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Pushed Out of School: Zero-Tolerance Mandates, Discretionary Discipline, and the Costs of Suspension in K-12 Education

In 2014, a Georgia high school student, Zaire Byrd, was given a 10-day suspension after the school said he was involved in a “group fight.” Byrd said he was actually trying to defend himself and two of his friends from other students who threatened to rob them, but he was still removed from school and later sent to an alternative school (Ma and Mumphrey). His story shows that suspension and expulsion are not small punishments but serious school actions that disrupt a student’s education in lasting ways. In California, the K-12 suspension rate was 3.3% in 2023–24, and with 5,837,690 students enrolled, that translates to about 193,000 students suspended in a single school year (California Department of Education). The racial breakdown inside numbers like these is striking: nationally, Black students made up 15.5% of public school enrollment in 2013–14 but accounted for about 39% of students suspended (United States, Government Accountability Office). The harm of suspension extends well beyond the days a student is out of class — into lost instructional time, lower graduation rates, hundreds of millions of dollars in lost wages and economic costs, and civil-rights concerns under Title VI and the Fourteenth Amendment when discipline policies remove students unevenly across racial groups.

Two specific causes shape this problem: the Gun-Free Schools Act of 1994, which helped normalize a zero-tolerance framework of mandatory removal, and California Education Code §48900(k), which for decades authorized the subjective misconduct category of “willful defiance” and shaped a discretionary discipline culture whose effects persist. The current political debate over how to respond is divided between President Donald Trump and Education Secretary Linda McMahon, who argue that discipline should be returned to local control and based on individual behavior, and civil-rights-oriented figures such as Arne Duncan, Eric Holder, and Kristen Clarke, who argue that schools must limit exclusionary discipline because racial disparities can turn punishment into unequal educational removal.

One primary legislative cause of current K-12 exclusionary discipline is the Gun-Free Schools Act of 1994 (GFSA), which mandated a minimum one-year expulsion for any student bringing a firearm to a federally funded school and helped normalize a zero-tolerance framework in which mandatory removal became an accepted response to a widening range of student misconduct. The federal text was narrow in scope, requiring that each state receiving federal funds “expel from school for a period of not less than one year a student who is determined to have brought a weapon to a school” (Gun-Free Schools Act of 1994). Tying state compliance to federal Title I funding gave the mandate teeth: every state had to pass a mirror law to keep receiving education dollars, which meant the GFSA’s mandatory-minimum logic spread nationally within a few years. The original target was firearms, but the structural model — automatic removal triggered by a defined offense — became the template that states later drew on when shaping discipline policy more broadly. Alongside the GFSA, many states adopted broader zero-tolerance policies that extended that logic to routine, non-violent classroom behavior. As the Intercultural Development Research Association notes in its 30-year review of the law, “Many states seized the opportunity to ‘crack down’ on student misbehavior by both expanding on the act to encompass less serious

offenses—such as shoving, disrupting or skipping classes, and cursing” (Intercultural Development Research Association). The phrase “seized the opportunity” is telling: the GFSA never required this expansion. States chose to adopt the mandatory-minimum framework and then apply it to behaviors that had nothing to do with weapons or school safety. As Figure 1 shows, the broader zero-tolerance approach also did not deliver on its stated safety goal — in 1994 there were 40 reported incidents of gun violence in K-12 public schools, but by 2023 that number had risen to 352 (Riedman, qtd. in Intercultural Development Research Association). The increase does not prove the GFSA caused later gun violence, but it does suggest the law did not, on its own, solve the problem it was designed to address, which weakens any safety-based justification for extending zero-tolerance logic to non-violent offenses.

