

**Policy 4373, Expected Behavior in Safe and Supportive Schools
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		<p>Similar to the issues with Section 1, giving a principal the ability to change the level of the behavior really makes putting the behaviors in levels meaningless in the first place, and again would seem to give the principal authority that could supersede a local policy.</p> <p>The entire point of having a discipline policy is to be consistent and lay out clear expectations for behavior (thus the name change to "Expected Behavior in Safe and Supportive Schools" from a previous revision), but allowing inconsistency will undermine that.</p> <p>Additionally, the definitions of many of these behaviors make developmentally-appropriate labelling very difficult without relying on a "catch all" behavior like "Disruptive Conduct" or "Habitual Violation of School Rules or Policies," which lead to poor data quality.</p>	<p>N</p> <p>N</p> <p>N</p>	<p>not be overturned by a principal unless the policy allows for it.</p> <ul style="list-style-type: none"> County Board of education can create policy to assign levels and nothing in this policy gives the principal authority over their board or superintendent. <p>County boards of education are still required by law to adopt and implement discipline plans, nothing would prohibit a county policy from adopting a plan to be more stringent or more specific on a particular issue.</p>
<p>2024-05-27 11:24:27</p>	<p>Blaire L. Malkin Staff Attorney Mountain State Justice Charleston WV</p>	<p>Section 1 Addressing Inappropriate Behavior with Meaningful Interventions and Consequences: The addition of a requirement for evidence-based MTSS framework is a positive change. It would be helpful to provide resources on how to implement MTSS and how to ensure it is put in place with fidelity.</p> <p>The requirement that interventions must be document is positive and if collected in a way that is usable can help LEAs see what is working.</p> <p>The data report should be made publicly available and posted on WVDE and county board website. I am concerned about using the choice of 20 as the minimum number – this may lead to a suppression of data in many LEAs that have smaller populations. It would more helpful to include comparative percentages and not only total count because it is difficult to compare when only total count is reported.</p>	<p>A/S</p> <p>A/S</p> <p>N</p>	<ul style="list-style-type: none"> The selection of the N-Size of 20 is covered on page 10 of WV’s Consolidated State Plan for the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015

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		<p>I suggest putting back the “used sparingly” language, it is important to reflect that exclusionary discipline should be a last resort.</p> <p>The data from the WVDE and many other sources is clear that exclusionary practices have negative impacts and therefore, I suggest that instead of “Exclusionary practices can have,” “exclusionary practices have negative impacts”</p> <p>Section 2 Inappropriate Behavior Levels Level1: Minimally disruptive behaviors Disruptive Conduct – This definition continues to be very vague and subject to really widely varying application. Nationwide Black students are more likely than white students to be referred for disciplinary action for subjective infractions such as disruption or defiance compared to objective infractions such as tardiness or truancy; therefore it becomes even more important to have a very specific definition of these types of infractions.</p> <p>Inappropriate appearance – This is very broad and vague and could possibl infringe on students free speech rights and may lead to discrimination against certain groups of students. It would be more clear to simply refer back to the dress code.</p> <p>Level 2: Disruptive Conduct and Insubordination have the same problems as Level 1 in having very vague definitions. "Unintentionally aggressive conduct" - A more accurate definition might be reckless conduct and then include a definition of what it means to be reckless.</p> <p>This section lacks a definition of a threat and does not require it to be a "true threat," as defined by West Virginia code. I suggest adopting a definition of a threat to match that used in the West Virginia code.</p>	<p>N</p> <p>N</p> <p>n</p> <p>A/C</p> <p>A/C</p> <p>N</p>	<ul style="list-style-type: none"> Stakeholders supported the change to require interventions for each behavior in place of sparingly. Stakeholders discussed and supported this change. Stakeholders were supportive of this This will provide clarification This better fits with what stakeholders were describing and requesting. Stakeholders were supportive of this language.
