

# Discipline Disparities:

A Research-to-Practice Collaborative



## Eliminating Excessive and Unfair Exclusionary Discipline in Schools Policy Recommendations for Reducing Disparities

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### Discipline Disparities Series: Policy

March 2014

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#### The Discipline Disparities Research to Practice Collaborative

Disparities in the use of school discipline by race, gender, and sexual orientation have been well-documented and continue to place large numbers of students at risk for short- and long-term negative outcomes. In order to improve the state of our knowledge and encourage effective interventions, the Discipline Disparities Research to Practice Collaborative, a group of 26 nationally known researchers, educators, advocates, and policy analysts, came together to address the problem of disciplinary disparities. Funded by Atlantic Philanthropies and Open Society Foundations, the Collaborative has spent nearly three years conducting a series of meetings with groups of stakeholders—advocates, educators, juvenile justice representatives, intervention agents, researchers, and policymakers—in order to increase the availability of interventions that are both practical and evidence-based, and to develop and support a policy agenda for reform to improve equity in school discipline. The project has funded 11 new research projects to expand the knowledge base, particularly in the area of intervention, and commissioned papers from noted researchers presented at the Closing the School Discipline Gap Conference. A culminating report of the Collaborative's work is the formal release of the Discipline Disparities Briefing Paper Series, three papers on policy, practice, and new research summarizing the state of our knowledge and offering practical, evidence-based recommendations for reducing disparities in discipline in our nation's schools.

#### Introduction<sup>1</sup>

### I. Removal from School is Too Often a Response to Minor Rule-breaking

All schools must be safe places for all members of the learning community. Schools have the right and indeed the responsibility to develop safe school climates to protect the safety of students and teachers, as well as the integrity of learning.

Yet the data indicate that it is relatively rare for students to pose a serious danger to themselves or others. In states like Texas, serious safety concerns trigger a “non-discretionary” mandatory removal, but these represent less than 5% of all disciplinary removals from school. While exclusion on grounds of safety is infrequent, students are routinely removed from school for minor offenses like tardiness, truancy, using foul language, disruption, and violation of the dress code.

Of course, public school educators are also responsible for ensuring the integrity of the learning environment and attend to misbehavior that does not raise safety concerns. There is no question that there are circumstances where removing a student from a classroom is helpful to de-escalate a conflict, or to pursue an intervention outside the classroom with the support of an administrator, a counselor, parent(s) or community members. However, too many of our nation's public schools have moved away from reserving school exclusion only for the most serious offenses, and as a measure of last resort.

In many districts, removal from school can happen for a first offense. In many others, misbehavior that typically calls for a verbal warning for the first-offense, if repeated, can trigger automatic suspension, possible expulsion, arrest, or other harsh forms of discipline such as referrals to the juvenile court to pay fines or face jail time.<sup>2</sup> Time spent in learning is one of the surest and most consistent predictors of academic achievement. Excessive suspensions and expulsions threaten educational opportunity, thereby undermining our national goals for closing academic achievement gaps for all children.

**Schools that reduce their suspension rates can simultaneously improve academic outcomes:** One oft-repeated justification for frequent suspensions is that schools must be able to remove the “bad” students so that “good” students can learn. There is no research to support this popular theory. To the contrary, when schools serving similar populations were compared across the state of Indiana, and poverty was controlled for, those schools with relatively low suspension rates had higher, not lower test scores.<sup>3</sup> An even larger study that tracked every middle school student in Texas and controlled for over 80 variables found that the higher-suspending schools tended to have higher grade retention and lower graduation rates, while producing no benefits in terms of test scores.<sup>4</sup> Moreover, several large school districts that have lowered suspension rates have made academic gains. Two recent examples are Baltimore City, where decreases in suspensions preceded improvements in graduation rates in subsequent years,<sup>5</sup> and in Denver, Colorado, where steady and consistent achievement gains coincided with large reductions in suspensions attributed to restorative practices.<sup>6</sup>

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**Frequent use of suspensions can damage school climate and the conditions for learning:** In addition to reducing the loss of instructional time, low-suspending schools tend to have better academic performance by establishing positive school climates and cultures that increase student productivity. Schools with high suspension rates have lower levels of student engagement and trust.<sup>7</sup> Strong

teacher-student and teacher-parent relationships are important to academic achievement as well as safety.<sup>8</sup> It is critically important, therefore, that policymakers understand the negative social and academic implications of relying on suspensions to manage behavior.

**Frequent suspensions increase dropout risks and juvenile justice involvement, and severely impair our economy:** The potential impact from being suspended, even once, can be devastating. For example, a Johns Hopkins study tracking all ninth graders throughout high school and post graduation in Florida found that being suspended just one time in grade 9 was associated with an increased risk for dropping out from 16% to 32%.<sup>9</sup> In Texas, a study that tracked middle school students for six years found that being removed on disciplinary grounds for a discretionary violation was associated with a nearly threefold increase in the likelihood of being in contact with the juvenile justice system the following year.<sup>10</sup> Excessive discipline is also associated with higher economic costs to schools and communities in the short- and long-term: research has found suspension to be associated with increased risk for grade retention, dropping out, and juvenile justice involvement, as well as increases in crime and welfare costs associated with school dropout. Only recently have these associated economic costs, which translate into literally billions of dollars, come to the attention of policymakers and taxpayers.<sup>11</sup>

**Historically disadvantaged youth are most harmed:** This brief is about the policies and practices that lead to frequent removal from school for predominantly minor rule breaking and how these counter-productive approaches disparately harm historically disadvantaged students. Specifically, the harm from excessive removal from school flows along the lines of race, class, gender, sexual orientation, and disability status, and exacerbates inequity in educational opportunity.

**The majority of public school students will be suspended during their middle and high school years:** Many communities don’t know just how often students are removed from school: Most parents, school board members, and policymakers do not realize just how often our public schools suspend students, because most states do not publish this information on an annual basis as they do test scores and graduation rates.<sup>12</sup> While approximately 5% of students are suspended during a given year, longitudinal research indicates that between one-third and one-half of students experience at least one suspension at some point between kindergarten and twelfth grade, with some

studies reporting 60% removal rates during middle and high school.<sup>13</sup> Black males are particularly at risk, with nearly 70% receiving at least one suspension or expulsion during their K-12 schooling years.<sup>14</sup>

**Millions of children in grades K-12 are suspended every year:** According to data from the U.S. Department of Education’s Civil Rights Data Collection (CRDC), well over three million students in grades K-12 (including over two million secondary school students) were suspended out-of-school during the 2009-10 academic year.<sup>15</sup> That number would more than fill every National Football League and Major League Baseball stadium in America.<sup>16</sup>

**Disparities have widened dramatically:** Across the nation, in just one year—2009-10—nearly one out of every four Black students in middle and high school was suspended at least one time. Current rates reflect a steady rise since the early 1970s when the number of students suspended was about half of what it is today.<sup>17</sup> The percentage of students who received at least one suspension (also called the “risk” for suspension) has increased most dramatically for historically disadvantaged subgroups, resulting in a widening of the discipline gap.<sup>18</sup>

