Developing Prevention-Oriented Discipline Codes of Conduct
Prepared for the 2015 Education Law Association Annual Conference
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Introduction
For many years, significant concerns have been raised about the overuse of exclusionary discipline (e.g., suspension and expulsion), particularly for minor behaviors unrelated to school safety, such as tardies and truancy.² Even though exclusionary discipline practices, such as suspension, are the most commonly listed discipline response in written discipline codes of conduct for infractions ranging from minor to more severe, there is no evidence that exclusionary discipline changes behavior or results in desired behaviors.³ Ironically, there is more evidence that suspension and expulsion may actually increase the very behaviors they are intended to reduce.⁴

The long-standing concerns about the lack of efficacy and overuse of exclusionary discipline practices are coupled with increased federal and national outcry about racial disproportionality in school discipline, specifically among African American males and those in special education, consistently documented as early as 1975.⁵ Inextricably linked to the racial

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disparities in discipline, often referred to as the “discipline gap” is the phenomenon of the “school-to-prison pipeline.” The “school to prison pipeline” is a term used to describe the use of school practices that push youth, primarily students of color, out of school and into the juvenile justice and/or penal system. The increased awareness of the scope and impact of these practices has sparked greater national, regional and state interest in reforming exclusionary school discipline policies among educators, policy makers, legal and community grassroots advocates and organizers, juvenile justice professionals, families, community members and students themselves.

Recent federal guidance on school discipline reform centered on reducing discipline disparities and the use of exclusionary discipline has begun to shift the national landscape from a continued focus on documenting the long-standing problems and disparities in exclusionary discipline to one of action steps to begin correcting the problems. In January 2014, the U.S. Department of Education (USDOE) and the Department of Justice (USDOJ) issued joint guidelines for addressing school discipline in a prevention-oriented way rather than by a traditional reliance on exclusionary discipline. This first-ever federal guidance related to school discipline not only detailed the federal law prohibiting school districts from discriminating in the administration of school discipline, but it also included a comprehensive package providing resources and information aimed at improving school climate and reducing the use of exclusionary school discipline. Soon afterward, President Obama formed the “My Brother’s Keeper” Initiative, which is a task force with a mission and goals to address disparities, including discipline disparities, and promote educational access and life opportunities among young men of color, the current results of which are chronicled in progress reports.

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6 Daniel J. Losen et al., The Center for Civil Rights Remedies, Are We Closing the School Discipline Gap? (2015).
8 Losen et al., Are We Closing the School Discipline Gap?, supra n.6; Morgan et al., supra n.7.
9 Losen, Closing the School Discipline Gap, supra n.5; Losen et al., Are We Closing the School Discipline Gap?, supra n.6; Morgan et al., supra n.7; Office of the President, Economic Costs of Youth Disadvantaged and High-return Opportunities for Change (2015).
11 U.S. Dep’t of Educ., Guiding Principles, supra n.2.
12 My Brother’s Keeper’s Task Force, One Year Progress Report to the President (2015).
Also in 2014, the Council of State Governments Justice Center, in collaboration with the USDOE and USDOJ, released a document featuring strategies for keeping students engaged in school and out of the juvenile justice system. The “School Discipline Consensus Report” was the culmination of an 18-month consensus-building initiative involving key stakeholders and experts in juvenile justice and education reform.\(^\text{13}\) This report provides a comprehensive set of recommendations and practical guidance to reduce the use of exclusionary discipline and arrest in response to student behaviors at school. One of the report’s recommendations is to incorporate prevention-oriented practices into written school discipline policy, typically termed the “code of conduct,” with a focus on enhancing school climate and keeping students in school.\(^\text{14}\) In addition, the report’s authors suggest that state laws be modified if necessary to provide a framework for school districts to develop effective prevention-driven codes of conduct.\(^\text{15}\)

As a result of and alongside of these initiatives, states and school districts across the country have been grappling with how to operationalize federal guidance and respond to local community and grassroots pressure to reduce the use of exclusionary school discipline policies and practices. For example, in the state of Illinois (where the presenters work and reside), there has been significant state and local advocacy for school district transparency regarding school discipline practices as well as for substantive changes to reduce the reliance on exclusionary discipline. At the state level, the organization Voices of Youth in Chicago Education (VOYCE) spearheaded the formation of a collaborative called the Campaign for Common Sense Discipline.\(^\text{16}\) This youth-led campaign resulted in two groundbreaking pieces of legislation recently signed into law in Illinois. In 2014, Illinois enacted Public Act 098-1102, which requires schools and districts to more publicly release disaggregated data on these practices.\(^\text{17}\) Following this, in August 2015, Illinois enacted Public Act 099-0456, which is substantive school discipline reform legislation that takes effect on September 15, 2016.\(^\text{18}\) This legislation will require school districts to make significant changes to the content of their discipline policies.