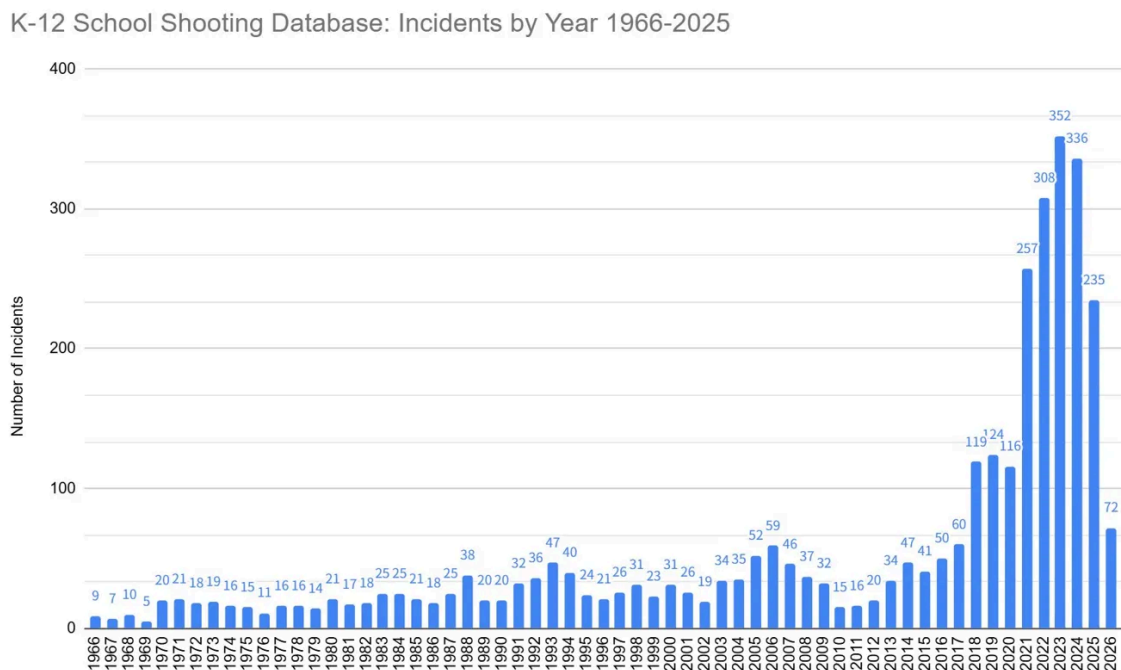


Figure 1: Reported Incidents of Gun Violence in K-12 Public Schools, 1966–2025. Source: Riedman, *K-12 School Shooting Database*, 2025.

Beyond this scope expansion, the zero-tolerance approach has produced racially uneven outcomes from the start. According to the Advancement Project and the Civil Rights Project at Harvard, “African-American children represent 17% of the public school enrollment, [but] they constituted 32% of the out-of-school suspensions” (Advancement Project and Civil Rights Project 7). The nearly two-to-one over-representation exposes a key contradiction in the zero-tolerance approach: it was framed as a way to remove discretion from school officials, but removing discretion at the punishment stage left untouched the discretion that operates at the referral stage — the moment a teacher decides which student gets written up at all. The result is a framework whose mandatory-minimum logic has produced both an expanded reach far beyond firearms and a racially unequal pattern of removal.

In contrast to the top-down federal mandate established by the Gun-Free Schools Act, a second structural cause of current suspension disparities in California is the historical use of Education Code §48900(k), which for decades authorized the subjective misconduct category of “willful defiance” and shaped a discretionary discipline culture whose effects on racial disparity persist even after recent legislative limits. The statute historically defined a suspendable offense as having “disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties” (California Education Code §48900(k)). The phrase “or otherwise willfully defied” makes the category a catch-all — behaviors as minor as talking back, refusing to remove a hat, or arriving late to class can all fit, depending on how a single staff member interprets the moment. Senate Bill 274, signed in 2023, has since limited willful-defiance suspensions: beginning July 1, 2024, grades 9–12 suspensions for willful defiance are prohibited until July 1, 2029, though teachers retain authority to remove a student from class for the day of removal and the following day. Even with these limits, the broad statutory language and the discretionary referral practices it

shaped over thirty years continue to influence how schools categorize student misconduct. As Figure 2 shows, the racial gap in lost instructional time narrowed somewhat from 2011–12 to 2018–19, but did not disappear.