**Many districts’ suspension rates reveal profound disparities that dwarf the national averages:** Research shows wide variation in the risk<sup>19</sup> of exclusionary discipline, both between and within school districts and schools. Therefore, national averages do not fully capture the intensity and variety of the problem as it impacts school children attending the highest-suspending districts, where suspension rates are well over 50% of the enrolled population in a single year.<sup>20</sup> Racial disparities also vary widely.<sup>21</sup> For example, at the state level, the difference between rates of exclusionary discipline for Blacks and Whites in grades K-12 is over 21 percentage points in Illinois, but less than 2 percentage points in New Mexico, Idaho, and Montana.<sup>22</sup>

**More effective practices can be found in thousands of schools across the country:** The wide variation in the use of suspensions is even more pronounced at the school and district level. In fact, the data demonstrate that many individual schools and districts can and do create orderly, safe, and productive learning environments without excessive disciplinary exclusion. An analysis of high- and low-suspending secondary schools suggests that 60% of schools employ more effective alternatives.<sup>23</sup> In sheer numbers, approximately 8,000 secondary schools from nearly 4,000 districts suspended fewer than 10% of every major subgroup enrolled.<sup>24</sup>

**School policies and practices drive the differences:** Among the most important research-based conclusions is that these stark differences in suspension use are caused by differences in school policy, school leadership, and other factors that educators can control.<sup>25</sup> While poverty and other factors do appear to contribute, studies that controlled for differences in student behavior, race, and poverty found that school-controlled factors are the strongest predictors of both frequency<sup>26</sup> and disproportionality in the use of suspension.<sup>27</sup>

**Greater awareness on the part of educators is already helping reduce excessive removals:** A preliminary analysis of publicly reported data indicate a decline in suspension rates may already be underway. For example, several states, including California, Maryland, Wisconsin, and Connecticut, reports based on state collected data from the 2011-12, and in some cases 2012-13 school year show declining suspension rates for all students although most acknowledge rates and disparities are still too high.<sup>28</sup>

**Researchers have documented more effective alternatives:** Some of the contributing factors that school policy can influence include: investment decisions between spending limited resources on security measures and “hardware,” or addressing the social and emotional needs of children;<sup>29</sup> the level and quality of teacher training in student and parent engagement;<sup>30</sup> the extent to which the implementation of interventions includes attention to disparities<sup>31</sup> and/or the influence of bias.<sup>32</sup> Most important, the wide variety of promising and effective alternative approach-

es and interventions described in this brief are not mutually exclusive. Alternatives with evidence of reducing discipline disparities and improving academic outcomes include: teacher-training programs focused on improving student engagement, restorative practices, and social emotional learning strategies.

**Increasingly, federal and state policymakers are endorsing approaches to discipline that de-emphasize removing students from school, yet help reduce disruptive behavior.** As Secretary of Education Arne Duncan recently stated in the release of the federal government’s guidance package on school discipline: “Schools should remove students from the classroom as a last resort, and only for appropriately serious infractions, like endangering the safety of other students, teachers, or themselves.”<sup>33</sup> State policymakers are calling for alternatives as well. For example, Connecticut legislators passed a law meant to ensure that out-of-school suspension is always a measure of last resort. In Colorado, state policymakers directed state education dollars to Denver that enabled the district to move from a pilot program to system-wide implementation of restorative practices (RP).<sup>34</sup> Most recently, the state of Virginia mandated the formation of threat assessment teams to implement a protocol designed to prioritize prevention over punishment.<sup>35</sup>

**New federal guidance on “disparate impact” seeks to spur better practices:**<sup>36</sup> The new federal guidance from the Department of Education’s Office for Civil Rights (DOE OCR) and Department of Justice calls attention to the disparate harm that results and the

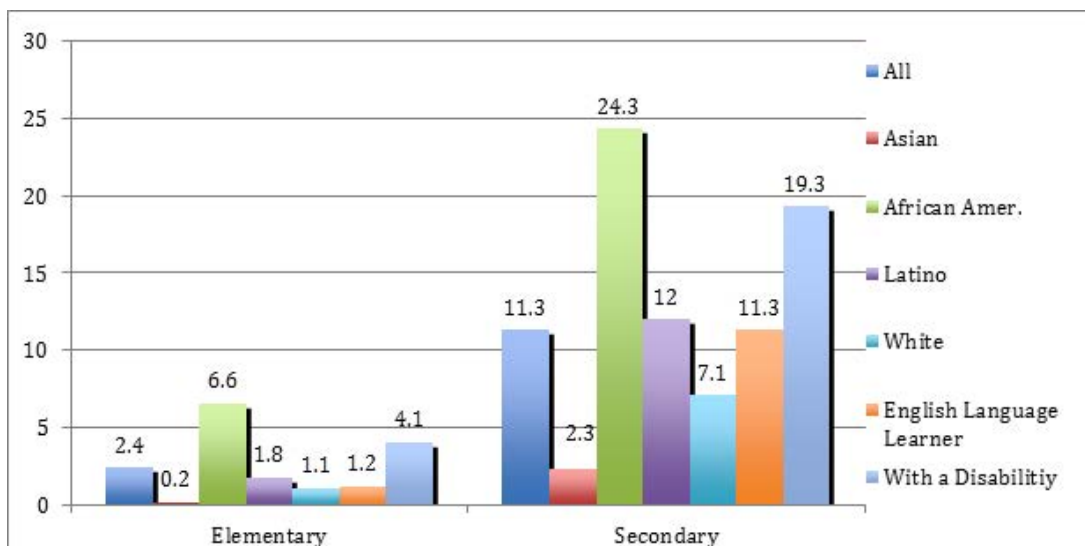
possibility that failure to change harsh policies and practices in the face of more effective alternative approaches could constitute a violation of civil rights. The goal of civil rights law under the “disparate impact” approach is to ensure that schools shift to more effective and educationally justifiable practices. Schools and districts that are out of compliance are not liable for monetary damages, but they are obligated to use more effective methods that do not harm some groups of children more than others.

## II. Excessive Disciplinary Exclusion Harms Some Groups of Children More Than Others

The Discipline Disparities Research to Practice Collaborative is dedicated to not only raising awareness of these problems as they impact historically disadvantaged subgroups of children, but also to developing and advancing policy solutions that will address the disparate impact described herein. Policymakers seeking solutions must attend to the severe inequity with which some schools and districts remove students from school on disciplinary grounds.