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\(^{13}\) Morgan et al., \textit{supra} n.7.
\(^{14}\) \textit{Id.} at 71-72.
\(^{15}\) \textit{Id.} at 73-76.
to further align with prevention-oriented practices and to justify the use of suspension and expulsion.\textsuperscript{19}

Discipline codes of conduct, as they currently stand, would need to undergo substantial revisions to align with the practices offered in the federal documents and with the new changes in Illinois law. Content analysis of written codes of conduct reveal that written discipline policies are based on punitive disciplinary responses that focus on suspension and expulsion, even for minor behaviors unrelated to school safety such as tardies and truancy.\textsuperscript{20} Within the state of Illinois and across the nation, there remains a significant need for more tools to enable districts to implement appropriate and research-based alternatives to exclusionary school discipline policies to be compliant with recent legislative mandates as well as with the broader objective of engaging in effective discipline and educational practices so that all students can be successful, including those traditionally marginalized and excluded through disciplinary practices.

This paper will focus on describing a multi-agency collaborative and interdisciplinary effort within the state of Illinois involving attorneys, advocates, school psychologists and the state education agency developing a “Model Code of Conduct.” The intent of the model code project is to provide schools and school districts with a best practice document that can be used as a reference to align with the recent discipline legislation passed within the state.\textsuperscript{21} The collaboration and focus of a training academy in development for school administrators focused on implementation of the model code and compliance the state legislation will also be described. This professional development project is guided by efforts already engaged in by such national groups as the Dignity in Schools Campaign\textsuperscript{22} and other state and local groups engaged in discipline policy work with adaptations to the local practices and context.

In this paper, we highlight the major components of the state-level model code of conduct under development. The code builds upon and integrates research-based and prevention-oriented strategies for addressing students’ academic and behavior needs in a manner intended to reduce the need for disciplinary referrals. The code also highlights best practices with respect to due process protections for students, proposed procedures following suspension and expulsion, as

\textsuperscript{19} Id.

\textsuperscript{20} Fenning et al., supra.


\textsuperscript{22} Dignity in Schools Campaign, \textit{A Model Code on Education and Dignity: Presenting a Human Rights Framework for Schools} (2012).
well as data collection and professional development protocols. It is intended to serve as a reference for schools and districts to be compliant with the recently passed legislation. The contributions that attorneys, professors, school administrators and school psychologists can bring to a state-level task of this nature will be highlighted based on our collaborative effort. Finally, we will provide some guiding questions that cross-disciplinary teams forming similar discipline reform initiatives could use to model their initial efforts and goal setting in the arduous task of modifying discipline practices at the local and state level.

**Description of Cross-Disciplinary Collaboration**

During stakeholder dialogues convened by youth advocates and partner organizations in early 2014 to discuss statewide school discipline reform, part of the conversation centered around the lack of coherent school district policies related to discipline throughout the state. There are over 800 school districts in Illinois, and each has its own code of conduct. While some school districts, like Chicago Public Schools, have already revised their codes of conduct to become less punitive, many school district and charter school codes contain remnants of the zero tolerance policies that had long been seen as contributing to the significant disparities in discipline and overuse of ineffective exclusionary practices. A number of organizations and institutions discussed pooling their expertise and building upon the national-level efforts to develop a model code of conduct for Illinois, with the aim of seeking endorsement for the code from the state-level education agency and to use the code as a training tool for districts to incorporate best practices.

A model code working group was convened that included attorneys, school psychologists, policy advocates and community organizers. The group includes individuals with expertise and backgrounds in school discipline, bullying, behavioral intervention and supports, racial justice, the rights and needs of LBGTQ students, and special education law. The group includes representatives of non-profit organizations as well as university faculty, including law school and graduate school of education faculty. Many of the members of the group had previously collaborated as part of a Chicago-based School Discipline Working Group, which


was formed initially by attorneys and advocates who represent youth in school discipline proceedings and then expanded to include a broader cross-section of attorneys and other professionals with an interest in school discipline reform.

The model code working group began the drafting process in 2014 and subsequently revised the document to align with the two pieces of discipline reform legislation that were subsequently adopted in Illinois. At the time of this presentation, the model code is in draft form and is beginning to be circulated to relevant stakeholders for feedback prior to finalization. The goal of the group is to release the document by mid-January 2016 so that it can be used as a training tool and resource for school districts as they revise their disciplinary policies and codes of conduct to align with the new legislation.

