove students from their classes in certain instances of disruptive behavior shall not be interpreted to affect the operation of § 22.1-277.04, 22.1-277.05, or 22.1-277.06.

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**§ 22.1-279.1:1. The use of seclusion and restraint in public schools; Board of Education regulations.**

The Board shall adopt regulations on the use of seclusion and restraint in public elementary and secondary schools in the Commonwealth that (i) are consistent with its Guidelines for the Development of Policies and Procedures for Managing Student Behavior in Emergency Situations and the Fifteen Principles contained in the U.S. Department of Education's Restraint and Seclusion: Resource Document; (ii) include definitions, criteria for use, restrictions for use, training requirements, notification requirements, reporting requirements, and follow-up requirements; and (iii) address distinctions, including distinctions in emotional and physical development, between (a) the general student population and the special education student population and (b) elementary school students and secondary school students.

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**§ 22.1-277.07. Expulsion of students under certain circumstances; exceptions.**

A. In compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), a school board shall expel from school attendance for a period of not less than one year any student whom such school board has determined, in accordance with the procedures set forth in this article, to have possessed a firearm on school property or at a school-sponsored activity as prohibited by § 18.2-308.1 or to have possessed a firearm or destructive device as defined in subsection E, a firearm muffler or firearm silencer, or a pneumatic gun as defined in subsection E of § 15.2-915.4 on school property or at a school-sponsored activity. A school administrator, pursuant to school board policy, or a school board may, however, determine, based on the facts of a particular situation, that special circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion is appropriate. A school board may promulgate guidelines for determining what constitutes special circumstances. In addition, a school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article. Nothing in this section shall be construed to require a student's expulsion regardless of the facts of the particular situation

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**§ 22.1-277.04. Short-term suspension; procedures; readmission.**

A pupil may be suspended for not more than ten school days by either the school principal, any assistant principal, or, in their absence, any teacher. The principal, assistant principal, or teacher may suspend the pupil after giving the pupil oral or written notice of the charges against him and, if he denies them, an explanation of the facts as known to school personnel and an opportunity to present his version of what occurred. In the case of any pupil whose presence poses a continuing danger to persons or property, or whose presence is an ongoing

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threat of disruption, the pupil may be removed from school immediately and the notice, explanation of facts, and opportunity to present his version shall be given as soon as practicable thereafter.

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**§ 22.1-277.06.**  
**Expulsions;**  
**procedures;**  
**readmission.**

Recommendations for expulsion for actions other than those specified in §§ 22.1-277.07 and 22.1-277.08 shall be based on consideration of the following factors:

1. The nature and seriousness of the violation;
2. The degree of danger to the school community;
3. The student's disciplinary history, including the seriousness and number of previous infractions;
4. The appropriateness and availability of an alternative education placement or program;
5. The student's age and grade level;
6. The results of any mental health, substance abuse, or special education assessments;
7. The student's attendance and academic records; and
8. Such other matters as he deems appropriate.

No decision to expel a student shall be reversed on the grounds that such factors were not considered.

Nothing in this subsection shall be deemed to preclude a school board from considering any of these factors as "special circumstances" for purposes of §§ 22.1-277.07 and 22.1-277.08.

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Table 1. Virginia School Discipline Policies<sup>5</sup>

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<sup>5</sup> National Center on Safe Supportive Learning Environments. (2019). School discipline laws and regulations by state & category: Virginia. Retrieved from <https://safesupportivelearning.ed.gov/discipline-compendium/choose-type/virginia>

## Examining State-Level Conduct and/or Discipline Policies

To better understand state-level school conduct and/or disciplinary policies, as a means to situate understandings of Virginia’s own policies, we reviewed and analyzed each state’s publicly available policies on their associated Department of Education or state government websites and the National Center for Safe Supportive Learning Environment’s (American Institutes for Research) state profiles. All policies analyzed were effective as of January 2018 and data was collected in late spring 2019. We employed thematic content analysis to gain insight into the current status of public school conduct and disciplinary policies and the resulting practices employed as they relate to early childhood classrooms. Through our review and analysis process, we uncovered how states label and identify disruptive behavior as well as how short-term suspensions, long-term suspensions, and expulsions are assigned given a disruptive behavior or patterns of disruptive behavior at the PreK, Kindergarten, and primary grade levels. In particular we examined whether each state’s conduct and/or discipline policy provided an overarching policy for all grade levels, provided Pre-kindergarten, Elementary, or Secondary differentiation, and Special Needs or English Language Learners (ELL) differentiations.