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		<p>For all the sections that mandate expulsion there is a lack of reference to IDEA and 2419 and the procedural safeguards that must be adhered to for students with disabilities. They also fail to include any of the mitigating factors language that is included in W.Va Code.</p> <p>Regarding PRO/SRO it would be helpful to include a definition of what the role of the PRO/SRO is typically and which things fall into their school duties and clarify further when are they acting as law enforcement officers.</p>	N N	<ul style="list-style-type: none"> • IDEA and 504 protections remain as are required by federal law and WVBE Policy 2419. • WV Code sets forth expectations of when officers are acting in an official law enforcement capacity.
2024-05-27 13:43:08	Jacqueline Schwaben Attorney Legal Aid of West Virginia, Inc. Charleston WV	<p>Section 1:</p> <ul style="list-style-type: none"> • The removal of the language “proactive, preventative” weakens the language added about MTSS. Proactive, preventative strategies are supported by evidenced based research and therefore, this language should not be removed. • It would be helpful to include more information on what the MTSS framework to emphasize these aspects of it. • Language specifies off campus but does not specify out of school hours. Clarification is needed on whether after or before-school time is included or not; as written, it states “all online activity.” • The state uses the number “20” as the threshold for subgroups to include with data whereas 34 § 300.647(d)(2) requires “rationales for minimum cell sizes that exceed 10must include a detailed explanation of why the numbers chosen are reasonable and how they ensure that the State is appropriately analyzing and identifying LEAs with significant disproportionality based on race and ethnicity, in the identification, placement, or discipline of children with disabilities.” Due to the minimal diversity of the state of WV and counties/schools, there is concern that using 20 instead of 10 would cause a complete lack of data being produced, analyzed, and available for various minority groups of students. (This report should also be made easily accessible to the public via the WVDE’s website.) • Page 11, paragraph 4 states that “Exclusionary practices can 	A/C N N N N	<ul style="list-style-type: none"> • Will back proactive and preventive • Counties have the choice in what framework to adopt • If behavior is a disruption to the school environment it is the responsibility of the school and or LEA to determine. • The selection of the N-Size of 20 is covered on page 10 of WV’s Consolidated State Plan for the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015 •

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		<p>have a direct impact of student academic achievement...” Research supports that exclusionary practices do have an adverse impact on academic achievement and we would propose this language change as more accurate and evidence based. Using the word “can” introduces vagueness contrary to the evidence and “direct” does not capture that the impacts are harmful.</p> <ul style="list-style-type: none"> • Re: removal of the words “sparingly” and “should only be” on Page 11, paragraph 6, If the WVDE wants to encourage schools to use alternatives to exclusionary discipline, the removal of these words seems contrary to that goal and weakens the notion that exclusion should be viewed and used as a last resort. <p>Section 2:</p> <ul style="list-style-type: none"> • In the definition of “Cell Phone Violation”, we suggest the removal of the word “classroom” to ensure that consistent school wide policies are applied to students. • The definition of “Inappropriate Appearance” is extremely broad and could be unconstitutionally vague. This definition should be limited to “Dressing or grooming in a manner that is a violation of county board of education’s dress code policy.” This would result in a more consistent application of this section so that it is not applied in a subjective or discriminatory manner. • The definition of “Disruptive/Disrespectful Conduct” includes “rude, impolite, or bad-mannered.” These terms are extremely vague: what is considered rude in one culture, region or context can be very different than in others. Removing this language from the definition would result in a more consistent application of this section is not applied in a subjective or discriminatory manner. • The proposed definition of “Habitual Violation of School Rules...” now specifies “three or more previous discipline referrals for such violations.” We support the inclusion of this language since it is more specific and should enable this section to be applied less subjectively. • The illustrative examples removed from the definition of “Insubordination” should be restored to assist in clarifying the 	<p>N</p> <p>N</p> <p>A/C</p> <p>N</p> <p>A/S</p> <p>N</p>	<ul style="list-style-type: none"> • Stakeholders were supportive of this change • The requirement to provide an intervention for every behavior and statement that suspension should be used when other interventions or consequences have not worked does not lessen the expectation. • Teachers have discretion pursuant to WV Code to make rules for their classroom. • Will be changed to reflect county board policies. • Stakeholders were supportive of this change and guidance will be provided in training to school administrators regarding this concern. • Stakeholders were supportive of removal.