**Description of State Discipline Legislation**

As explained above, Illinois has passed two new laws relating to discipline in the past year and a half. Both were originally part of the same legislation that was initially introduced in the spring 2014 legislative session as the Safety and Equity in Education Act\(^\text{25}\) but which were ultimately passed in a staged manner. Public Act 098-1102, which became effective in August 2014, requires school districts to annually release discipline data on all publically funded schools within the district, including district-authorized charter schools, to the Illinois State Board of Education (ISBE).\(^\text{26}\) The data must include: “issuance of out-of-school suspensions, expulsions, and removals to alternative settings in lieu of another disciplinary action, disaggregated by race and ethnicity, gender, age, grade level, limited English proficiency, incident type, and discipline duration.”\(^\text{27}\) Based on this data, ISBE is required to prepare an annual report that determines the top 20% of districts in each of the following areas: (1) issuance of out-of-school suspensions, as determined by the total number of out-of-school suspensions issued as a percentage of total district enrollment; (2) issuance of out-of-school expulsions, as determined by the total number of out-of-school expulsions issued as a percentage of total district enrollment; and (3) racial disproportionality, which is calculated using the same method as the USDOE’s Office for Civil Rights.\(^\text{28}\)

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\(^{25}\) VOYCE, *supra* n.16.

\(^{26}\) 105 ILCS 5/2-3.160 new.

\(^{27}\) 5/2-3.260(a).

\(^{28}\) 5/2-3.260(b).
This legislation goes beyond many state and local laws requiring the release of discipline data because it also calls for the development of corrective action plans by those districts with high levels of reliance on exclusionary school discipline or racial disproportionality, or both. Starting with the 2017-2018 school year, school districts that are in the top 20% for any one of the three areas discussed above for the previous three consecutive years must develop a corrective action plan to remedy the identified deficiencies, obtain school board approval for the plan, and post the plan on the district’s website.29 Within a year after being identified, districts must also present a progress report to ISBE on their progress in implementing disciplinary reforms and the results obtained.30

In addition to the requirement to comply with these new provisions related to the release of school discipline data, all public schools and districts in Illinois, including charter schools, will need to comply with the new substantive discipline requirements in Public Act 099-0456.31 This act requires that school officials “limit the number and duration of expulsions and suspensions to the greatest extent practicable.”32 In addition, the act imposes new requirements on the imposition of suspensions, mandating that districts can only impose suspensions of three days or less if they “pose a threat to school safety or a disruption to other students’ learning opportunities.”33 In most circumstances, in order to impose suspensions of more than three days, expulsions, or transfers to alternative school settings, districts must show both that “other appropriate and available behavioral and disciplinary interventions have been exhausted” and that “the student's continuing presence in school would either (i) pose a threat to the safety of other students, staff, or members of the school community or (ii) substantially disrupt, impede, or interfere with the operation of the school.”34 When imposing a suspension, schools and districts are required to indicate the specific act resulting in the decision to suspend and justify the length of the suspension.35 For expulsions, schools and districts are required to justify both the specific length of the expulsion as well as the “specific reasons why removing the pupil from the learning environment is in the best interest of the school.”36 In addition to these mandates, the act also

29 Id.
30 Id.
31 105 ILCS 5/10-201-14(a-5)(as amended).
32 105 ILCS 5/10-22.6(b-5)(as amended)
33 5/10-22.6(b-15).
34 5/10-22.6(b-20).
35 5/10-22.6(b).
36 5/10-22.6(a).
recommends that officials use suspensions and expulsions “only for legitimate educational purposes” and that they “consider forms of non-exclusionary discipline prior to using out-of-school suspensions or expulsions.”

The statute also reforms Illinois law relating to school discipline in a number of other significant ways. The law expressly prohibits zero tolerance policies (unless otherwise required by federal law or the school code), the imposition of fines or fees as disciplinary consequences, and counseling students to drop out for behavioral or academic reasons. It requires that districts provide appropriate and available support services to students serving suspensions of four days or longer and that they facilitate a process to promote the reengagement of students returning from out-of-school suspensions, expulsions and alternative schools. The act mandates that districts made “reasonable efforts” to provide ongoing professional development to their administrators, board members, teachers and school staff in a number of areas related to school discipline, including culturally responsive discipline and developmentally appropriate disciplinary methods aimed at promoting a positive school climate. It also recommends that school districts enter into memoranda of understanding with local law enforcement officials that define the role of law enforcement in the schools. Read in totality, this law requires a sea change in school district’s approach to school discipline, and operationalizing these new requirements will require a fundamental shift both in terms of school district’s policies but also their practices.

**Description of the Components of the Model Code of Conduct**

The current vision of the written model code of conduct includes the following major components: (1) a background statement to the guiding principles and background of the work; (2) a checklist for school district compliance with the new legislation in Illinois; (3) the model code; and (4) an administrators’ toolkit to guide implementation of the model code. Each of these components will be addressed in turn below.

