

School-Based Restorative Justice and State Legislation: 2023 Trend Analysis and Review

In 2020, the Center on Gender Justice & Opportunity conducted a national review of legislation to assess the scope and prevalence of school-based restorative justice in education law and policy across the 50 states and the District of Columbia. At the time, the implementation of restorative justice practices and programs had grown significantly¹ and state legislatures² were increasingly examining how school-based restorative justice aligned with broader efforts to improve school climate, promote positive learning environments, address racial and gender disparities, exclusionary school discipline, and diminish pathways from schools into justice systems. Key findings from the 2020 legislative trend analysis included that, collectively, 38 laws demonstrated a broad range of support for school-based restorative justice, providing training, funding, and providing for its use in contexts beyond responses to student behavior.

While the education landscape has been radically transformed after the onset of the COVID-19 pandemic³, the critical importance of evidence-based interventions that promote safe and healthy schools has not changed. In fact, education research underscores the need for greater investments in educational practices and programs like restorative justice practices that foster belonging, improve school connectedness, and support academic excellence.⁴ As this updated analysis indicates, legislative agendas have continued to prioritize school-based restorative justice practices and programs with new investments in funding, non-disciplinary interventions, culturally competent and/or trauma-informed frameworks, and data collection.⁵ A full summary of findings is available in Tables 1 – 7.

Updated Findings:

- Nine states have passed eight new laws that support the use of restorative justice in schools;
- One law implements restorative justice as an alternative to punitive discipline;
- One law implements restorative justice as a non-disciplinary intervention where previously there were none;
- Three laws integrate culturally competent and/or trauma-informed frameworks;
- One law implements restorative justice training and professional development in schools;
- Two laws require data collection to support restorative justice in schools.

School-Based Restorative Justice Legislative Trends

Table 1: Implementation of “Whole School” Models of Restorative Justice

State	Legislation
MD, ME	<ul style="list-style-type: none"> • MD. CODE ANN., EDUC. § 7-305.1(a)(3) (LexisNexis 2019) (establishing RJ practices that are integrated throughout the school to create healthy school climates); • MD. CODE ANN., EDUC. § 7-306(a) (LexisNexis 2019) (integrating RJ practices throughout the school to address conflict resolution); • ME. REV. STAT. tit. 20-A § 1001(15-A)(B) (LexisNexis 2019) (integrating RJ practices throughout the school to address conflict and support re-entry and reintegration).

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Table 2: Implementation of Restorative Justice as an Alternative to Punitive Discipline

State	Legislation
<p>Presumptive Response: CO, MI</p>	<ul style="list-style-type: none"> • COLO. REV. STAT. § 22-32-144(2) (2019) (supporting and encouraging the use of RJ as the school's first disciplinary alternative for certain behaviors); • MICH. COMP. LAWS SERV. § 380.1310d (LexisNexis 2019) (encouraging consideration of restorative practices in correction of bullying behavior)
<p>Requires Consideration: CA, DC, ME, MD, MN, NV, NJ, TN</p>	<ul style="list-style-type: none"> • CAL. EDUC. CODE § 48900.5(a) (Deering 2019) (limiting suspension unless other means of correction, including but not limited to RJ, fail); • D.C. CODE § 38-236.03(b)(9) (2020) (requiring school districts to promote disciplinary actions that are restorative if appropriate); • ME. REV. STAT. tit. 20-A, § 1001(15-A)(B) (2019) (requiring school boards to consider school disciplinary policies that focus on Restorative practices); • MD. CODE ANN., EDUC. § 7-305.1(d) (LexisNexis 2019) (requiring school system to remedy student behavior through interventions that may include restorative practices); • MD. CODE ANN., EDUC. § 7-306(d) (LexisNexis 2019) (requiring State Board to establish state code of discipline that may include restorative approaches); • MINN. STAT. § 121A.031 (subd. 4)(a)(1) (2023) (requiring that restorative practices, consequences, and sanctions are fairly and fully implemented in each school district); • NEV. REV. STAT. ANN. § 392.472 (LexisNexis 2019) (requiring public (requiring public schools to provide a plan of action based on RJ prior to expulsion); • N.J. STAT. ANN. § 18A:35-4.31 (LexisNexis 2019) (requiring school districts to provide RJ activities during the loss of recess for students kindergarten through fifth grade); • TENN. CODE ANN. § 49-6-3024(b-c) (2019) (requiring schools to develop RJ alternatives to ESD based on a review)
<p>Permits Consideration: FL, ID, NE, TX</p>	<ul style="list-style-type: none"> • FLA. STAT. § 1006.13(1) (2019) (allowing threat assessment team to use alternatives to expulsion, including "neighborhood restorative justice"); • IDAHO CODE § 33-1631(3) (2019) (requiring graduated consequences for bullying that may include RJ); (allowing teachers to take action outside of School Discipline Act, which may include RJ); • TEX. EDUC. CODE ANN. § 37.0013 (2019) (allowing school districts to provide RJ as an alternative to ESD for students below third grade).