### State Level Policies

Our analysis revealed that every state has a specified discipline policy that applies to all children enrolled in the public school system. These policies address a broad range of disciplinary issues; however, our analysis was specific to details about disruptive behavior, short-term suspension, long-term suspensions, and expulsions. Each state’s discipline policy included information detailing how the state addresses such issues and which entities have authority to implement disciplinary measures. With varying degrees of specificity, the policies detail the infractions that may result in disciplinary interventions.

Our analysis uncovered common terminology across policies which included removal/isolation, disorderly conduct, severity of disruptions, remediation, and authority to suspend or expel. However, there are differences in how these terms are addressed between statewide discipline policies. Across the states, differences exist regarding to whom authority is given to suspend or expel students. Depending upon individual state policy, authority to expel or suspend a student can lie with any certified school employee, school administration, or the Superintendent. In addition, across the nation the terminology outlining the severity of negative student behaviors and what constitutes habitually disruptive behaviors is also inconsistent across policies. However, associated terms describing negative or disruptive student behaviors consistently appears within statewide discipline policies as a factor in determining the extent of disciplinary interventions. For example, Kansas’s policy, representative of the non-specific language seen in the majority of state policies, notes that the board of education of any school district may suspend or expel students found to be guilty of “conduct which substantially disrupts, impedes or interferes with the operation of any public school.”<sup>6</sup>

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<sup>6</sup> National Center on Safe Supportive Learning Environments. (2019). School discipline laws & regulations by state and category: Kansas. Retrieved from <https://safesupportivelearning.ed.gov/discipline-compendium/choose-type/Kansas/Grounds%20for%20possible%20suspension%20or%20expulsion>



The ambiguity of the terms “disrupt,” “impede,” and “interfere” creates opportunities for large levels of variation based upon board members’ interpretations. On the other hand, Oregon’s policy provides descriptive accounts of student behaviors and various infractions that would result in suspension or expulsion. The state’s policy outlines infractions such as, the “use or display of obscene or profane language” and “willful damage or injury to school property.”<sup>7</sup>

As the rates of expulsions and suspensions in PreK settings have drastically increased in recent years, specifically among Black and male preschoolers<sup>8</sup>, it is important to review state discipline policies specific to early childhood classrooms. While 43 states had a single overarching conduct and discipline policy to govern all PreK-12 students, a distinction between grade levels was found in eight of the state discipline policies. Specifically, these eight statewide policies included preschool, elementary, and secondary grade level distinctions for how disciplinary infractions are addressed and the severity of the disciplinary interventions. As an example, New Jersey’s grade level distinction prohibits students in PreK through second grade from being expelled except in the case of the “Zero Tolerance for Guns Act”. In Texas, each school district is required to provide disciplinary alternatives for students enrolled below the 3<sup>rd</sup> grade level and these alternative programs are required to be age-appropriate and research-based. Connecticut also provides distinction for out-of-school suspensions for students in Pre-K through grade two and students in grades three through twelve. In Connecticut’s early and primary grades, a student may only receive out-of-school suspension when it is deemed that the student is a danger to others. In grades three and higher, other, more detailed distinctions are offered, such as student history and previous implementation of positive behavioral supports.