(1) **Background Statement to the Code**
As the group worked on developing a model code, we decided that it would be helpful to draft a short prefatory statement contextualizing the model code’s background, both to help explain to others the orientation behind the document as well as to help ensure that the members of the model code working group ourselves were in agreement as to the core values of the project. The background statement emphasizes the group’s common concern about both the scope and effect of exclusionary discipline policies in Illinois, as well as the disproportionate impact of these policies on African-American students, Lesbian, Gay, Bisexual (LGB/T) students, and students with disabilities. The statement also summarizes the key provisions of the Illinois school discipline data and substantive school discipline reform legislation discussed above and explains that the model code is intended to both help school districts comply with the legislation as well as best practice.

(2) Checklist for Compliance with School Discipline Mandates

The model code working group grappled with the question of whether the model code should be intended only to be a model policy for compliance with the new discipline laws in Illinois or whether it should go beyond to encompass best practices that might be more protective than the new legislation. Ultimately, we determined that the model code, as a “model,” should go beyond the new legislation, when appropriate, to take into consideration best practice to reduce the use of exclusionary discipline. We also decided to draft a separate document in the form of a checklist that would enable school districts to determine the whether their policies were in compliant with the new law and the areas they needed to change, even if the district did not ultimately decide to adopt the model code or only adopted portions of it.

(3) Model Code

The following is a summary of the key components of the code under development:

- **Discipline Philosophy:** Discipline in schools should not be used as punishment and instead should be used as an opportunity for support, learning, growth and community building. Districts should utilize and harmonize evidence-based, school-wide preventive and positive discipline policies. This includes an emphasis on creating a positive and inclusive school climate.

• **Student and Parent/Guardian Rights and Responsibilities:** The code outlines the rights of students and parents related to behavioral and academic supports, school discipline, and student searches and arrests.

• **Discipline Framework:** The district takes a positive approach to school discipline that provides early and differentiated academic, behavioral and social-emotional interventions for students. Schools must redirect students to correct inappropriate behavior and minimize the possibility of behavior escalating. The school has a robust bullying policy and available and existing support services and interventions.

• **Participation and Collaboration:** The code of conduct should be developed and revised in a participatory manner that allows for stakeholder input and feedback on the code and its implementation to comply with mandates for a parent-teacher advisory committee to work with the school board in developing policies on discipline, bullying and student search.  

• **Approach to School Discipline and the Investigative Process:** The goal of school discipline is to be instructional and corrective so as to reduce the likelihood of behaviors reoccurring. Out-of-school suspensions and expulsions should be used only as a last resort and for legitimate educational purposes. School officials must consider non-exclusionary discipline prior to using out-of-school suspensions or expulsions. The code provides a proposed process for responding to behavioral incidents at school that emphasizes the investigation and intervention process that should be followed prior to any decision to impose exclusionary discipline. *(See Appendix A.)* The code also includes a checklist should be given to guide the determination of when exclusionary school discipline is not appropriate and other forms of intervention and support should be attempted first. *(See Appendix B.)*

• **Due Process Procedures:** Districts should implement fair, equitable and transparent due process procedures designed to give the student and the parent/guardian a full and meaningful opportunity to be heard. Districts should follow procedures for notifying parents/guardians about a suspension or expulsion including their right to a hearing.

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• **Procedures following Suspension and Expulsion:** Schools should provide alternative educational options during suspension and expulsion. A reengagement plan should be developed following suspensions greater than a specified number of days.

• **Procedural Guidelines for the Discipline of Students with Disabilities** should be upheld consistent with federal (e.g., Individuals with Disabilities Education Act \(^{46}\)) and state mandates as well as best practices relating to the use of Functional Behavioral Assessments (FBAs) and Behavioral Intervention Plans (BIPs).

The code incorporates the use of graphics, illustrations and charts to help guide administrator decision-making. Examples are the excerpts from the draft code in Appendices A and B that suggests an approach to the investigative process of a disciplinary matter that emphasizes the need to thoroughly consider intervention and referral options prior to referral for disciplinary action.

(4) **Administrator’s Toolkit**

Alongside providing schools and districts with the policy-level tools to implement a prevention-oriented approach to school discipline, the group aims to equip administrators with tools and resources to be able to effectively implement these approaches. As part of the professional development training described below, the project intends to provide a “toolkit” for school administrators to take back to their schools in their problem solving and action planning efforts. The toolkit will contain contemporary articles and resources that will facilitate school administrators and their designees in the efforts to stay current and compliant with recommended and mandated discipline reforms at the local, state and national level. As part of the toolkit, the group is working on developing an overview document for each of the identified areas below that will provide: (1) background to the research on the topic at issue; (2) suggested strategies and approaches that represent research-based best practices; and (3) additional resources and tools.