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Table 3: Implementation of restorative justice as a non-disciplinary intervention

State	Legislation
MI	<ul style="list-style-type: none"> MICH. COMP. LAWS SERV. § 388.1697j (LexisNexis 2023) (establishing the implementation of tools that provide a common way of identifying and collecting early behaviors that could require intervention to prevent abuse, self-harm, or violence in schools); (requiring the development of best practice guidance to eliminate or reduce student absences and based in restorative justice practices).

Table 4: Integration of Restorative Justice and Culturally Competent and/or Trauma-Informed Frameworks

State	Legislation
IN, MD, NJ, NV, RI	<ul style="list-style-type: none"> IND. CODE ANN. § 20-28-3-3.5(2) (LexisNexis 2019) (requiring the incorporation of methods that assist individuals in creating positive school climates that are culturally responsive); MD. CODE ANN., EDUC. § 7-306 (LexisNexis 2019) (including trauma-informed care as an aspect that restorative approaches may include); N.J. STAT. ANN. § 18A:37-39 (2020) (implementing RJ practices that address school discipline issues through a trauma-informed approach); NEV. REV. STAT. ANN. § 388.1333 (LexisNexis 2022) (implementing RJ practices that address school discipline issues through a trauma-informed approach); NEV. REV. STAT. ANN. §385A.250 (LexisNexis 2023) (requiring schools to categorize incidents with pupils based on the number of incidents resulting in suspension or expulsion, or both, for discrimination based on race, disability, and economic disadvantage). 16 R.I. GEN. LAWS § 16-21-40 (2022) (requiring the development of a trauma-informed implementation plan to establish trauma-informed practices within all elementary and secondary education schools throughout the state).

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Table 5: Implementation of restorative justice as a non-disciplinary intervention

State	Legislation
<p>Mandatory: CA, CT, DC, IN, LA, PA, TX, UT, WA</p>	<ul style="list-style-type: none"> • CAL. EDUC. CODE § 32282.1 (Deering 2019) (mandating RJ as part of the professional development curriculum); • CONN. GEN. STAT. § 10-227 (2023) (requiring the school superintendent to serve as climate coordinator and provide district-level leadership and support for the implementation of the school climate improvement plan for each school); • D.C. CODE § 38-236.06(a)(2)(D) (2020) (mandating RJ as part of the professional development curriculum); • IND. CODE ANN. § 20-28-3-3.5(2) (LexisNexis 2019) (mandating RJ as part of the professional development curriculum); • LA. REV. STAT. ANN. § 17:252 (LexisNexis 2019) (mandating RJ as part of the professional development curriculum); • 24 PA. CONS. Stat. § 13-1313-C (2019) (mandating RJ as part of the professional development curriculum); • TEX. OCC. CODE ANN. § 1701.262(c)(2) (2019) (mandating RJ as part of the professional development curriculum); • UTAH CODE ANN. § 53G-8-702 (LexisNexis 2019) (mandating RJ as part of the professional development curriculum); • WASH. REV. CODE § 28A.300.650 (2019) (requiring SRO engagement in RJ practices).
<p>Optional (RJ is one of many topics that may be part of professional development for educators): CA, DE, IL, MD</p>	<ul style="list-style-type: none"> • CAL. EDUC. CODE § 44690(c)(3); • DEL. CODE ANN. tit. 14, § 703(b)(3)(c)(1) (2019); • 105 ILL. COMP. STAT. ANN. 5/2-3.152 (LexisNexis 2019); • MD. CODE ANN., EDUC. § 6-123(4)(iii) (LexisNexis 2019).