*Research shows deep disparities by race, English Language Learner (ELL) status, ethnicity, disability status, gender, and sexual orientation.*

**Figure 1: Risk for Out-of-School Suspension by Selected Subgroup at the Elementary and Secondary Levels**



**Nationwide data show that Black students are at the greatest risk for suspension.**

Black students face the highest risk of suspension, followed by Native Americans and then Latinos.<sup>37</sup> Whites and Asian/Pacific Islanders are typically suspended at the lowest rates. Disproportionality exists despite a lack of evidence that Black students misbehave to a greater degree than other students. These gross disparities are often masked when considering aggregated data for grades K-12.<sup>38</sup>

**The most profound disparities are found at the secondary school level:** As depicted in Figure 1, Black elementary school students are suspended out of school at a rate that is 5.5 percentage points higher than White elementary school students. As the frequency of suspension rises dramatically at the secondary level, this five-percentage-point difference between Blacks and Whites in elementary school expands more than three-fold, becoming a 17 percentage point difference at the secondary level (middle school and high school).

**Latinos and English Language Learners also experience significant disparities.**

The disparate rates for English Language Learners (ELLs) and Latinos are perhaps most obscured when the elementary school data are joined with the secondary school data. As Figure 1 reveals, at the elementary level, ELLs were suspended at lower rates than most other subgroups, but the secondary school data reveal an extraordinary increase in their risk for suspension.<sup>39</sup> There is a similar shift upward in Latinos' risk for suspensions in secondary school. The Latino/White

gap grows 8-fold, from a difference of 0.6 points to 4.9 points.<sup>40</sup>

**Students with disabilities and males are suspended at consistently higher rates.**

Students with disabilities tend to be suspended at over twice the rate of their non-disabled peers.<sup>41</sup> Similar to other groups, the discipline gap between students with disabilities and those without rises from a difference of 2.3 points at the elementary level, to 12.7 points at the secondary level. Similarly, schools suspend male students at rates that are typically two or three times the rate for females,<sup>42</sup> and the male/female gap at the secondary level is much larger than at the elementary level.<sup>43</sup>

**LGBT students are also disproportionately disciplined.**

Data from a nationally representative population-based sample of adolescents indicate that LGBT youth are at greater risk for expulsion than their heterosexual peers.

*Cross-sectional analysis shows that the highest risk of suspension is experienced by students who belong to two or more disadvantaged subgroups.*

**A cross-sectional analysis of gender and disability data yields the most extreme disparities.**

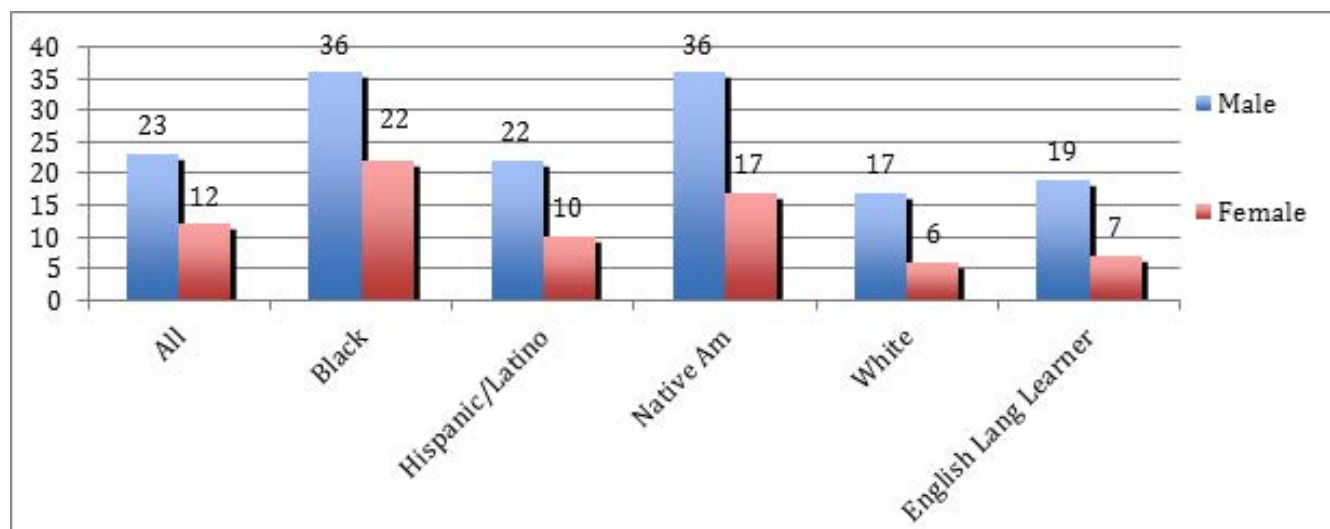
For example, a nationwide analysis for the 2009-10 school year, illustrated in Figure 2, shows that 36% of all enrolled Black and Native American males with disabilities at the secondary level were suspended at least once.<sup>44</sup> In Chicago, the disparities are even greater, with three out of every four Black middle school male students with disabilities (75%) suspended out of school.<sup>45</sup>

The importance of these data cannot be overstated, and further disaggregation reveals other profound disparities. Black females, for example, are at equal or greater risk of suspension compared with males of most of the other racial/ethnic groups except Native American males. CRDC data presented in Figure 2 show that Native American students with a disability are among the groups most at risk for suspensions and expulsions. The analysis of the CRDC data presented in Figure 2 comports with the state- and district-level studies that show how the risk of school exclusion for certain gender/race combinations is much higher than others.<sup>46</sup>

**Profound disparities are also found in rates of expulsion and school-based arrests where the life consequences are severe.**

Compared to out-of-school suspensions, far fewer students are expelled, referred to law enforcement, or arrested, and the overall risks for these categories are typically no larger than one percent of any groups' enrollment.<sup>47</sup> The risk that a student will be suspended is typically 30 times (or more) higher than the risk for expulsion or arrest. However, expulsion and arrest punishments have much greater immediate impact, and the profound racial disparities in relative terms show that Black students disproportionately suffer the harshest disciplinary consequences.<sup>48</sup> Specifically, while African-American students represent 18% of students in the Civil Rights Data Collection, they represent 39% of students expelled and 42% of referrals to law enforcement while in school. Together, Black and Latino students represent 42% of the student

**Figure 2: National cross-sectional analysis of disparities in risk for out-of-school suspension: Students with disabilities further disaggregated by race and gender**



Data Source: CRDC, 2009-2010; numbers from national sample rounded to whole numbers. Analysis and graph: Losen & Martinez, 2013, p. 11; Native American rates modified to reflect OCR estimates.



body, but account for 72% of the students who are arrested for school-related offenses.<sup>49</sup>

**The disproportionality in school expulsions and arrests is very similar for the youth justice system:** Black and brown youth are over-represented at all decision-making points—from arrest to disposition. While comprising one third of the country’s adolescent population, African American and Latino youth represent two thirds of all youths confined to detention and correctional placements.<sup>50</sup> Research has shown that Black and White youth are processed through the juvenile justice system differently for similar offences: for example, Black youth are referred to juvenile court for delinquency at a rate 140% greater than White youth.<sup>51</sup> This is especially evident for drug offenses. In 2003, Black youth represented only 25% of the total youth nationwide adjudicated delinquent for drug offenses. Yet they represented 40% of the youth taken out of their homes and communities. In contrast, White youth represented 73% of total youth adjudicated delinquent for drug offenses, but only 58% of their drug cases resulted in out-of-home placement, with 75% of the cases resulting in formal probation.<sup>52</sup>

**LGBT youth also experience rates of school consequences and criminal-justice punishments disproportionate to their rates of behavior.** Data from a nationally representative population-based sample of adolescents indicate that LGBT youth are at greater risk for expulsion than their heterosexual peers.<sup>53</sup> Those same data show that LGBT-identified youth are approximately 50% more likely to be stopped by the police than other youth. Non-heterosexual girls, in particular, experienced about twice as many arrests and convictions as other girls who had engaged in similar transgressions.

