

Memorandum in Support

May 15, 2025

S.134

By: Senator Jackson

A.118

By: M. of A. Solages

Senate Committee: Education

Assembly Committee: Education

Effective Date: This act shall take effect immediately; provided, however that sections two and four of this act shall take effect July 1, 2026.

AN ACT to amend the education law, in relation to school climate and codes of conduct on school property and disciplinary action following violation of such codes of conduct; and to amend the education law, in relation to making conforming amendments.

LAW AND SECTIONS REFERRED TO: Section 2801 of the Education Law

The Judith S. Kaye Solutions Not Suspensions Act

The New York State Bar Association (the “State Bar”) supports the adoption of the Judith S. Kaye Solutions Not Suspensions Act (Solutions Not Suspensions Act), A.118 / S.134. This Act will promote restorative, age-appropriate, and equitable disciplinary measures in New York state schools. The Act will reduce the maximum length of suspension from 180 to 20 school days (except when required by federal law); end the use of suspension for students in preschool through third grade (except when required by federal law); ensure students receive appropriate instruction while on suspension; require school codes of conduct to include restorative approaches as disciplinary options; and ensure that the law regarding student behavior and school discipline applies equally to both charter and district school students. This legislation is supported by NYSBA via a recommendation in the 2023 Task Force on Racism, Social Equity and the Law report which specifically calls for the implementation of the “Solutions not Suspensions” bill.¹

Suspensions Are Issued Disproportionately

¹ [NYSBA-Taskforce-on-Racism-Social-Equity-and-the-Law-11.11.22-FINAL-with-changes-accepted.pdf](#)

New York, home to the largest school district in the United States, provides education to 2,599,096 students in public school districts across the state.² In the 2023-2024 school year, 137,511 of these students, or 5%, were suspended from school.³ Of these, 8,331 students were in pre-Kindergarten through 3rd grade. Moreover, 9,177 students were suspended for a cumulative twenty days or more, totaling 957,934 lost days of education. *Id.*

Not only are a significant percentage of New York's student population taken out of their classrooms and missing weeks or months of schooling due to exclusionary discipline, but Black and brown students and those with disabilities are disproportionately issued suspensions as compared to their white and non-disabled peers. In New York school districts outside of New York City, Black students are suspended from school four times as often as white students.⁴ Although Black students make up 15% of all students statewide, 33% percent of Black students in New York have been suspended at least once.⁵ Approximately one in five Black male high school students in New York has received an out-of-school suspension.⁶ Finally, nearly 2% of Black students in upstate New York (excluding NYC and Long Island) were suspended 20 or more days during the 2021-2022 school year.⁷ The data is clear: Black and brown students in New York face the highest rates and most severe forms of exclusionary discipline.

Students with disabilities are similarly disproportionately affected by exclusionary discipline, including out-of-school suspensions. In 2021-2022, students with disabilities were 6.4 to 5 times more likely to be suspended 20 or more days in a school year than general education students across New York State.⁸ Students with disabilities – who comprise about 21% of the New York City student population – received 43.8% of long-term suspensions and 38.9% of principal's suspensions.⁹ Nationwide, Black students with learning disabilities are three times more likely to be suspended than white students with learning disabilities.¹⁰

² *Schools and Districts in New York*, UNIVSTATS K-12 (Feb. 20, 2025, 2:35 PM), <https://bit.ly/UnivstatsNewYork>

³ THE CHILDREN'S AGENDA, NEW YORK STATE SCHOOL SUSPENSION FACT SHEET, <https://thechildrensagenda.org/2025/03/05/reforming-school-discipline/>.

About the Association

The New York State Bar Association (NYSBA) has been the voice of the legal profession in New York State for more than 140 years. The mission of NYSBA is to shape the development of law, educate and inform the public, and respond to the demands of [the] diverse and ever-changing legal profession. NYSBA advocates for state and federal legislation and works tirelessly to promote equal access to justice for all.