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Table 6: Allocation of State Funds to Support Restorative Justice Practice and Programs

State	Legislation
CA, DC, IL, ME, MD, MT, NJ, PA	<ul style="list-style-type: none"> CAL. EDUC. CODE § 33430 (Deering 2019) (establishing competitive grant funding for school programs); CAL. EDUC. CODE § 33432 (Deering 2019) (requiring local education agency recipients of grant funding to use funds to implement evidence-based non-punitive disciplinary practices, which may include restorative practices); D.C. CODE § 38-236.06 (2020) (establishing special fund to promote positive school climate and RJ among other non-punitive disciplinary alternatives); D.C. CODE § 38-236.07 (2020) (establishing a special fund to promote positive school climate and RJ among other disciplinary alternatives); 105 Ill. Comp. Stat. 5/2-3.181 (2019) (establishing a grant program to fund RJ programs and other disciplinary alternatives); MD. CODE ANN., EDUC. § 6-123 (LexisNexis 2019) (establishing a grant program that includes RJ and culturally responsive professional development); MD. CODE ANN., EDUC. § 6-123 (LexisNexis 2019) (establishing a grant program that includes RJ and culturally responsive professional development); MONT. CODE ANN. § 20-9-236(1) (2019) (allowing for the transfer of state and local funds to schools for shooter training, threat assessment, and RJ); N.J. STAT. § 18A:37-39 (2020) (providing for the establishment of RJ pilot program in public schools within three years); 24 PA. CONS. STAT. § 13-1302-A (2019) (allowing the provision of grant funding for RJ practices); 24 PA. CONS. STAT. § 13-1306-B (2019) (allowing for security grant including RJ strategies).

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Table 7: Requirements for Data Collection of Restorative Justice Practices and Programs

State	Legislation
DE, CT, MD, MN	<ul style="list-style-type: none"> • DEL. CODE ANN. tit. 14, § 703 (2019) (requiring data review of RJ practices and development of a plan based on disproportionate use of ESD against students in racial subgroups and students with disabilities); • CONN. GEN. STAT. § 10-227 (2023) (requiring the collection and maintenance of data regarding school climate improvement and the implementation of restorative practices); • MD. CODE ANN., EDUC. § 7-203(c)(2)(iii)(5) (LexisNexis 2019) (requiring school climate surveys to collect data on discipline and restorative practices); • MD. CODE ANN., EDUC. § 7-306(e)(1) (LexisNexis 2019) (requiring the collection of student discipline data and use of restorative approaches, disaggregated by race, ethnicity, gender, disability status, eligibility for free or reduced price meals or an equivalent measure of socioeconomic status, English language proficiency, and type of discipline); • 2023 Minn. Laws 2497 (requiring measurement of the number of restorative justice interventions and the number of suspensions and expulsions per school).

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Next Steps

The effects of the pandemic are far-reaching, reducing students' academic performance and harming their mental health and socio-emotional development. According to the Brookings Institution, experts believe that "students are still recovering from the trauma of the pandemic and struggling from missed ... development opportunities;" and, to address resultant behavior, at least eight states led with fear in 2023 to respond with expanded tools of punishment, introducing policy proposals that supported discretionary suspensions and expulsions.⁶ As Nevada illustrates, such retrogressive reforms can be expressly tied to disincentivizing the use of restorative practices.

But as the era of zero-tolerance policies—now abandoned and discredited—made clear, punitive responses to student behavior are ineffective and misguided. To the contrary, now more than ever, students need schools to nurture their health and well-being and promote their short- and long-term success. Innovative approaches to school-based RJ can improve school climate, address student behavior and safety, and reduce the harms of inequitable discipline disparities. The ten restorative justice laws enacted after our last published survey indicates that many states are increasingly willing to do the work of recognizing students' needs for support and guidance, and they are taking important, effective steps in how to meet them through the use of restorative practices.

New policy reform efforts should focus in the following areas:

- **Promotion of whole school RJ models.**
- **Integration of culturally competent** and trauma-informed RJ practices.
- **Decreased reliance on on exclusionary school discipline** for student behavior.
- **Preference for RJ** as the primary response to student behavior.
- **Increased RJ training** and professional development for educators and school staff.
- **Development of integrated plans** for RJ and multi-tiered systems of support.
- **Increased funding** for district- and school-level RJ practices.
- **Collection of data on the effectiveness** of non-exclusionary disciplinary approaches.
- **Collection of data on best practices** of implementation of RJ.
- **Open and transparent review** of the data collected regarding use of restorative approaches disaggregated by race, ethnicity, gender, disability status, and eligibility for free or reduced-price meals (or an equivalent measure of socioeconomic status).
- **Accountability measures** for all data collected.
- **Implementation** and integration of RJ into multi-tiered systems of support.