• **Academic and Behavioral Needs Framework:** The district’s responses to discipline should be guided by Multi-Tiered Systems of Support (MTSS). Districts should align MTSS in their discipline approach in which academic, behavioral and social-emotional services are integrated along a continuum to support students that may end up in the

discipline office and at-risk for suspension and expulsion. (See Appendix C for examples). This may include a threat assessment process, collaboration with school personnel that have behavioral, academic and mental health expertise (e.g. school social worker school psychologist, school counselor) and a schoolwide behavior support team prior to imposing long-term suspensions and expulsions.

- **Professional Development:** Districts should develop professional development plans to ensure that all district and school staff have the tools, skills and support to effectively engage in these problem solving practices to determine factors relating to the behavioral incidents in their school building/district and develop a plan to address them. The plan should ensure that all relevant actors involved in disciplinary decisions and referrals are trained in a prevention-oriented approach to school discipline.

- **Data Collection and Monitoring:** Districts should regularly collect, analyze and make public data on suspensions (in-school and out-of-school) and expulsions to inform school-based problem solving efforts. Data should be disaggregated by race/ethnicity, as well as by gender, English Language Learner (ELL) status, socio-economic status, special education designation and other characteristics viewed important for the particular school context. Data should be tracked to monitor discipline equity and use of exclusionary discipline and to inform discipline practices and code revisions. Reliable and valid data will not only comply with Illinois Public Act 098-1102, but it will help to facilitate systems for an understanding of where discipline concerns exist to inform next steps and action steps for addressing the issues.

  Additionally, school administrators and leaders should disseminate federal documents to their school staff which help facilitate conversations around using data to drive interventions that reduce exclusionary discipline and inequities. For example, the resource, “Addressing the Root Causes of Disparities in School Discipline: An Educator’s Action Planning Guide,”47 was recently released as a companion document to the USDOE’s “Guiding Principles: A Resource Guide for Improving School Climate and Discipline.”48 Taken together, these resource provides access and instructions for using

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48 U.S. Dep’t of Ed., *Guiding Principles, supra.*
publicly available tools, including an Excel spreadsheet where school districts can enter and analyze data disaggregated by race/ethnicity to evaluate the equity and effectiveness of school discipline practices and to create action plans for prioritizing school and district level prevention-oriented discipline practices with priorities for keeping students in school.

- **Disproportionality and Implicit Bias:** The toolkit aims to bring together resources aimed at combatting the disproportionate impact of school discipline on the sub-groups previously identified: African-American students, students with disabilities and LGB/T students. This includes resources regarding implicit bias and how it can be understood and remedied in the school context.49

- **Restorative Justice:** Although not every school will have the capacity to implement restorative justice programs, restorative justice is identified in the toolkit as a key strategy for implementing an instructional and corrective approach to school discipline. The toolkit will provide background regarding the implementation and use of restorative justice approaches in resolving student conflicts and addressing other behavioral incidents at schools.

Each of these areas will serve the basis for the training and technical assistance to school districts envisioned going forward.

**Description of Administrators’ Academy Training**

Given that each school district in Illinois will need to revise its code of conduct to align with the new substantive school discipline legislation by September 15, 2016, a central aim of this collaborative effort has been to develop and present a series of training programs throughout the state in spring 2016. The goal is to provide professional development to facilitate school district efforts to comply with Illinois Public Act 099-0456 and Illinois Public Act 098-1102, as well as overall best practices with respect to school discipline reform. The vehicle for disseminating these trainings is through the submission of a proposal for the approval by the state education agency of an Illinois Administrator Academy on “School Discipline: Best Practices in Addressing Student Behaviors While Keeping Schools Safe.” In Illinois, school

administrators are required to attend one Administrator’s Academy annually to maintain their certification. The agenda of the seminar is modelled after a school discipline training for school administrators that Loyola’s School of Law and School of Education offered jointly with the Illinois State Board of Education in August 2014 as a pilot training for the more large-scale and state-wide training programs currently being contemplated.50