Of the 43 states that had single, overarching discipline policies that governed student conduct and school-based discipline at every age, nine states did indicate a need to consider factors related to age when considering disciplinary actions such as suspensions and expulsions. Colorado’s policies encourage each school district to first consider several factors before suspending or expelling a student including the age of the student, the child’s disciplinary history, and the seriousness of the violation committed by the student. New York requires districts to develop measured, balanced, and age-appropriate responses to misconduct, with strategies and procedures following a progressive model that makes appropriate use of positive interventions. Virginia requires that, when considering expulsion, a student’s age and grade level should be considered. Four states made distinctions regarding secondary discipline policies, while eight states included distinctions for elementary age discipline. Only two states to date – Connecticut and New Jersey - have included PreK as a specific distinction in their statewide written discipline policies (see Table 2 for state specific information).

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<sup>7</sup> National Center on Safe Supportive Learning Environments. (2019). School discipline laws & regulations by state and category: Oregon. Retrieved from <https://safesupportivelearning.ed.gov/discipline-compendium/choose-type/Oregon/Grounds%20for%20possible%20suspension%20or%20expulsion>

<sup>8</sup> U.S. Department of Education Office for Civil Rights. (2016). *2013-2014 civil rights data collection: A first look*. Retrieved from <https://www2.ed.gov/about/offices/list/ocr/docs/2013-14-first-look.pdf>

## State's Distinction of Age/Grade Level Discipline

	Specific differentiation of disciplinary action based on age/grade level	Some or vague differentiation of disciplinary action based on age/grade level (e.g. <i>Age of student should be considered/ age-appropriate discipline</i> )	No differentiation of disciplinary action based on age/grade level
State (age/grade differentiation)	California (K- grade 3 differentiation)  Connecticut (Pre-K – grade 2 and grade 3 – 12 differentiation)  Kentucky (primary student differentiation)  Michigan (grade 5 or below/grade 6 or above differentiation)  New Jersey (Pre-K differentiation, K-2 differentiation)  Nevada (K- grade 8 differentiation)  Texas (below grade 3 differentiation)  Washington (K- 4 and grade 5 and above differentiation)	Colorado Georgia Hawaii Missouri New York Oklahoma Oregon Vermont Virginia	Alabama Arkansas Arizona Alaska Delaware Florida Idaho Indiana Illinois Iowa Kansas Louisiana Maine Maryland Massachusetts Minnesota Mississippi Missouri Montana Nebraska New Hampshire New Mexico North Carolina North Dakota Ohio Pennsylvania Rhode Island South Carolina South Dakota Tennessee Utah West Virginia Wisconsin Wyoming

Table 2. Differentiation by state of discipline specificity according to age.

While beyond the scope of this brief, our statewide analysis revealed numerous differences between state discipline policies and practices related to children from special populations. While all states serving students with disabilities are required to provide disciplinary policies in accordance with state and federal law and regulations, much less attention can be found in state disciplinary policies, including Virginia’s current policy, regarding students for whom English is an additional language.

## Implications for Virginia Policy and Resulting Practices

Our analysis of state-wide policies uncovered very little differentiation between early childhood classrooms and elementary and secondary classroom disciplinary policies as well as a largely discretionary approach to disciplinary decision making at both the school or district levels. In particular, Virginia’s policy, while offering some support for differentiation of disciplinary action based on a students’ age/grade level for exclusionary actions, does not go as far as to differentiate all conduct and disciplinary actions based on developmental ranges or age/grade levels. Specified, differentiated policies for Virginia students at the PreK, Kindergarten, and primary grade levels could provide more sound supports for young children as they work to both understand school expectations for behavior and develop the skills necessary to regulate their own behaviors. In addition, the ambiguous nature of the terminology in Virginia’s current policy outlining only “disruptive behavior” as a cause for student removal does not take into account age/development-related variations in student behavior across the PreK-Grade 12 spectrum. From our analysis and review of the relevant research literature we recommend the following policy actions to support guidance recommendations put forth in NAEYC’s *Developmentally Appropriate Practice* (2009) and the U.S. Department of Education’s *Guiding Principles: A Resource Guide for Improving School Climate and Discipline* (2014) as related to early childhood.