⁴ See STOLEN TIME: NEW YORK STATE'S SUSPENSION CRISIS 4 (The New York Equity Coalition Dec. 2018), <https://newyork.edtrust.org/wp-content/uploads/2018/12/Stolen-Time.pdf>.

⁵ *Id.* at 11.

⁶ See *id.* at 7.

⁷ COMMON SENSE REFORM TO SCHOOL DISCIPLINE IN NEW YORK STATE 4 (The Children's Agenda 2024), <https://thechildrensagenda.org/wp-content/uploads/2023/11/School-Discipline-Reform-Brief.pdf>.

⁸ *Id.*

⁹ News Release, *Despite a Decrease in Suspensions, New Suspension Data Continue to Show Persistent Disparities by Race and Disability Status and NYPD Data Show an Alarming Increase in Police Involvement in Student Behavior*, ADVOCATES FOR CHILDREN OF NEW YORK (Nov. 17, 2022) <https://www.advocatesforchildren.org/node/2105>.

¹⁰ *Zero Tolerance Discipline, Discrimination, and the School to Prison Pipeline*, ACLU OF NEW YORK, <https://www.nyclu.org/en/look-school-discipline>.

Several states, including California, Illinois, Texas, Tennessee, Ohio and New Jersey have sought to rectify the aforementioned harms by enacting legislation to reduce punitive, exclusionary school discipline.¹¹ As the state with the largest school district in the country, New York is poised to build on the momentum made across the nation to keep our children in school and learning by passing the Judith S. Kaye Solutions Not Suspensions Act.

Suspensions Cause Significant Short and Long-Term Harm

Students who are suspended are twice as likely to stop attending school which can have long-term negative consequences.¹² Suspended students are significantly less likely than their classmates to advance to the next grade, which negatively affects their likelihood of graduating.¹³ In fact, school climate data shows that schools with higher suspension and expulsion rates are the same schools that experience low rates of academic achievement.¹⁴

Students sometimes receive lengthy suspensions for minor infractions such as wearing hats in class or chewing gum.¹⁵ Further, out-of-school suspensions are issued for subjective behavior categorized as insubordinate such as wearing the wrong shoes, styling their hair in a way that is considered distracting, not attending school, or wearing pajamas.¹⁶ There is also evidence demonstrating that Black students are more likely to be disciplined for more subjective infractions, such as disrespect and loitering, while their white classmates often appear to be suspended for more objective offenses, such as smoking.¹⁷

¹¹ *School Discipline Policies: State Profiles*, EDUCATION COMMISSION OF THE STATES, <https://www.ecs.org/school-discipline-policies-state-profiles> (Mar. 2025); Alyssa Rafa, *The Status of School Discipline in State Policy*, EDUCATION COMMISSION OF THE STATES (Jan. 2019), <https://www.ecs.org/wp-content/uploads/The-Status-of-School-Discipline-in-State-Policy.pdf>; CA Educ. Code § 48900 (2018); IL Public Act § 099-0456 (2016); *see also* *Public Act 99-0456 School District Self-Assessment Checklist*, Illinois State Board of Education (Sept. 2016), <https://www.isbe.net/Documents/tsdc-pa99-0456-checklist.pdf>.

¹² Melanie Leung-Gagné, Jennifer McCombs, Caitlin Scott, Daniel J. Losen, *Pushed Out: Trends and Disparities in Out-of-School Suspension*, Learning Policy Institute (Sept. 30, 2022), <https://learningpolicyinstitute.org/product/crdc-school-suspension-report>; *see also* Elka Torpey, *Measuring the value of education*, U.S. BUREAU OF LABOR STATISTICS (April 2018), <https://www.bls.gov/careeroutlook/2018/data-on-display/education-pays.htm> (Full-time workers who didn't graduate from high school had a median weekly wage of \$520, compared with \$712 a week for workers with a high school diploma but no college); *see also* Brett Arends, *Black kids more likely to be suspended than white kids over same behavior*, NEW YORK POST (October 16, 2019 2:38 PM), <https://nypost.com/2019/10/16/black-kids-more-likely-to-be-suspended-than-white-kids-over-same-behavior>.