### III. Research Shows that the Harm is Far More Extensive and Expensive than Most Realize

**Excessive suspension jeopardizes the rights of students with disabilities to equal educational opportunities.** Federal law dictates that students with disabilities are entitled to a free and appropriate public education (FAPE) and may not be excluded from school for behavior that was either caused by, or had a direct and substantial relationship to, the child’s disability, or where the conduct was a direct result of the schools’ failure to provide the special education supports and services

described in the student’s individualized education plan (IEP). Where schools fail to conduct hearings to make these determinations, or the hearings fail to adequately consider the exculpatory evidence of inadequate school support, students with disabilities may wind up unjustly excluded from school. These and related protections are at the heart of special education law, reflecting Congress’ understanding that without protections, schools would deny students with disabilities their equal right to educational opportunity. Yet the stark disparities in exclusionary discipline experienced by students with disabilities raises serious doubts about the extent to which some schools are meeting their legal and moral obligation to educate these students.

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**Suspension predicts severe and negative student outcomes.** Time spent on learning is vital to academic achievement; therefore, it is not surprising that removing students from school for disciplinary reasons is associated with course failure, lower attendance, and dropping out. Specifically, several recent rigorous longitudinal studies have firmly established academic harm associated with disciplinary exclusion. In addition to the aforementioned Florida study, a national longitudinal study revealed that getting suspended from school tended to precede evidence of serious delinquency, especially for Black and Latino children,<sup>54</sup> and another study found that aggressive misbehaviors are preceded by academic disengagement, especially for Black and Hispanic males.<sup>55</sup>

**Even one suspension is associated with an increased drop-out risk.** Loss of instructional time is only the most immediate cost of exclusionary discipline. It is worth repeating that Balfanz and his colleagues found that being suspended out-of-school even once in Florida was associated with a two-fold increase in the risk of dropout. Moreover, each additional suspension increased the risk for dropping out by 20%.<sup>56</sup> While most of these students had several risk factors in play besides having been suspended, for twenty percent of those who dropped out, being suspended in grade nine was the only risk factor.

**Some states may be losing billions of dollars due to increases in justice system involvement and/or dropping out.** Considering the heightened risks for dropping out associated with suspensions, it is reasonable to infer that hidden economic costs associated with dropouts are increased by the frequent use of suspensions. Higher-suspending schools also increase the percentages of students that are retained in grade and become embroiled in the juvenile justice system.<sup>57</sup> In these ways, out-of-school suspensions produce hidden economic and social costs that are rarely considered by policymakers. To quantify these costs, economists in Texas reported that 60% of all Texas middle school students had been suspended from the classroom, which caused an estimated 13% increase in dropouts. Researchers estimated that additional dropouts would cost the state of Texas of between 700 million and 1 billion dollars annually.<sup>58</sup>

**The societal costs are a threat to the fabric of our democracy.** One study, exploring the impact of school discipline on future civic participation, found that young adults with a history of suspension in school are less likely than others to vote and volunteer in civic activities after high school.<sup>59</sup>

### IV. School Factors, Including Bias, Contribute to Disparities in Discipline

**Behavioral differences do not explain the disparities:**<sup>60</sup> Research indicates that Black students are often disciplined more harshly than their White peers, even when engaging in the same conduct.<sup>61</sup> Several studies indicate that racial disparities are far more likely to be found in the minor subjective offense categories,<sup>62</sup> and that the racial disparities in suspensions are not sufficiently explained by disparities in misbehavior<sup>63</sup> or poverty.<sup>64</sup>

**Data disparities raise questions about the influence of stereotypes and unconscious bias:** The hard-to-measure nature of implicit

or unconscious bias makes it very difficult to prove a causal connection, but logic and research findings strongly suggest that bias may be one of several contributing factors to disparities in discipline.<sup>65</sup> Exactly how much influence bias has on teachers' and administrators' discipline decisions is just beginning to be explored. It seems likely, however, that subtle forms of bias can affect whether the observed behaviors of different groups are perceived as differentially problematic, and can also influence the subjective decision regarding the appropriate response. The examination of bias must start with analysis of data on disproportionality: If discipline disparities are not reported or attended to, it is unlikely that schools will ever explore how they might mitigate the influence of such biases.

**Differences may be reinforced by structural disparities:** Bias may also influence our criteria for selecting school leaders<sup>66</sup> and our perceptions of the need for high security compared to factors like classroom management.<sup>67</sup> More broadly, the way policymakers distribute education resources and opportunities may be influenced by current bias or reflect the extended impact of prior policies that reflected intentional discrimination. Many Black students attend schools that resemble correctional facilities more than educational institutions. Specifically, nationwide, 26% of Black students report passing through metal detectors when entering school compared with 5.4% of White students.<sup>68</sup> At the same time, Black students are significantly more likely to feel unsafe at their school.

**Inequity in school resources contributes to the problem and poses an obstacle to change:** A related theory is that the well-established discriminatory legacy of inadequate funding for schools serving racially isolated communities of color translates into lower capacity for these schools to engage students, a higher rate of teacher-turnover, and fewer well-managed classrooms. These inadequacies in turn contribute to higher frequency of challenging behavior.<sup>69</sup>

**The inequitable distribution of highly qualified and effective teachers likely contributes to disparities in discipline:** Poor and minority students are more likely to be taught by teachers who are inexperienced, out of field, or lacking full credentials.<sup>70</sup> Such teachers are often less able to provide engaging instruction and manage classrooms in ways that minimize disruptions. Despite federal requirements that states ensure equitable distribution, implementation of this law has been incomplete.<sup>71</sup>

**Cultural misunderstandings and lack of cultural competency may also contribute:**

Relative to the composition of P-12 students in the United States, the current teaching force lacks racial and gender diversity. Today, of the more than 6 million teachers in the United States, nearly 80 percent are White, 9.3 percent are Black, 7.4 percent are Hispanic, 2.3 percent are Asian, and 1.2 percent are of another race. Eighty-four percent of all teachers are female.<sup>72</sup> Educators' feelings toward their students and knowledge of their students' culture are important to the learning process.<sup>73</sup> Teachers who take a "colorblind" approach to teaching Black and Latino students, and ignore cultural differences and social inequalities may inadvertently promote the entrenchment of inequality.<sup>74</sup>