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		<p>definition.</p> <ul style="list-style-type: none"> • Addition of “Unintentional Aggressive Conduct”: We object to the addition of this as a behavior that was not previously included in 4373. By the name, these actions are unintentional, and not directed toward anyone, and therefore, should not be included as a behavior. If retained, this behavior should be described as “Reckless Conduct” rather than “Unintentional Aggressive Conduct.” • Re: “Threat of Injury”: Threat is not defined in the policy, nor is it defined in W. Va. Code. It is acknowledged that threats should be taken seriously when they are serious threats, but zero tolerance policies related to threats that are transient and not substantive unnecessarily exclude students from school. A suggested definition of “threat” could be a credible statement or action made with intent to harm someone that requires protective action. A threat in this context is not a false rumor, an expression of anger or frustration that is easily resolved with no intent to attack. Threat assessment should be mentioned as an alternative to exclusionary discipline. See https://education.virginia.edu/research-initiatives/research-centers-labs/research-labs/youth-violence-project/school-threat-assessment. • RE: “Level 4 Behaviors” (page 18, paragraph 2) states that a student must be expelled for a period of 12 months for certain behaviors. W. Va. Code 18A-5-1a provides a list of factors that enable a superintendent to reduce this mandatory period. This should be included or at least noted (the exclusion of this possible reduction is misleading and may lead to students being excluded from school for longer periods of time). • Re “Felony”: the newly added * sentence should add the word “credible” before “threats of mass...”. 	<p>A/C</p> <p>N</p> <p>N</p> <p>N</p>	<ul style="list-style-type: none"> • Will be changed to reckless conduct • Stakeholders were supportive of this change. • Superintendents and county boards receive training regarding this and are familiar with their abilities. • Stakeholders were supportive of this change.
		<p>§WV Manual for Expected Behavior in Safe and Supportive Schools, Chapter 4 Procedures for Taking Action on Substantiated Inappropriate Behaviors</p>		

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2024-05-01 10:25:55	Ron Branch Assistant Superintendent Berkeley County Schools Martinsburg WV	1. The introductory paragraph in regard to out of school suspensions does not match the paragraph in Chapter 2 that addresses out of school suspensions.	A/C	<ul style="list-style-type: none"> Language will be amended to remove “used sparingly” to provide the intent from stakeholders and chapter 2.
2024-05-20 14:06:08	Dale Glancy AAP Kanawha County Schools St Albans WV	Provide clarification for timeline of expulsion appeals.	A/C	<ul style="list-style-type: none"> Timeline will be provided regarding expulsion appeals and the time a parent/guardian has to appeal and timelines for a new hearing.
2024-05-27 11:24:27	Blaire L. Malkin Staff Attorney Mountain State Justice Charleston WV	<p>Section 2 – Guidelines for Specific Responses to Inappropriate Behavior</p> <p>The list of suggested alternatives to exclusionary discipline is very general and does not include definitions of or a preference for any particular program or any guidance on how to implement these programs. It would be helpful to explain how these work in conjunction with MTSS. While the overall policy focuses on creating a safe and supportive school climate, and recommends using exclusionary discipline sparingly, all the detail in the policy is with regard to exclusion and how to use it. This section on alternatives primarily contains a bullet pointed list of options with no preference or requirement for any particular one and no requirement to show how these have been attempted before turning to exclusionary policies.</p> <p>The section regarding bus transportation does not include an exception for those students whose IEPs require transportation.</p> <p>The policy does not express any preference for ISS over OSS or require that ISS be attempted first. I would ask that this change be considered to include an explicit preference for ISS over OSS.</p> <p>The policy states that "Suspension is considered a temporary</p>	<p>N</p> <p>A/C</p> <p>N</p>	<ul style="list-style-type: none"> Stakeholders felt as though county boards of education are best suited to determine which of these processes they will use. Will add 2419 to the policy mentions. County boards are not required to have an ISS program.