¹³ Lama Hassoun Ayoub, Elise Jensen, Talia Sandwick, Dana Kralstein, Josephine Wonsun Hahn, and Elise White, *School Discipline, Safety, and Climate*, CENTER FOR COURT INNOVATION (Sept. 2019), https://www.courtinnovation.org/sites/default/files/media/documents/2019-10/report_schoolsafety_10252019.pdf.

¹⁴ Udi Ofer, *Criminalizing the Classroom: The Rise of Aggressive Policing and Zero Tolerance Discipline in New York City Public Schools*, 56 N.Y.L. Sch. L. Rev. 1373, 1402 (2012).

¹⁵ Rachel Klein, *Keeping our Kids in School and Out of Court: Rooting Out School Suspension Hearings and a New Alternative*, 17 Cardozo J. Conflict Resol. 633, 641 (2016).

¹⁶ Brenda Alvarez, *School Suspensions Do More Harm than Good*, NATIONAL EDUCATION ASSOCIATION (Sept. 10, 2021), <https://www.nea.org/advocating-for-change/new-from-nea/school-suspensions-do-more-harm-good#:~:text=New%20study%20finds%20more%20severe,behavior%3B%20educators%20have%20better%20solutions>.

¹⁷ Ofer, *supra* note 13 at 1403.

Our students need appropriate behavioral support and restorative discipline. Punishing and removing them from their classrooms and schools does not address the reason(s) for their behavior. There is strong evidence to suggest that zero-tolerance and exclusionary discipline policies are ineffective in preventing future misbehavior.¹⁸ Suspensions do not teach students how to improve their behavior, or why they should stop engaging in this behavior in the future.¹⁹ Studies have consistently shown that as many as 42% of suspensions are faced by students subjected to prior suspensions, with suspensions serving as the primary predictor of future suspensions and the greatest predictor of school pushout.²⁰ This data makes clear that suspensions are not achieving the goal of deterring misbehavior in students.

Further, suspensions are more likely to propel such behavior because they alienate students from their community.²¹ A student who is suspended not only misses out on learning opportunities in the classroom but also misses out on the ability to spend time with their peers, which can be critical for their wellbeing.²² Suspensions also cut off students from school faculty such as teachers and guidance counselors who are available in school to support students.²³ A student's feelings of isolation from their peers and school faculty while suspended can cause a student to fall further behind academically.²⁴ Students suspended without a reentry plan for their return often repeat the behavior, and administrators issue the same punitive procedures in an exhausting cycle that does not yield any real solutions.²⁵

Therefore, instead of applying antiquated approaches that fail to address the root cause of behavior and lead to significant harm, New York State needs to use effective approaches that keep students in the classroom supported, engaged, and learning. We should provide restorative, trauma-informed, healing-centered approaches, positive behavioral supports and interventions, collaborative problem solving, peer mediation and other positive approaches. Restorative practices provide a holistic approach to preventing and addressing conflict by building and healing relationships, teaching positive behaviors, and allowing each person involved in an incident to be heard.²⁶ Further, restorative practices work to hold students accountable for their actions while also working to restore the student's relationship with the school community as opposed to the isolation and alienation a student would experience if they were suspended. Restorative justice models are also beneficial in that they allow schools to gain a fuller understanding of what caused a student's behavior. Initial research on restorative justice approaches found that they reduced future

¹⁸ *Id.*

¹⁹ Ofer, *supra* note 13 at 1402; Klein, *supra* note 14 at 642.

²⁰ Ofer, *supra* note 13 at 1402.

²¹ Susan Dominus, *An Effective but Exhausting Alternative to High-School Suspensions*, THE NEW YORK TIMES (Sept. 7, 2016); <https://www.nytimes.com/2016/09/11/magazine/an-effective-but-exhausting-alternative-to-high-school-suspensions.html>; “When students are removed, they lose learning, fall further behind, and over time, become alienated and disenfranchised.” — Dr. Ross Greene, Jillian Enright, *Suspensions Do More Harm Than Good*, EDUCATE. ON MEDIUM (Aug. 30, 2021), <https://medium.com/educate-pub/suspensions-do-more-harm-than-good-435b7a6caf25>.