## V. There are Effective and Promising Alternatives to Exclusionary Discipline and Interventions that can Reduce Racial Disparity

**Safe and effective schools have strong teacher-student and teacher-parent relationships and low suspension rates:** Educators and researchers know there are more effective and just ways to keep schools safe without resorting to use of exclusionary discipline. A recent district-wide study of Chicago schools found that the quality of teacher-student and teacher-parent relationships was the strongest predictor of a strong sense of safety in the school building.<sup>75</sup> This rigorous study controlled for student demographics and the safety of the neighborhood of the attending students.<sup>76</sup> Of course, poverty and the crime levels in the community mattered. But the study also demonstrated that low suspension rates correlated with higher safety ratings after accounting for the demographic differences in the neighborhoods served.<sup>77</sup> Researchers have also found that Black principals in urban schools who promoted parental involvement have also reduced the use of suspensions.<sup>78</sup>

The U.S. Assistant Secretary Deborah Delisle from the Office of Elementary and Secondary Education, during a webinar on school climate and equitable discipline, made the connection between the importance of strengthening relationships to reduce suspensions and the vital importance of strengthening relationships to closing the achievement gap. She stated, "We are finding that ...those schools that have been rapidly improving through our school improvement grant program are those that focused on building relationships first..."<sup>79</sup>

**School leaders' approaches to discipline can influence both suspension rates and**

**disparities:** Policymakers, teachers, parents, and students all know that school principals influence the conditions of education. It should not be surprising that one study showed that the principal's perspective on discipline was a stronger predictor of the frequency of racial disparity in suspensions than student characteristics and other variables beyond the control of educators. This evidence strongly suggests that the perspective of school leaders have an influence on both rates of suspension and disparities in suspensions, regardless of neighborhood demographics.<sup>80</sup>

**Promising alternatives have improved relationships and strengthened community involvement:** A common theme of recent research on promising school restructuring approaches is the critical importance of improving the quality of relationships in the school community. While these alternative responses vary in the degree to which they address the social and emotional learning needs of the members of the school community, they generally seek to increase the capacity of members of the school community to respond to a range of misbehaviors without turning to exclusion from school as a first response. Some actively and directly address school discipline and the issue of exclusion, whereas others set forth broader goals of improving the conditions for learning, or teacher efficacy and student achievement.<sup>81</sup>

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*Restorative Practices  
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**Interventions that show promise for reducing exclusionary discipline can improve the conditions for learning for all students:** The effective approaches highlighted in this brief, such as restorative practices and collaborative approaches to teaching, emphasize student engagement and relationship-building between students, teachers and parents, and seek to strengthen relationships among all members of the school community. These practices include problem-solving approaches to address challenging behavior, but also seek to prevent misbehavior and strengthen

the school community.<sup>82</sup> Second, interventions such as social-emotional learning improve the capacity of schools to address the emotional literacy of their students—the ability to understand and regulate their own social interactions and emotions.<sup>83</sup> Finally, some promising approaches, such as PBIS and Virginia’s threat assessment protocol, create explicit structural changes in the way that schools approach school discipline. These alternative frameworks and intervention strategies are not mutually exclusive, and experts suggest that they be coupled with conscious efforts to reduce disparities.<sup>84</sup>

**(1) Restorative Practices Have Effectively Reduced Suspensions and Disparities:** A central goal of this approach is to change the mindset of students who present challenging behavior, helping them gain greater respect for individuals in their community, including themselves, and more accountability to the community at large. Restorative Practices seek to replace a punitive approach to discipline with a more constructive, collaborative, and humane approach that embraces all members of the community, including those who break the rules. Restorative Practices thus entail systemic changes in how educators think about the role of school discipline and how disciplinary responses are meted out. Central to the concept of accountability is repairing any harm caused to victims and making the community whole, and doing so in a manner that also addresses the needs of the offenders so they are less likely to misbehave in the future. Restorative practices “provide high levels of both control and support to encourage appropriate behavior, and places responsibility on students themselves, using a collaborative response to wrongdoing.”<sup>85</sup>

A recent national review found evidence nationally and internationally that restorative approaches can result in reduced suspension and expulsion rates, decreased disciplinary referrals, and improved academic achievement.<sup>86</sup> This review points to individual school successes, discipline policy shifts at the district level, and federal support as evidence that restorative justice is a viable school policy strategy for keeping students in school and out of the juvenile justice system. One high school in the Oakland Unified School District, for example, cuts its suspension rate in half after implementing restorative practices.<sup>87</sup>

Most promising, however, is the potential of restorative practices for significantly reducing racial disparities in discipline. A forthcoming longitudinal study of restorative justice implementation in Denver Public Schools finds that “the adoption of a restorative justice approach to discipline oriented within

individual school communities coupled with strong school leadership can reduce racial disproportionality in school discipline.”<sup>89</sup> In a study conducted between 2006 and 2013, Gonzalez reports that the risk for suspensions dropped for all racial groups but the largest decline was for African Americans. Not only were suspensions reduced and racial disparities in discipline narrowed, achievement levels consistently rose.<sup>89</sup>

While the racial disparities remain substantial, these findings demonstrate that efforts to reduce suspension rates are consistent efforts to improve achievement. The study contains a great deal of valuable qualitative analysis to support the added conclusion that highly effective restorative justice implementation should create “space for input from a range of stakeholders, including educators, parents, students, and community leaders...to manage behavior, promote school engagement, and build social capital.”<sup>90</sup>

**(2) Teacher Training Programs Focused on Student Engagement can Boost Achievement and Reduce Discipline Disparities:** For example, a randomly controlled study showed that a program called “My Teacher Partner Secondary”—a program designed to improve teacher-student relationships and student engagement—increased student achievement and significantly reduced both the frequency of suspensions and racial disparities in discipline.<sup>91</sup> Improving teacher efficacy and teacher-student dialogue and aligning their mutual understanding of school rules have also demonstrated to be effective.<sup>92</sup>

**(3) Investments in Social and Emotional Learning Strategies are More Effective than Investments in Security Hardware:** Other alternative disciplinary methods include ecological approaches to classroom management and social-emotional learning. The ecological classroom-management approach “deals with school discipline by increasing the strength and quality of classroom activities.”<sup>93</sup> Its defining characteristics are well-planned lessons; varied methods of instruction; clear and developmentally appropriate behavioral expectations; and careful monitoring of student engagement that includes effective, empathetic responses designed to re-engage students and avoid escalating conflicts. Social and emotional strategies also teach specific methods for developing student assets that foster the development of self-discipline.<sup>94</sup>

**Large district-wide investments in social and emotional learning strategies paid greater dividends than added security measures, and produced noteworthy improvements even where resources were**