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		<p>solution to an inappropriate behavior until the problem that caused the suspension is corrected," given this definition it would be helpful if the policy required particular steps to be taken during the suspension to address the problem.</p> <p>Section 5 - It is a positive change to require tracking of interventions. It would be helpful if this data were searchable so that LEAs could see which interventions were working either for a particular student or if a school was having success with certain types of interventions or programs.</p>	N A/S	<ul style="list-style-type: none"> Stakeholders were supportive of this language.
2024-05-27 13:43:08	Jacqueline Schwaben Attorney Legal Aid of West Virginia, Inc. Charleston WV	<p>Section 2:</p> <ul style="list-style-type: none"> Page 25: List of alternatives to exclusionary discipline: <ul style="list-style-type: none"> -Civil citations are not defined or clear as to what they exactly entail, however it seems that they could be juvenile court proceedings, which are not an appropriate or effective alternative to exclusionary discipline. Therefore, this should be removed from the list. This could lead to schools using the juvenile court proceedings as an exclusionary method instead of utilizing alternatives to exclusion. -Community service is another appropriate alternative to exclusionary discipline that could be included. -Community health is undefined making it unclear what this alternative means and whether it is actually an available option to school districts. Page 27: We agree with the addition to the end of the first full paragraph pointing out that manifestation determinations must be completed before expulsion hearings for students with an IEP or 504 plan. 	N A/C N A/S	<ul style="list-style-type: none"> Stakeholders felt comfortable with the inclusion of civil citations. Community service will be added Training will be provided on different types of community health and how they are supportive of the whole child.
		§126-99-1 General		
2024-05-27 11:24:27	Blaire L. Malkin Staff Attorney Mountain State Justice Charleston WV	<p align="center">Re External Stakeholders:</p> <p>The external stakeholders did not appear to include any community members, parents, advocates, or students, no social workers, no members of groups who state department of education data show are disproportionately impacted by discipline</p>	N	<ul style="list-style-type: none"> Stakeholders were invited from community organizations and parental organizations to come to one of the two external stakeholder meetings. They did not show up.

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		(students of color/students with disabilities/students in foster care) General: 1.1a – This definition should be clarified to ensure it includes charter schools	N	<ul style="list-style-type: none"> WV Code provides for charter schools responsibilities related to WVBE Policy.
		§126-99-2 Purpose		
2024-05-27 11:24:27	Blaire L. Malkin Staff Attorney Mountain State Justice Charleston WV	If LEAs are required to use MTSS would request changing should to "shall." The inclusion of the MTSS framework is a positive change but the remainder of the policy lacks a comprehensive definition and guidelines on how to implement MTSS and lacks any requirements of how/when MTSS will be put in place. The word positive should not be removed as having a positive school climate is an important value. The language that takes into account bullying, attendance, and trauma are positive changes.	N A/C	<ul style="list-style-type: none"> Stakeholders were supportive of this language. Positive will be kept
2024-05-27 13:43:08	Jacqueline Schwaben Attorney Legal Aid of West Virginia, Inc. Charleston WV	<ul style="list-style-type: none"> The word "positive" from the description of school climate should not be removed. Keeping the word "positive" here would more closely mirror language from Schoolsafety.gov: https://www.schoolsafety.gov/school-climate. Keeping the word "positive" in this section will also mirror the language provided in the Introduction on Page 5, which has added language that emphasizes the many components necessary to create an environment conducive to learning. It would be helpful to add an explanation of what MTSS is, since it is not defined or explained elsewhere in this policy. Adding "trauma sensitivity" is excellent. The word "orderly" here seems somewhat misplaced. The federal governments guidance focuses more on creating environments that are safe, inclusive, supportive, and fair. (www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf) 	A/C N A/S N	<ul style="list-style-type: none"> Positive will be kept Stakeholders were accepting of this language. Stakeholders specifically requested to keep the word orderly.
