

# What Families Should Know About Discipline Policies in Private Schools

By Carl Felton III

When students attend public schools, they are guaranteed various federal rights that protect them against overly punitive discipline practices and ensure that no student group is being disproportionately penalized. For students of color and students with disabilities, these rights are crucial. History has shown that systemic racism and prejudice tend to be reflected in how they are disciplined in school settings, despite evidence that students of color and students with disabilities do not commit more infractions than their white or non-disabled peers. According to the 2020-21 United States Department of Education's Civil Rights Data Collection (CRDC), Black boys represented 8% of total K-12 enrollment; however, they accounted for [18%](#) of students who received one or more out-of-school suspensions.

A growing number of states are [adopting](#) private school voucher programs, which allow students to use public funds to attend private schools. Unfortunately, many of the critical student protections that public schools uphold during the discipline process are not required in private schools even if students are using a voucher. This lack of protection at private institutions leaves students of color, multilingual learners, and students with disabilities vulnerable to unfair disciplinary treatment.

## 10 Discipline-Related Rights Public School Students May Forfeit When Using a Voucher

- 1. The right to discipline policies that follow federal and state guidelines for fairness and equity.** State and federal laws provide guidelines that public school districts must follow in developing their discipline policies to ensure fairness. Private schools participating in voucher programs do not have to follow these guidelines, meaning students using a voucher could be less protected from harsh discipline practices that don't align with the severity of their infraction.
- 2. The right to defend themselves during disciplinary proceedings.** The constitutional right to due process extends to students in public schools. This is a right guaranteed by the 14th Amendment and it ensures that students can question and dispute any disciplinary action taken against them. Unfortunately, private schools are not held to the [same constitutional expectations](#). When students and their families utilize a voucher to attend private school, they will likely be asked to sign a code of conduct. Many private school codes of conduct force students to give up their legal right to due process, meaning they could be unable to dispute any disciplinary action the school takes against them.

- 3. The right to parental notification.** Public schools are required to notify both students and their families when disciplinary actions, such as a suspension or expulsion, are taken against a student. In contrast, private schools participating in voucher programs are not legally bound to notify students or their families, meaning students using a voucher to attend private school could be accused of violating the code of conduct and subsequently disciplined without their parents' knowledge.
- 4. The right to an investigation before expulsion.** Public schools are legally obligated to investigate any alleged student misbehavior that can result in harsh discipline measures, such as suspension or expulsion. Private schools participating in voucher programs do not have to conduct investigations before making disciplinary decisions. This makes it more likely that private schools could wrongfully decide to expel or suspend students, decisions that have huge implications for students' education, because the school failed to conduct a full investigation of the incident that led to the disciplinary decision.
- 5. The right to a hearing (for certain severe infractions).** In public schools, depending on the severity of the accusation, a formal hearing may be required prior to disciplinary action. This allows students and families to understand and critique the school's decision before it is made final. Private schools participating in voucher programs may not offer students a formal hearing prior to taking extreme measures against them (such as suspension or expulsion), as it is not required.
- 6. The right to an appeals process.** Public school students can usually appeal against their school's discipline decision before it is finalized. This provides students with another opportunity to question the school's decision before it is put into effect, since the consequences of many disciplinary actions can have deeply harmful impacts on students' educational experiences. Once a private school decides to take a disciplinary action, they may not allow the student to appeal against the decision before it is finalized.
- 7. The right to protection from unreasonable search and seizures.** Public schools need reasonable suspicion to search the belongings of a student. When a student uses a voucher to attend a private school, the school may force that student to sign a code of conduct that grants the school authority to search lockers, bags, and electronic devices without justification.
- 8. The right to transparency in discipline data.** All public schools are federally mandated to submit their [discipline data](#) to the CRDC, which tracks information on suspensions, expulsions, referrals to law enforcement, arrests, and corporal punishment. The CRDC compiles a report by student demographics to identify disparities, track national trends, and compare state, district, and school-level data. The report also allows parents to recognize patterns in their public school's disciplinary actions and hold their school accountable if one group of students is being disproportionately targeted. Private schools participating in voucher programs are not subject to a comparable statewide or federal discipline data reporting process. This lack of accountability means that families using a voucher could be unable to observe patterns for discrimination or to determine how their private school's discipline policies and practices are impacting certain groups of students.

- 9. (For students with disabilities) The right to discipline policies that consider their unique needs.** Public schools are required to consider a student’s disability when taking disciplinary action against them. Private schools participating in voucher programs do not have to consider a student’s disability when making disciplinary decisions, meaning that students with disabilities are more likely to be disciplined for actions correlated with their disability. For example, a student with ADHD may be wrongfully expelled for repeated classroom disruptions or behavioral incidents that occur because they are not receiving the support they need in the classroom. Furthermore, when such a decision is made, families may have limited ability to challenge it. This lack of procedural safeguards effectively penalizes students for disability-related behaviors and shifts responsibility from schools to families, reinforcing inequities in access to appropriate educational supports.
- 10. (For students with disabilities) The right to services that help them excel in school and limit classroom disruptions.** Public schools are required to follow the Individuals with Disabilities in Education Act (IDEA) and Section 504 of the Rehabilitation Act. Both laws ensure that public schools provide support services and accommodations to students with disabilities to ensure that they can excel academically and are protected from discrimination in the classroom. Private schools participating in voucher programs are often not required to follow IDEA or Section 504, meaning they can legally deny accommodations to students. If their school is failing to meet their needs, students with disabilities may be more likely to engage in disruptive behavior and may also act in ways consistent with their disability but perceived by the school as disruptive. For example, a student with anxiety or a chronic health condition may struggle with attendance, class participation, or stress-related responses during high-pressure situations. In a private school setting, these behaviors may be labeled as noncompliance or misconduct, leading to disciplinary actions such as grade penalties, suspension, or dismissal without consideration of disability-related needs. Without proper oversight, these responses can result in disproportionate and unnecessary consequences that compromise both access and educational stability.

As voucher programs expand, parents should be aware of the disciplinary rights they could be forfeiting when using a voucher to enroll in private school. While public schools must do more to ensure that students, particularly students of color and students with disabilities, are not unfairly targeted, there is a clear set of rights and procedures that govern school discipline in public school settings. Many of these rights do not extend to students using vouchers to attend private schools, leaving them far more vulnerable to unfair treatment and discrimination. The lack of disciplinary protections is just another way in which voucher programs fail to serve our nation’s students. To learn more about the harms of private school vouchers, visit [edtrust.org/vouchers](https://edtrust.org/vouchers).