**limited.** Following a school shooting, the Cleveland Metropolitan School District initially invested in stringent security measures such as metal detectors and school police. But these efforts did not yield any benefits in perceptions of safety or achievement. However, when the city’s majority minority schools replaced the suspension system with a learner-centered approach, investing in social and emotional learning, student support teams, and planning centers, those schools experienced drastic reductions in reported behavioral incidents. Between 2008 and 2011, reported incidents decreased from 233 to 132 per school, along with a decrease in out-of-school suspensions district wide.<sup>95</sup>

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*Not only were suspensions reduced and racial disparities in discipline narrowed, achievement levels consistently rose.*

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**(4) Tiered Interventions, Strategies, and Non-Punitive Protocols Show Great Promise:**

**Non-punitive Response Protocols**

Using non-punitive systematic protocols in schools in response to students’ threats of violence without resorting to zero-tolerance suspensions has been shown to effectively reduce suspensions across the state of Virginia for both Black and White students.<sup>96</sup> When students made threats, the Virginia Student Threat Assessments Guidelines helped teachers and administrators select appropriate responses that reduced the reliance on long- and short-term suspensions by 19% and 8%, respectively. A follow-up analysis demonstrated that the Guidelines significantly benefited Black males and helped narrow the race/gender discipline gap in schools that adopted the guidelines.<sup>97</sup>

**School-wide Positive Behavior Interventions and Supports**

School-wide Positive Behavioral Interventions and Supports (SWPBIS), a well-established systemic and data-driven approach to improving school discipline environments,



emphasizes changing the underlying attitudes and policies of school staff concerning how student behavior is addressed.<sup>98</sup> The most recent research findings suggest that schools and districts will be more effective in reducing both suspensions and racial disparities if they revise their school codes to align with the positive and constructive framework of PBIS<sup>99</sup> and adapt the PBIS framework to pay specific attention to the data on race and ethnicity.<sup>100</sup>

## **VI. There are Promising Policy Approaches. Yet Some Current Federal and State Policies Need Mending<sup>101</sup>**

We know a great deal about approaches to schooling and behavior that are non-punitive and produce lower levels of disciplinary exclusion. But we have much to learn. Those seeking to replicate what works sometimes lack leverage, in part because, until recently, awareness of the excessive suspension rates and high disparities was low and the implications for academic harm obscured. Proving what works is also difficult if the necessary data are not readily available. In other words, the information gap is a standing obstacle to closing the discipline gap.

**We need annual disaggregated discipline data to be reported publicly down to the school and district levels to better identify both problems and solutions:** Federal law requires schools and districts to report test score results, graduation rates, and enrollment numbers every year. Although Attorney General Eric Holder and Secretary of Education Arne Duncan have declared that reducing school discipline disparities is a federal priority, they have yet to call for annual and public data reporting. Ironically, they shouldn't have to. Federal law currently requires states to report racially disaggregated discipline data for students with disabilities pursuant to IDEA (20 U.S.C. Section 1418(a)). The law also calls for states to compare the discipline of students with disabilities to those without. But evidence indicates that only 16 states are approaching compliance with these federal annual reporting requirements.<sup>102</sup> Arguably, to ensure states have the capacity to fulfill their obligation to make comparisons, the federal government could require annual reporting of students without disabilities as well.

**Biennial federal civil rights data collection, recently required of every public school in the nation, is an incomplete step in the right direction:** The U.S. Department of Education does require many schools and districts to report these data to the Secretary

through the biennial survey known as the Civil Rights Data Collection (CRDC). In 2011-12, for the first time in over 10 years, every school and district in the nation was required to report its discipline data. A universal collection will be required for 2013-14. However, the data are only reported every other year, and without stronger policy, could revert to less useful data samples in the future. OCR has called the data an “opportunity gap data tool that is allowing citizens and schools nationwide to identify educational equity-related problems and their solutions.”<sup>103</sup>

**Annual collection and public reporting of discipline data is essential to improvement efforts:** Public reporting of the CRDC often does reveal civil rights problems, and annual reporting would encourage greater compliance with civil rights law well before OCR initiates an investigation. Further, parents and children who may be experiencing injustice and are potential complainants have a right to know whether or not it is a systemic issue they are confronted with. Similarly, the CRDC data are critical for identifying those schools and districts that have been successful in addressing civil rights concerns and, for all policymakers, critical to the evaluation of what works. Given the federal mandates for annual report cards at the school, district, and state level, if annual collection and public reporting for all students remains optional the strong federal recommendations in the new guidance for schools and districts to monitor discipline data throughout each school year are unlikely to be realized. Ultimately, annual collection and public reporting is more efficient because it increases the likelihood the data will be used, and ensures that public awareness of disparities remains high.

**The new provisions for collecting data on bullying on the basis of sexual orientation represent an important first step:** For all the same reasons—protecting the civil rights of children, parents' right to know, identifying equity-related problems and their solutions, and establishing disparity reduction as a true priority—it is imperative that the federal government collect data on youth willing to self-identify their sexual orientation and gender identity and how they are disciplined. Although it does not yet satisfy these important collection and reporting needs, the new requirement to report data on bullying and sexual orientation is a tremendous first step in the right direction.

**Changes in school districts' codes of conduct can restrict the use of suspensions to a measure of last resort:** Harsh discipline can affect school culture in a way that alters teachers' perceptions of their responsibilities toward their students. Some administrators

have testified that their efforts to eliminate suspensions as a way to deal with minor misbehavior in school can improve attendance and the overall school environment.<sup>104</sup> For example, in Baltimore City, Executive Director of Student Safety and Support, Karen-Webber Ndour recently stated that ending suspensions for attendance and other minor code violations helped prioritize improvements in school climate.<sup>105</sup> Across the country, discipline codes have been successfully revised to introduce the concept of graduated interventions in which exclusion is not permitted in some instances and only a last resort in other instances. For example, the discipline code in Meridian, Mississippi, public schools was recently revised to prohibit exclusionary discipline for low-level infractions. In Connecticut, state law strongly discourages the use of out-of-school suspension, and Maryland's State Board of Education recently passed similar measures via regulations. Meanwhile in Los Angeles, California—the nation's second largest school district—the school board ruled-out the use of suspension in response to the catch-all and highly subjective category of “disruption or willful defiance.” Given research showing that disparities are largest in the minor misconduct categories, efforts to restrict suspension to only the most serious misconduct are expected to help reduce suspensions generally and likely disparities, too.