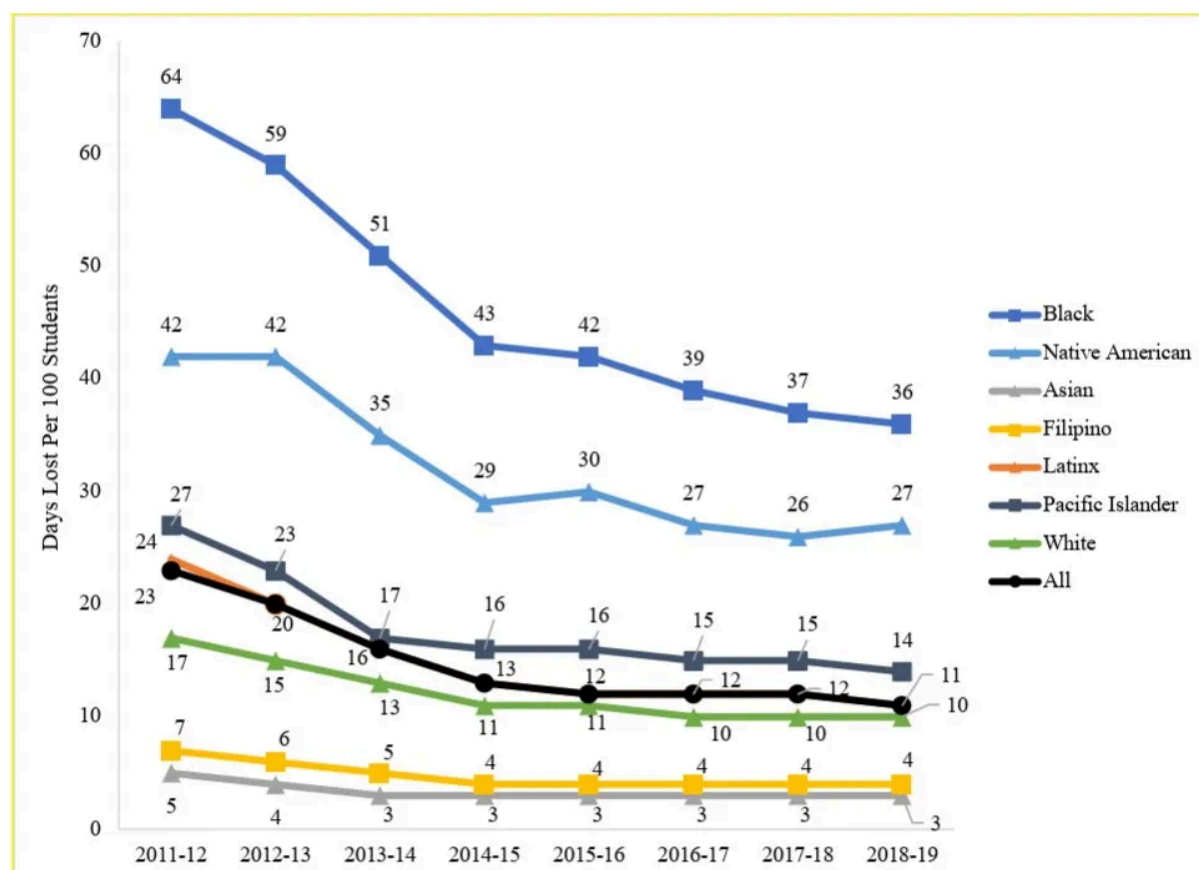


Figure 2: Lost Instruction Due to Suspension from 2011–12 to 2018–19 by Race/Ethnicity in California. Source: Losen and Martinez 7.

Peer-reviewed research links the persistence of disparity to who is doing the interpreting. Welsh and Little argue in their comprehensive review of the school discipline literature that school and classroom occurrences are shaped by the “policies, practices, and perspectives of teachers and principals,” which play an important role in explaining disparities (Welsh and Little 752). Their finding shifts the analytical focus: the gap is not only about poverty or student behavior, but also about who decides which behaviors get labeled as “defiance” in the first place — and §48900(k)’s broad wording for many years gave that interpretive power its

room to operate. Recent California data confirms the disparity persists even after reform. According to the California School Boards Association, an analysis of statewide suspension data from 2017–18 through 2023–24 shows that “Black/African American students are being suspended at nearly triple the rate of the statewide average of 4.3 percent” (California School Boards Association). Legislative narrowing of §48900(k) has not, by itself, closed the gap; as long as the discretionary judgment behind a referral remains in place at the school level, broad discipline categories can in practice function less like neutral rules and more like sorting mechanisms. §48900(k) is not just a neutral entry in the education code: its broad statutory history created room for unequal enforcement, allowing Black students to be removed from class at higher rates and sustaining the racial disparity that drives the academic and economic harms documented in the next section.