		§WV Manual for Expected Behavior in Safe and Supportive Schools, Chapter 1 Student Protections		

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<p>2024-05-27 11:24:27</p>	<p>Blaire L. Malkin Staff Attorney Mountain State Justice Charleston WV</p>	<p>Section 3 - This section still lacks clarity on the role of the PRO/SRO. It would be helpful to start with the definitions of what PRO/SRO role in the school is and ensure that students understand when they are acting in a law enforcement role and the consequences that may come from that. In general, it creates confusion when PRO/SRO are involved in questioning students for school related discipline incidents as they are not supposed to have a role in discipline.</p> <p>Section 5 - Age Appropriate Body Safety Information It is important that this training material takes into account not only age but also ensures that there are materials that are appropriate for students with intellectual disabilities. These students are among the most vulnerable and it is essential that there are materials that are tailored to address their specific needs to understand body safety and autonomy.</p>	<p>N</p> <p>N</p>	<ul style="list-style-type: none"> Stakeholders were supportive of this language. This is language taken from WV Code.
		<p>§WV Manual for Expected Behavior in Safe and Supportive Schools, Chapter 3 Procedures for Addressing Allegations of Inappropriate Behaviors</p>		
<p>2024-05-27 11:24:27</p>	<p>Blaire L. Malkin Staff Attorney Mountain State Justice Charleston WV</p>	<p>There appears to be a typo in Section 1 Typo: should state “the victim of or a witness to”</p>	<p>A/C</p>	<ul style="list-style-type: none"> Language will be updated
		<p>§WV Manual for Expected Behavior in Safe and Supportive Schools, Chapter 5 Alternative Education Requirements for Disruptive Students</p>		
<p>2024-05-27 11:24:27</p>	<p>Blaire L. Malkin Staff Attorney Mountain State Justice Charleston WV</p>	<p>I am opposed to the change to allow virtual/hybrid learning for these students without any requirements for how they will be supported in a manner that will allow them to successfully reintegrate into the typical school setting. This change to allow virtual learning for students who were already vulnerable to dropping out of school or had issues with truancy seems very</p>	<p>N</p>	<ul style="list-style-type: none"> Counties have the responsibility of creating alternative programs and stakeholders requested this change.

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		<p>fraught. If this change is adopted, I would strongly urge that the WVDE put in place standards for any virtual program to meet including that there is adequate and safe supervision where the student is learning, that there is live instruction, and that there is some in person component for mental health and other behavioral supports. The policy also fails to outline requirements for support to transition back to school.</p> <p>The proposed change to not automatically place students who are returning from a placement in alternative settings is a very positive change.</p> <p>Portions of this section only mention a SAT team where an IEP/504 team exists, those teams should be listed as the decision makers for creating goals, plans, and transition plans for the student.</p> <p>It appears that the results on assessments are reported with the referral school, it would be helpful if these results could also be seen by the alternative school to help measure effectiveness of these programs.</p> <p>The evaluations of these programs should be publicly available.</p>	<p>A/S</p> <p>N</p> <p>N</p> <p>N</p>	<ul style="list-style-type: none"> • Student protections with an IEP or 504 remain, regardless of if it is mentioned here, it is mentioned in 2419. • Schools do have access to student level assessment data. • Counties have the option of how to evaluate.
<p>2024-05-27 13:43:08</p>	<p>Jacqueline Schwaben Attorney Legal Aid of West Virginia, Inc. Charleston WV</p>	<p>Section 2:</p> <ul style="list-style-type: none"> • We agree with the added language that prohibits schools from automatically placing students returning from in-state or out-of-state placement in an alternative education for disruptive students setting. <p>Section 4:</p> <ul style="list-style-type: none"> • The newly added language requiring transportation for alternative education programs is an excellent addition as it enables all students to continue to have access to the school day. 	<p>A/S</p> <p>A/S</p>	