**Better implementation could help realize the potential of policy solutions to reduce discipline disparities:** The most glaring example of inadequate policy implementation concerns federal oversight and enforcement of the Individuals with Disabilities in Education Act (IDEA) pertaining to required responses to discipline disparities. Specifically, section 618(d) of IDEA and the implementing regulations in 34 CFR §300.646 require states to collect and examine data to determine if significant disproportionality based on race or ethnicity is occurring in states and LEAs with respect to the incidence, duration, and type of disciplinary actions, including suspensions and expulsions. This means that districts are required by federal law to shift 15% of their Part B IDEA funds if states find significant racial disproportionality in school discipline. The funds must then be spent on “coordinated early intervening services” that can include a wide variety of preventive activities including teacher training in behavior management, and tiered intervention strategies such as PBIS. Recently, however, in a report to the Senate HELP (Health, Education, Labor, and Pensions) Committee, the Government Accounting Office (GAO) criticized the U.S. Department of Education for allowing states to use such a high bar to define “significant disproportionality” that has resulted,



in many states, in no districts being required to take action to address racial disparities.<sup>106</sup>

**Federal legislation could codify the priority of addressing excessive use of exclusionary discipline and the corollary disparities:** Some advocates have argued that an overemphasis on accountability to improve test scores creates incentives to “push-out” lower-achieving students<sup>107</sup> including possibly suspend lower-performing students before testing dates.<sup>108</sup> NCLB has no safeguards against such abuses, and does not even require disaggregated reporting on suspensions or expulsions, let alone accountability for excesses. And the accountability waivers granted to dozens of states (and some California school districts) have generally ignored discipline reform as a priority. Although important conditions have been added to the requirements for the 16 school districts that received Race to the Top-District grants, schools and districts are not held to any uniform annual requirements under NCLB for reporting discipline data to the public or for responding to excessive disciplinary exclusion.

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*... the information gap is a standing obstacle to closing the discipline gap.*

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**Disciplinary alternative schools may help, but may also contribute to disparities:** Alternative disciplinary schools, in theory, might help persistently misbehaving students stay in school if they receive academic instruction and interventions that teach successful behaviors. This is one reason that advocates for children in states like Massachusetts have successfully pressed for required alternative instruction for students. However, disciplinary alternatives that cluster misbehaving students and lack necessary supports and engaging curricula could also contribute to long-term negative outcomes. One longitudinal analysis on alternative schools in a large urban district<sup>109</sup> documented their failure and suggests that such placements contribute to racial disparities in disciplinary consequences.<sup>110</sup>

**Comprehensive agreements at the school-district level:** Select school districts across the country are adopting more effective discipline policies that improve the learning environment without depriving children of valuable instructional time. In May 2012, the Office for Civil Rights (OCR) initiated a Compliance Review, investigating several issues, including whether Black students were disciplined more harshly or more frequently than White students in Los Angeles Unified School District. Just a few months later, in September 2012, the Oakland Unified School District voluntarily entered a Resolution Agreement with OCR, seeking to minimize the time students are suspended from school due to misbehavior, and providing supports to students who are struggling, among other provisions.<sup>111</sup> Most recently OCR and Christian County Public Schools, Kentucky entered into a voluntary agreement aimed at reducing excessive and disparate discipline.<sup>112</sup>

Similarly, in a long-standing school desegregation case, the Meridian Public School District in Mississippi entered a voluntary agreement with the U.S. Department of Justice and private plaintiffs to reduce both the high frequency and racial disparities in suspension and other forms of school removal. This consent decree amends Meridian’s federal school desegregation order that prohibits racial discrimination against students. The comprehensive agreement includes limiting suspensions, implementing positive and age-appropriate discipline systems, and monitoring discipline data to address racial disparities.<sup>113</sup>

## VII. Specific Federal and State Policy Recommendations

### Recommendations of Federal, State, and Local Policymakers

#### 1) Annually Collect, Publicly Report, and Use Discipline Data

- Require states and districts to publicly report disaggregated data annually, including the number of students suspended, the number of incidents, reasons for out-of-school suspensions, and days of lost instruction, at each school level (elementary, middle, and high). Ensure that the reported data are disaggregated by race/ethnicity, gender, English Learner status, and disability status, and that cross-sectional analysis (e.g., Black students with disabilities) is possible.<sup>110</sup>

- Longitudinal and disaggregated data should be tracked and publicly reported for all students who become involved with the juvenile justice system, including reasons for offense if school based, and transitions back to school or the workforce.
- Annually reports should include more accurate data on school policing including data on school based arrests, referrals to law enforcement as well as data on the number of police employed by schools and a comparison to the number of counselors and other support staff.
- Information regarding school policing policies and practices, School Resource Officer (SRO) disciplinary reviews, and training of SROs should also be publicly reported on an annual basis.
- Expand on bullying data to collect data on disciplinary exclusion as it impacts LGBT youth.
- Ensure better monitoring and public reporting of the disciplinary provisions of the Individuals with Disabilities Education Act (IDEA). These current requirements include that racial disparities in discipline trigger support for coordinated early intervention services and publicly reporting disciplinary incidents and duration for students with disabilities, disaggregated by race/ethnicity, gender, and English Learner status. Federal policymakers should extend these statutory requirements to the Elementary and Secondary Education Act so that they apply to all students.

#### 2) Encourage Alignment of Discipline Policies with Educational Mission and Goals

- Revise accountability structures to balance test scores with graduation rates and other outcomes that would help remove incentives to “push out” low achievers on disciplinary grounds. Beyond the accountability that comes with data reporting, to the extent that multiple indicators of progress are developed, discipline levels and disparities should be included, and “turn around” schools should be required to include safeguards against excessive and disparate exclusionary discipline.
- Require that schools and districts identified for improvement or turn-around measures under federal accountability provisions include measures to improve teacher-student engagement and school climate, and reduce the use of out-of-school suspensions.

- Include suspension rates among the factors schools and districts use to measure the performance of secondary schools and as “early warning” systems to target supportive interventions for schools as well as students. Continued and expanded incentives in grant programs, such as “Race to the Top” are needed to encourage districts to develop early warning indicators that include discipline indicators.
- Leverage competitive grants to incentivize revisions of school discipline codes to align with effective and promising disciplinary practices, such as positive behavior interventions and supports (PBIS), social-emotional learning, and restorative practices.
- Federal and state support for positive behavioral approaches should likewise include incentives to, ensure attention to disparities and improvement in multicultural competence to guard against excessive punishment and the risk for bias in the most subjective and minor offense categories.<sup>114</sup>

### 3) Provide Support and Funding for Effective Alternatives

- Invest in remedies by providing greater support for research on promising, evidence-based interventions and targeting more funds for systemic improvements in approaches to school discipline, including research on best practices for classroom management
- Provide support for teacher training and preparation programs and professional development aimed at promoting higher levels of student engagement and improved relationships between teachers and students. In particular, structure grant awards that give preference to research-supported programs. Attention to effective classroom management can also be included in standards for teacher preparation programs, and required for state certification.
- Provide support or incentives for districts to invest in “real time” data use of school discipline data such as recommended in the joint OCR/DOJ guidance.
- Take note of the recent GAO findings and require that the provisions of IDEA regarding the review of racial disparities in discipline for students with disabilities are implemented with integrity, so that states do not create unreasonable thresholds for required

interventions, and instead shift some of their funds to address these disparities.