**1. Provide Professional Development and Training.** As the inclusion of public PreK settings in elementary school continues to expand across Virginia, related training for all school personnel is needed. Specific areas for training include the developmental needs of young children, effective early childhood guidance techniques, and the impact of Adverse Childhood Experiences (ACEs). Professional development for all staff regarding the unique developmental needs of young children is crucially important if we are to support children within a public school setting. Among the developmental needs of preschool children is social emotional guidance, which is a critical responsibility of early childhood educators. Teachers and school staff charged with supporting children with challenging behaviors<sup>9</sup> may not be familiar with how ACEs can impact a child’s development and behavior in the classroom.<sup>10</sup> Professional development that aims to educate teachers and other school personnel about ACEs and trauma informed practices can address discipline in proactive, positive ways.

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<sup>9</sup> Martin, K. A., Bosk, E., & Bailey, D. (2018). Teachers’ perceptions of childcare and preschool expulsion. *Children & Society*, 32(2), 87–97. <https://doi.org/10.1111/chso.12228>.

<sup>10</sup> Zeng, S., Corr, C. P., O’Grady, C., Guan, Y. (2019). Adverse childhood experiences and preschool suspension expulsion: A population study. *Child Abuse & Neglect*, 97, 1-9.

**2. Increase Funding and Support for On-site School Counselors.** The American School Counselor Association (ASCA) recommends one full-time counselor for every 250 students regardless of grade level. In December of 2019 Governor Northam proposed an additional \$36 million expenditure over three years to bring the number of school counselors in Virginia closer to alignment with the national recommendations. In actuality, the General Assembly failed to fully fund these additional positions – the state funds one full-time counselor per 500 students, one full-time counselor per 540 middle school students, and one full-time counselor per 350 high school students. Individual localities across Virginia can choose to supplement these numbers by funding additional counselor positions. It is imperative that Virginia make efforts to fund the minimum number of school counselors outlined by ASCA in future budgets in order to provide Virginia’s children with the resources that serve to support their emotional and social needs as well academic and career supports.

**3. Eliminate Punitive Policies for Young Children.** During the early childhood years, the elimination of zero tolerance policies and practices including suspensions and expulsions for young children is needed, as these policies are not designed to support the children’s learning of self-guidance and positive ways of being and interacting within the school setting. During the preschool and early primary school years, young children are gaining initial experience acting independently in a non-familial setting, and it is developmentally inappropriate to hold them to the same standards of behavior as older children and adolescents.

**4. Clarify and Differentiate.** State discipline policies outlining non-specific discretionary practices that do not clearly identify appropriate common-sense responses to minor student misbehaviors need revision in order to ensure fair treatment of all students. These misbehaviors are described in many policies as disobedience, disrespect, and defiance and specific administrative responses to these behaviors differentiated at the PreK, elementary, and secondary levels would help to ensure that the developmental needs of students are addressed.

**5. Collect and Report Disciplinary Data.** As child guidance is an important element of any school setting, the disciplinary data of each school, district, and Virginia as a whole should be collected and analyzed annually in order to identify and strengthen related services and policies. Data would be most useful for school-wide improvement if disaggregated by age, grade, race/ethnicity, sex, and special populations designations.

## **Conclusion**

This analysis uncovered that the majority of the US states’ conduct and guidance policies were ‘one-size-fits-all’ which is problematic given the increasingly large numbers of Pre-Kindergarten and Kindergarten students served in public school settings. While it is notable that Virginia is one of the nine states that does offer some distinction for policy differentiation as a basis of student age or grade level in expulsion cases, it does not provide a level of differentiation specific to all conduct and disciplinary practices for young children. As students’ social and emotional needs and capacities differ across the PreK-12 spectrum, we recommend the adoption of policies that are reflective, inclusive, and acknowledge developmental and special populations differences to support the healthy growth and development of all children. Creating positive school relationships and supportive early learning climates through alternative

inclusionary and guidance practices that recognize and reinforce the long-held traditions of family and community involvement in early childhood is necessary to realize the academic and program goals for learning and development. Supportive early learning environments are critical to creating spaces where young children can continue to grow socially, emotionally, as well as academically.