School-Based Restorative Justice Legislative Trends

Next Steps (Cont.)

This legislative trend analysis is a part of the Center's broader portfolios on restorative justice, school push-out, and education and health equity. It also promotes the goal of the Center to provide free high-quality research to eliminate gender and racial disparities in public systems.

Sample Statutory Definition of RJ: Illinois



“Restorative measures” means a continuum of school-based alternatives to exclusionary discipline, such as suspensions and expulsions, that:

- Are adapted to the particular needs of the school and community,
- Contribute to maintaining school safety,
- Protect the integrity of a positive and productive learning climate,
- Teach students the personal and interpersonal skills they will need to be successful in school and society,
- Serve to build and restore relationships among students, families, schools, and communities, and
- Reduce the likelihood of future disruption by balancing accountability with an understanding of students' behavioral health needs to keep students in school.

Sample Statutory Definition of RJ: Connecticut



“Restorative practices” means evidence and research-based system-level practices that focus on:

- (A) building high-quality, constructive relationships among the school community,
- (B) holding each student accountable for any challenging behavior, and
- (C) ensuring each such student has a role in repairing.

School-Based Restorative Justice Legislative Trends

Next Steps (Cont.)

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Sample Statutory Definition of RJ: Rhode Island



(a) Schools play a critical role in addressing and mitigating the effects of child trauma by recognizing the impact of adversity and trauma on students, parents, and staff, and embedding policies and practices that foster well-being and resilience.

(b) Through alignment and integration with a multi-tiered system of support frameworks designed to support the academic, behavioral, social, and emotional needs of all students, the commissioner of elementary and secondary education shall develop a trauma-informed school implementation plan, as well as necessary administrative guidance, professional development materials, and other resources to enable all elementary and secondary schools to:

- Establish and implement trauma-informed practices within all elementary and secondary education schools throughout the state, that:
 - Promote a shared understanding among teachers, teacher's assistants, school leaders, paraprofessionals, specialized instructional support personnel, and other staff that:
 - Traumatic experiences are common among students;
 - Trauma can impact student learning, behavior, and relationships in school;
 - Traumatic experiences do not inherently undermine the capabilities of students to reach high expectations in academics and life;
 - School-wide learning environments, where all students and adults feel safe, welcomed, and supported, can enable students to succeed despite traumatic experiences; and
 - Services, supports, and programs provided to meet individual student needs should be trauma-informed, where appropriate, and increase student connection to the schoolwide learning environment.
 - Adopt disciplinary procedures and practices that:
 - Accompany disciplinary actions with holistic assessments and positive behavioral interventions and supports to address the underlying causes of student behavior, including trauma;

School-Based Restorative Justice Legislative Trends

Next Steps (Cont.)

Sample Statutory Definition of RJ: Rhode Island (Cont.)



- Avoid harsh, punitive, or exclusionary disciplinary practices;
 - Utilize evidence-based restorative practices with a focus on behavior modifications and building community and less punitive or exclusionary practices that erode a culture of trust;
 - Implement procedures to call skilled mental health personnel when there is a mental health breakdown, and resort to law enforcement only in extreme cases and/or when a student or students are at risk of bodily harm; and
 - Do not discriminate on the basis of race, color, national origin, sex (including sexual orientation or gender identity), disability, English proficiency status, migrant status, or age.
- Implement activities that engage teachers, teacher's assistants, school leaders, paraprofessionals, specialized instructional support personnel, and other staff, in a process of school-based planning to:
 - Promote a school-wide culture of acceptance;
 - Help all students feel safe and connected to the school community;
 - Support all students to form positive relationships with adults and peers, understand and manage emotions, achieve success academically and in extracurricular areas, and experience physical and psychological health and well-being;
 - Promote teamwork and effective communication among all staff and shared responsibility for every student;
 - Integrate evidence-based practices that build social-emotional skills into rigorous academic instruction;
 - Support trauma-sensitive and informed approaches to multi-tiered system of support ("MTSS") function of team-based leadership, tiered delivery system, selection and implementation of instruction and intervention, comprehensive screening and assessment system, and continuous data-based decision-making; and
 - Recognize and prevent adult implicit bias.