²² Klein, *supra* note 14 at 642.

²³ *Id.*

²⁴ Klein, *supra* note 14 at 643.

²⁵ Enright, *supra* note 20.

²⁶ Lama Hassoun Ayoub, *supra* note 12.

incidents. Furthermore, the adoption of restorative practices is correlated with improved academic outcomes, school climate, and staff-student relationships.²⁷

The New York State Education Department Safe Schools Task Force Recommends Reforming New York’s School Discipline Laws

The New York State Education Department (NYSED) presented the report *Recommendations for Reducing Disparities in and Reforming School Discipline in New York State* to the Board of Regents in January 2023.²⁸ This report contains recommendations from The Safe Schools Task Force, convened by NYSED, to examine issues related to school safety in New York State, including the disproportionate effect of exclusionary discipline on students.²⁹

The NYSED report recommends amending the New York State Education Law with provisions that align with those in the Solutions Not Suspensions Act. Among other things, NYSED’s report and the Solutions Not Suspensions Act both: require proactive, supportive alternatives to punishment and exclusion that build a positive, inclusive climate; prohibit the use of exclusionary discipline for students in pre-K through third grade (unless required by federal law); limit the length of suspension to 20 days (in the vast majority of situations); and require academic instruction and exams during suspension.

The Solutions Not Suspensions Act Would Bring Significant Needed Reform

We urge the prompt passage of the Solutions Not Suspensions Act to shift away from ineffective exclusionary and biased discipline policies that disproportionately push Black and brown students and students with disabilities out of school towards building healing-centered, equitable learning environments.

The Act shifts away from traditional discipline models – namely, suspension and removal of children from school – towards less punitive and more restorative, equitable approaches. The legislation treats suspensions as a last resort, instead promoting student accountability and the value of learning from one’s mistakes. Specifically, the bill will:

- end the use of suspensions for pre-Kindergarten through 3rd grade students (unless required by federal law);
- promote the use of restorative practices and other evidence-based approaches to supporting students;

²⁷ *Id.*

²⁸ N.Y.S. Educ. Dep’t, Office of Student Support Services, *Recommendations for Reducing Disparities In and reforming School Discipline in New York State: Report from the Safe Schools Task Force* <https://www.regents.nysed.gov/meetings/2023/2023-01/p-12-education>.

²⁹ N.Y.S. Educ. Dep’t, Safe Schools Task Force Report: *Recommendations for Reducing Disparities in and Reforming School Discipline in New York State* (Dec. 2022), <https://www.regents.nysed.gov/sites/regents/files/P-12%20-%20Recommendations%20for%20ATT%20-%20Recommendations%20for%20Reducing%20Disparities%20in%20and%20Reforming%20School%20Discipline%20in%20New%20York%20State.pdf>.

- limit the amount of time that a student can be out of school from 180 to 20 school days (unless required by federal law);
- guarantee access to appropriate work and instruction so that students who are suspended can stay on track academically;
- prohibit suspensions for the most minor infractions, like tardiness, dress code violations and insubordination, which are more appropriately addressed in schools; and
- ensure the law on student behavior and school discipline applies to both charter and district school students.

These provisions are designed to keep students engaged in learning, and connected to their peers, teachers, and supportive services in their school communities, with the goal of ensuring that disciplinary actions are equitable and proportionate, and underlying issues that lead to misbehavior are addressed in constructive ways that reduce repeat infractions.

CONCLUSION

New York State must act quickly to promote restorative approaches and other positive behavioral supports and interventions, reduce the number and length of suspensions, and ensure our students receive appropriate instruction and instructional materials during suspension, for the sake of our children. The New York State Bar Association urges the New York State Legislature to promptly pass the Judith S. Kaye Solutions Not Suspensions Act to keep public school students learning in a school environment designed for their academic, social, and emotional success.