In addition to the legislative and discretionary causes that funnel students out of class, the most concrete harm of suspension and expulsion in K-12 education is a compounding chain of academic disconnection that begins with lost instructional time, escalates into reduced graduation rates, and ultimately produces measurable economic damage to society in the form of lost wages, reduced productivity, and increased social costs. The first link in the chain is the immediate loss of classroom time. In the American Academy of Pediatrics policy statement, Jain et al. explain that suspended and expelled students experience “decreased instructional time, disruption in student-teacher relationships, and lack of adult supervision,” which contributes to “academic disengagement and low academic achievement” (Jain et al.). The harm begins before any long-term consequence appears on a transcript: the student first loses classroom hours, the teacher relationship that anchors academic motivation, and the daily structure that supports learning. When lost time accumulates across a school career rather than appearing as one isolated punishment, it scales into a measurable graduation gap. As Figure 3 shows, Fabelo et al. found that students with no disciplinary violation had an

18.2 percent non-graduation rate, while students with eleven or more disciplinary violations had a 59.3 percent non-graduation rate (Fabelo et al. 58).



Figure 3: Percent of Students by Level of Discretionary Disciplinary Involvement That Did Not Graduate within the Study Period. Source: Fabelo et al., *Breaking Schools' Rules*, Figure 14.

The more-than-three-fold jump in non-graduation reveals exclusionary discipline as an academic sorting mechanism: as students accumulate suspensions, they become dramatically

more likely to leave school without a diploma. Beyond the individual graduation gap, the cumulative effect of reduced high school completion translates into a much larger societal cost. According to Marchbanks et al., in their statewide study of Texas, “school discipline relates to a 29% increase in high school dropout. These additional dropouts account for an economic effect of \$711 million per year” (Marchbanks et al. 2). The \$711 million figure converts a classroom-level punishment into a public-cost problem: the same discipline practices that remove a student from one classroom also remove a future earner from the workforce, and the resulting losses in wages and productivity are borne by the broader society. Because Black students are disciplined at higher rates than their peers, the academic and economic risks connected to exclusionary discipline are also distributed unequally. The harm chain — lost instructional time, reduced graduation rates, hundreds of millions of dollars in annual societal cost — transforms a classroom-level punishment into a problem with consequences for students, school systems, and the broader economy alike.

Building on the measurable harm chain produced by suspension and expulsion, the current political debate over how to respond is divided between President Donald Trump and Education Secretary Linda McMahon’s law-and-order view that school discipline should be returned to local schools, and civil-rights-oriented Democrats such as Arne Duncan, Eric Holder, and Kristen Clarke, who argue that schools must limit exclusionary discipline because racial disparities can turn punishment into unequal educational removal under Title VI and the Fourteenth Amendment. The debate is not only about school safety; it is also about constitutional protection. In *Goss v. Lopez*, the Supreme Court ruled that public school students facing suspension have “property and liberty interests” protected by the Fourteenth Amendment and must receive “oral or written notice of the charges” and “an opportunity to present his version” before being removed from school (*Goss v. Lopez*). The ruling establishes that suspension is a government action that takes away access to public education