This current professional development effort, targeted specifically for district-level school administrators, is also being developed in collaboration and consultation with the state education agency. The focus of the effort is to assist school district administrators with their discipline reform efforts by providing some basic content knowledge about the recently adopted state discipline legislation and professional development topics suggested in Illinois Public Act 099-0456, such as the school to prison pipeline phenomenon, implicit bias in discipline, research-based alternatives to suspension and expulsion, restorative discipline practices and system and classroom wide behavior management practices. The focus will be on implementing a prevention-oriented approach to school discipline. Participants are encouraged to bring teams from their district composed of administrators and other school staff directly charged with implementing disciplinary policies, including superintendents, assistant superintendents, principals, deans, school psychologists and other school-based mental health professionals. Participants will be asked to collect and review their district's data, policies and practices on school discipline prior to the workshop. At the seminar, participants will learn about case studies and best practices in implementing disciplinary reforms and will work individually and in groups to develop a plan to review and revise their own district's disciplinary policies and practices to align with current legal requirements and best practices. At the time this paper is being submitted, the proposal for these trainings is in the final stage of development and the presenters anticipate that it will submitted shortly. The aim is to run a minimum of four to five trainings as a collaborative, starting with an initial training that will take place in mid-January or early February 2016.

Lessons Learned and Next Steps

To date, there have been many lessons learned in our cross-disciplinary state-level effort to build upon the momentum for creating equitable and just discipline practices that promote students learning alternative behaviors while staying in school. One of the primary lessons learned is the need for continued cross-disciplinary efforts in addressing complex discipline issues in schools. Multiple professional disciplines are represented within our cross-disciplinary effort, including attorneys, child advocates, school psychologists, and policy advocates and grassroots organizers. Given that the issue of school discipline inherently involves the intersection of legal and educational issues, involving multiple perspectives in the development of the draft document is essential. This ensures that the group’s outcomes encompass issues related to legal compliance as well as a solid grounding in research-based best practices in reforming school discipline policies. One of the goals of the group going forward is to involve school administrators in the review and comment on the draft model code document so that their perspectives and any concerns can be addressed. The group also intends to meet with the state-level school district management alliances to discuss the draft policies.

A constraint faced by the group is that the task of designing a model code of conduct and an accompanying training as well as ways to actualize it is being done in a context where the state educational agency and the state in general is facing severe budget crises. School districts, inclusive of the third largest urban school district in the country, are being impacted by these financial constraints in addition to their own local funding challenges. Therefore, implementation of this effort and ultimate endorsement of the model code and related application by the state educational agency is a challenging contextual factor for our cross-disciplinary group in expediently moving forward. Funding and staffing constraints also impact the organizational capacity of this working group to fully respond to the growing demand in the state by school districts for technical support in meeting the demands of the new legislation. At least one of the organizations that is part of this collaborative has funding that it relies on as part of the state budget impasse. In addition, none of the organizations involved has

significant dedicated funding to provide the type of training being contemplated. As a result, funding the trainings will likely be largely dependent on school district registration fees, limiting the scope and reach of the project. The ability of less-resourced school districts to attend these trainings will also be limited by the lower professional development budgets in those districts. The group has been considering seeking grant funding in order to broaden the scope and impact of this project.

Despite these constraints, we believe that our collective work will move the discipline conversation forward and to assist schools in their work with students not only in compliance with recent Illinois discipline legislation, but in meeting the meets of students who end up in the web of discipline exclusion.53 Our next steps are to continue our cross-disciplinary efforts in finalizing our model discipline code document and to begin our professional development activities. A key next step is evaluating our work in terms of impact and in learning from colleagues in how to improve our training efforts and the application of the model discipline code in school with an ultimate goal of improving school discipline and keeping students in school rather than excluding them. We would also like to learn from similar efforts in other jurisdictions as well as to contribute what we have learned to the on-going processes related to the implementation of school district reforms in other states and local areas. In Appendix D, we have provided potential set of questions to move forward the conversation about school discipline in individual districts and local areas as well as at venues like this conference.

53 APA Task Force on Zero Tolerance, supra n.24.
Appendix A: Excerpt from Draft Model Code (Section on “Approach to School Discipline and the Investigative Process”)

If there is an incident, the school should take the following steps:

1. **Incident Occurs**
2. **Consider Immediate Classroom-Based or Restorative Interventions**
   - Consider whether the incident can be appropriately responded to in the classroom, through restorative practices or through school-based interventions without the need to gather additional information or make disciplinary referrals. Schools should redirect students to correct inappropriate behavior and minimize the likelihood of the behavior escalating or recurring.
3. **Gather Information**
   - Meet with the student
   - Talk to all students, teachers, staff, and witnesses
   - Identify factors that may have contributed
   - Consider existing data, like disciplinary referrals and prior interventions attempted
   - Communicate with the student’s parent or guardian
4. **Review the Disciplinary Checklist**
   - Consider all factors that may have contributed to the incident and whether supports could address those factors without removing the student from school. See the graphic below and the disciplinary checklist.
5. **Refer Student to Appropriate Support Services or Interventions**
   - School must refer student to appropriate services or interventions to assist student to understand the consequences that result from such conduct, and to act to redeem the situation. This process is designed to be cooperative, rather than adversarial.
6. **Document All Interventions & Measures**
   - School must document all positive interventions and other disciplinary measures it has tried in addressing the student’s behavior, collect data regarding the outcomes of the intervention, and explain which measures worked or have not worked.
7. **Exclusionary Discipline is a Last Resort**
   - In-school and out-of-school discipline is a last resort and should only be used when available alternatives have been exhausted. Follow the steps in the due process framework when any exclusionary discipline is being considered.
After an incident, the school should consider the **following factors** in analyzing the root causes of an incident and whether supports could address these factors without removing the student from school:
Appendix B: Excerpt from Draft Model Code (Section on “Approach to School Discipline and the Investigative Process”)