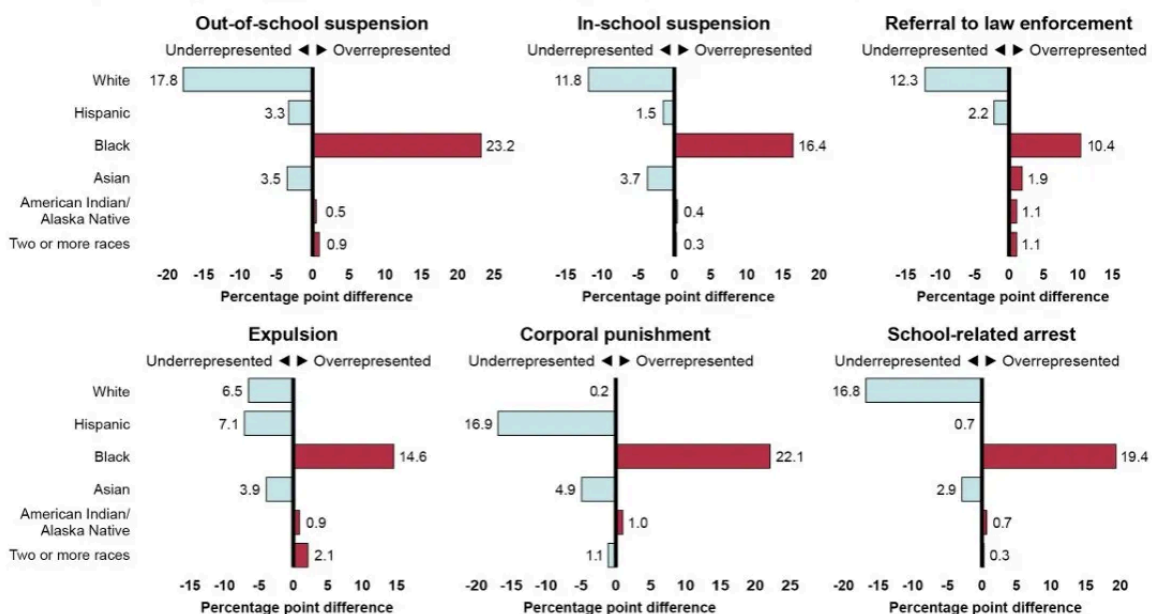
— not a simple classroom punishment a school may impose without process. On the conservative side, Trump’s 2025 executive order criticizes equity-based discipline reform and argues that school discipline should be based on “objective behavior alone” rather than racial discipline statistics (Trump). The phrase “objective behavior alone” defines the conservative position’s ideological core: discipline should focus on individual behavior, teacher authority, school safety, and local control rather than on group-level disparity data. McMahon’s education philosophy reinforces this same local-control view, since she argues that the federal government should give states and districts more power instead of controlling education through Washington, D.C. (United States, Department of Education, “U.S. Senate Confirms”). In this framework, federal civil-rights oversight gets recast as interference with school order and teacher authority.

In contrast to this conservative law-and-order view, the civil-rights side argues that school discipline must be examined through Title VI because discipline policies can appear neutral while still removing Black students, disabled students, and low-income students from school at unequal rates. Title VI states that no student can be “excluded from participation in,” “denied the benefits of,” or “subjected to discrimination” in a federally funded program because of race, color, or national origin (United States, Department of Education, “Title VI”). Public schools receive federal support, which brings suspension and expulsion into the civil-rights frame when discipline practices deny students equal access to education. The Obama administration’s 2014 discipline guidance, issued under Arne Duncan and Eric Holder, explained that schools needed to “identify, avoid, and remedy discriminatory discipline” so that students could receive “equal educational opportunities” (United States, Department of Education and United States, Department of Justice). The liberal position is not simply against discipline; it is against discipline systems that punish students unequally through vague categories and subjective judgment — exactly the §48900(k) problem

documented above. As Figure 4 shows, the GAO data supports this concern across multiple disciplinary actions: in out-of-school suspensions specifically, Black students were overrepresented by 23.2 percentage points relative to their share of K-12 enrollment (United States, Government Accountability Office).

Figure 2: Representation of Students Who Received Disciplinary Actions Compared to Overall Student Population, by Student Race or Ethnicity, School Year 2013-14

This chart shows whether each race or ethnicity was underrepresented or overrepresented among students who received six types of discipline. For example, White students were underrepresented among students suspended out of school by approximately 18 percentage points, as shown in the chart, because they made up about 50% of the overall K-12 student population, but 32% of the students suspended out of school.



Source: GAO analysis of Department of Education, Civil Rights Data Collection. | GAO-18-258

Note: Disparities in student discipline such as those presented in this figure may support a finding of discrimination, but taken alone, do not establish whether unlawful discrimination has occurred.

Figure 4: Representation of Students Who Received Disciplinary Actions Compared to Overall Student Population, by Student Race or Ethnicity, School Year 2013–14. Source: U.S. Government Accountability Office, GAO-18-258, 2018.

The 23-point gap between enrollment share and suspension share is the exact data point the two sides interpret differently: the conservative side reads such gaps as reflecting individual behavior differences, while the civil-rights side reads the same data as evidence of unequal outcomes that may trigger Title VI scrutiny. The debate over suspension and expulsion ultimately reflects a larger ideological conflict between conservative local-control discipline

and liberal civil-rights enforcement — Trump and McMahon frame equity-based discipline reform as a threat to safety and school authority, while Duncan, Holder, Clarke, and civil-rights advocates frame racial suspension disparities as civil-rights concerns that may justify federal oversight under Title VI and the Fourteenth Amendment to prevent discipline from becoming unequal educational removal.

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