Disciplinary Checklist: To be used prior to imposing suspensions or expulsions

Is the offense eligible for suspension?

Suspension and expulsion are prohibited for:

- Being late to school or class or being absent or
- Violating school dress code, cell phone policies or uniform rules

This behavior can be handled through in-school interventions and consequences.

Would the student’s continuing presence in school cause a threat to school safety or a disruption to other students’ learning opportunities?

Short-term suspensions (removals for 3 days or less) are only allowed if the student’s continuing presence in school would pose a threat to school safety or a disruption to other students’ learning opportunities.

- School officials should be particularly mindful of this standard when imposing out of school discipline for offense categories that rely principally on the subjective interpretation of school officials, e.g. insubordinate behavior, defiance, disobedience, or disrespect.

Long-term suspensions, expulsions and disciplinary removals to alternative schools are allowed only if the student’s continuing presence in school would either:

- Pose a threat to the safety of other students, staff or members of the school community OR
- Substantially disrupt, impede or interfere with the operation of the school.

Determining whether a student poses a threat to school safety or would disrupt the operation of the school is determined based on the district’s threat assessment protocol. In making this determination, school officials must consider the following factors:

- The conduct at issue,
- Age of the student and ability to understand consequences,
- Capability of the student to carry out the threat,
- Student’s discipline history and the frequency of inappropriate behavior,
- Credibility of the student and willingness to acknowledge his or her behavior, and
- Effect of the conduct on the school environment.

This is an individualized determination. School officials do not assume that certain offenses always pose a threat to school safety. School officials must make all reasonable efforts to resolve threats and address disruptions without the use of out
of school suspensions and expulsions.

School officials should minimize the length of suspensions and expulsions to the extent practicable. The district must document how the length of each suspension is determined and ensure that the length is minimized.

Has the school exhausted alternatives to suspension and expulsion?

No out-of-school discipline should be employed unless available and appropriate behavioral and disciplinary interventions have been exhausted. Before imposing discipline, school officials must first consider whether a restorative practice or another available alternative to suspension or expulsion is an appropriate or available option. This determination should be made as early as possible following the incident.

The school must also consider whether previous interventions have been attempted and must document and evaluate their success. For suspensions of four days or more cumulatively or consecutively, this determination is made by a school-based team composed of, at a minimum, a staff member familiar with the student’s conduct, one of the student’s teachers, and a staff member with mental health expertise. If a student has a disability, the team should include a special education teacher or another staff member who is responsible for implementing the student’s IEP. The student and the student’s parent(s) should also be included in this process.

Schools must refer students to the appropriate services where the behavior results from:

- Family situations, trauma, or grief,
- Addiction, mental illness, or substance abuse, and/or
- Bullying, abuse, or self-defense.

If prior interventions were NOT successful, school officials must consider whether other interventions are available and appropriate. School officials should also consider whether there are academic, behavioral or other grounds that suggest the student may have a disability, and, if so, refer the student for a special education evaluation.

If prior interventions were attempted with moderate success, school officials should consider whether the interventions can be enhanced or applied with greater consistency.

If interventions to address the student’s conduct have not been attempted, then the team should determine the appropriate interventions to be attempted and a process for documenting them.
Has the student previously violated the school code?

A suspension of more than three days cannot be imposed for a first-time offense. The school must have first implemented other behavioral interventions and followed the district process for documenting when these interventions have been “exhausted.”

Is suspension or expulsion appropriate given the student’s grade?

- Students in third grade and below may not be suspended or expelled.
- Students in fourth and fifth grades cannot be suspended for more than three consecutive days.
- Students in sixth grade and above cannot be suspended for more than five consecutive days and no more than ten in a school year.

Exceptions to these policies require justification and approval by the Superintendent or a designee.

Has the school considered whether the student has a disability and provided all required procedural protections?

- If a student has an Individualized Education Plan (IEP), Section 504 plan, or is currently being evaluated, follow the procedural protections for students with disabilities.
- If the student does not yet have an IEP or a Section 504 plan, schools should discuss whether there are academic, behavioral or other grounds that reasonably give rise to a concern that a student may have a disability. This is required by the Child Find provisions of the Individuals with Disabilities Education Act (IDEA).
- The district must invite the Department of Human Services to consult on suspensions or expulsions when mental illness might be a factor in the behavior.
Appendix C: Multi-Tiered Systems of Support and Discipline

Multi-Tiered Systems of Support (MTSS) model: 54

Tiered Supports in School District to Address Behavioral/Discipline Issues (These are examples of how the MTSS model could be applied to proactively address behavior and discipline in schools; schools/districts could complete this based on what they are doing in the school)

<table>
<thead>
<tr>
<th>Universal (Tier 1)</th>
<th>Secondary (Tier 2)</th>
<th>Tertiary (Tier 3)</th>
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<tbody>
<tr>
<td><strong>Academic Supports</strong></td>
<td><strong>Academic Supports</strong></td>
<td><strong>Academic Supports</strong></td>
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<tr>
<td>Universal Academic Screening in Reading</td>
<td>Supplemental Blocked Math Instruction</td>
<td>Individualized tutoring during study hall</td>
</tr>
<tr>
<td>Departmental Algebra Standards Tied to Common Core</td>
<td>Rewards Reading Curriculum</td>
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<td></td>
<td>Executive Functioning Curriculum on Organization</td>
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<th>Tertiary (Tier 3)</th>
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<tbody>
<tr>
<td><strong>Behavior Supports</strong></td>
<td><strong>Behavior Supports</strong></td>
<td><strong>Behavior Supports</strong></td>
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<tr>
<td>Description and Teaching of Behavioral Expectations as part of Schoolwide Positive Behavior Support (SWPBS)</td>
<td>Check-in Check out System</td>
<td>Functional Analysis of Behavior</td>
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<td></td>
<td>Restorative Justice</td>
<td>Teacher Consultation</td>
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<td></td>
<td>Based Peer Mediation</td>
<td>Wraparound Supports and Planning</td>
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<td>Alternative to Suspension</td>
<td>Alternative to Suspension</td>
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<td>Counseling/Choice-</td>
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<tr>
<th>School Climate Survey and Action Plan</th>
<th>Making-group focus</th>
<th>Community Service Alternative to Suspension Counseling/Choice-Making-Individual focus Referral for special education evaluation/alternative school</th>
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<tbody>
<tr>
<td>Universal (Tier 1)</td>
<td>Secondary (Tier 2)</td>
<td>Tertiary (Tier 3)</td>
</tr>
<tr>
<td><strong>Social-Emotional Supports</strong></td>
<td><strong>Social-Emotional Supports</strong></td>
<td><strong>Social-Emotional Supports</strong></td>
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<tr>
<td>Student Survey in Fall</td>
<td>Drug and Alcohol Group Counseling</td>
<td>Individualized counseling Wraparound Supports and Planning Coordination with school-based health clinic and referrals to community</td>
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<tr>
<td>School Climate Survey and Action Plan</td>
<td>Family Support Group</td>
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Appendix D: Guiding Questions for Cross-Disciplinary School Discipline Reform Teams

What follows are some potential guiding questions for teams to consider as they begin to review discipline data and establish priorities for creating proactive and equitable discipline policies and practices. These guiding questions could be a basis to get started, or to complete questions that are relevant for each local school context. The responses to the questions could be used to establish school priorities that could be aligned with other school-based system reform efforts.

Sample Guiding Questions:

1) What are your schools/districts doing with respect to policy and practices surrounding discipline? How do you handle written procedures and communication with families and students? How is student exclusion (e.g., suspension and expulsion) handled and addressed? Are data reviewed and disaggregated in any way (e.g., by race/ethnicity)? What role, if any, do school psychologists play in the process? What role, if any, do legal advocates play with respect to discipline policies and practices within your school?

2) What role, if any, do state policies play in the development of your school/district’s policies and procedures? What policy guidance, support and/or mandates has your school/district received from your state board of education?

3) In what way (if at all), have recent federal documents such as the “Guiding Principles” influenced decisions made with respect to discipline at your school/district?

4) What questions should we be asking with respect to school discipline as school psychologists? Legal advocates? How can legal advocates/attorneys partner with school psychologists to create effective discipline policies at the school/district, state or national level? How can we partner at the state/national level as school psychologists to advocate for effective discipline and behavior practices with students? What barriers might exist with these partnerships? What might facilitate such partnerships?

5) What are other issues that arise in creating equitable and prevention-oriented written discipline policies that align with practices such as multi-tiered systems of support and providing effective behavioral supports?