- Require that schools and districts seeking funds for policing and security have adequate resources in place for counseling, mental health support, teacher training in classroom and behavior management, as well as general improvement in school climate.
- Add funds for federal and state civil rights enforcement agents to improve the quality of data reporting, and to provide more intensive technical assistance to districts that have problematic disparities.

### Recommendations for School Leaders and Local Policymakers Regarding the Juvenile Justice System:

The U.S. Departments of Education and Justice’s joint collaboration, the Supportive School Discipline Initiative (SSDI), released a “guidance package” in January 2014 that provides detailed guidance for local school leaders and policymakers along with several appendices of resources.<sup>115</sup> We endorse those detailed recommendations. Further the Council of State Governments has facilitated a project called the School Discipline Consensus Project that includes extensive recommendations for changes in policy and practice for the juvenile justice system. Many members of the Discipline Disparities Collaborative participated in the consensus-building project and the Collaborative endorses the detailed recommendations scheduled for release in 2014.

## Endnotes

1. This brief contains findings and recommendations based on four sources: a) studies from leading scholars across the nation commissioned by The Center for Civil Rights Remedies at UCLA’s Civil Rights Project with the support of the Discipline Disparities Research to Practice Collaborative; b) findings from projects supported by Discipline Disparities Collaborative Funded Projects Competition; c) analysis of empirical data such as the CRDC, as well as state reports; and d) other new research findings on disproportionality in school discipline in the peer-reviewed literature. A more detailed research brief is also available.
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  16. Losen & Gillespie. (2012).
  17. Losen, D. J., & Martinez, T. E. (2013). *Out of school & off track: The overuse of suspensions in American middle and high schools*. Los Angeles, CA: The UCLA Center for Civil Rights Remedies at The Civil Rights Project.
  18. Losen & Martinez. (2013).
  19. The data analysis and figures described in this document are primarily based on percentage calculations, also known as calculations of "risk." For example, to calculate the "risk" of out-of-school suspension for Black students, one divides the number of Black students who were suspended at least once, by the total Black enrollment. The answer is then multiplied by 100. The "risk" is the same as the percentage of the enrolled student body that was suspended. The "risk" is based on the unduplicated count of students suspended one or more times, and should not be confused with the "incident" rate which is typically higher because it is based on the total count of suspensions.
  20. Losen & Martinez. (2013).
  21. In some of these high-suspending districts, Whites are also suspended at incredibly high rates. This means that the racial disparities in purely relative terms may not seem as high, but often the risk differences in absolute terms remain large. Thus, it is important for policymakers to look at both the suspension data on disparities alongside the data indicating the absolute risks for suspensions.
  22. Losen & Gillespie. (2012).
  23. Losen & Gillespie. (2012).
  24. Losen & Gillespie. (2012).
  25. Fabelo et al. (2011).
  26. Fabelo et al. (2011).
  27. Skiba et al. (in press).
  28. For example, Wisconsin's 2011-12 reported data showed that compared to their 10-year peak in 2005-06, suspension rates are lower by 1.73 percentage points for students without disabilities, and 4.3 points lower for students with disabilities. Similarly, while Black/White disparities are disturbing in their size, they have been reduced slightly in Wisconsin since 2005-06. The state of Wisconsin posts trend data on their website each year. See <http://wisedash.dpi.wi.gov/Dashboard/portalHome.jsp>. The disparity calculations conducted by the author, Daniel Losen. Analysis of the data reported by the state departments of education in California (2012-13), and Maryland (2012-13) indicate marginal declines as well. Both states post data on their websites on an annual basis. Maryland data can be found here: <http://marylandpublicschools.org/MSDE/divisions/planningresultstest/doc/20122013Student/susp13.pdf>. The press have also reported lower suspension rates: [http://articles.baltimoresun.com/2014-01-27/news/bs-md-state-discipline-regs-20140127\\_1\\_discipline-policy-dale-rauenzahn-suspensions](http://articles.baltimoresun.com/2014-01-27/news/bs-md-state-discipline-regs-20140127_1_discipline-policy-dale-rauenzahn-suspensions). The California data can be found here: <http://dq.cde.ca.gov/dataquest/Expulsion/ExpSearchName.asp?TheYear=2012-13&cTopic=Expulsion&cLevel=State&cName=&cCounty=&cTimeFrame=S>. The state of California also described lower suspension rates in a recent press release from January 29, 2014: <http://www.cde.ca.gov/nr/ne/yr14/yr14rel11.asp>. In Connecticut, the state reports continued declines. See Linda Carter Lamback, *Suspensions down but imbalance persists*, December, 8, 2013, available at <http://www.ctpost.com/local/article/Suspensions-down-but-imbalance-persists-5046595.php>
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  30. Gregory et al. (in press).
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  33. United States Department of Education (January 8, 2014). *Rethinking school discipline*. Remarks of U.S. Secretary of Education Arne Duncan at the Release of the Joint DOJ-ED School Discipline Guidance Package [para. 4] Retrieved from <http://www.ed.gov/news/speeches/rethinking-school-discipline>
  34. Gonzalez. (in press).
  35. Cornell, D., Shin, C., Cioffi, A., & Sancken, K. (2013). *Prevention v. punishment: Threat assessment, school assessments, and racial disparities*. Charlottesville, VA: Legal Aid Justice Center and University of Virginia. Available at <https://www.justice4all.org/wp-content/uploads/2013/12/Prevention-v-Punishment-Report-FINAL.pdf>
  36. The federal government's embrace of disparate impact theory to protect the civil rights of school children is a critically important step toward protecting against these pervasive harms. Although it is arguably a legal enforcement obligation, the reality is that pursuing the disparate impact approach is a matter of federal civil rights enforcement policy. Yet, while efforts to address discrimination in discipline can have a tremendous impact on a particular school or district, enforcement efforts can only protect a limited number of children from subtler forms of discrimination. Therefore, policymakers should take proactive steps to acknowledge and respond to the influence of bias on discipline disparities and then find ways to ensure that efforts to diminish excessive discipline are also successful in eliminating the disparities.



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41. Losen & Martinez. (2013).
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44. Losen & Martinez. (2013).
45. Losen & Martinez. (2013).
46. Losen, D. J., & Skiba, R. J. (2010). *Suspended education: Urban middle schools in crisis*. Montgomery, AL: Southern Poverty Law Center. Retrieved from <http://www.splcenter.org/get-informed/publications/suspended-education>; Toldson, McGee, & Lemmons. (in press).
47. There are national estimates of the numbers of arrests and referrals to law enforcement for 2009-10 available from the U.S. Department of Education. See at [http://ocrdata.ed.gov/Projections\\_2009\\_10.aspx?v=1](http://ocrdata.ed.gov/Projections_2009_10.aspx?v=1). The author (Dan Losen) added the raw numbers of students with and without disabilities referred to law enforcement and divided by their enrollment data to estimate the risk rates for these categories. No group exceeded 1%. We have strong reason to believe these low numbers represent under-reporting, but they are the only source of data for national estimates. The numbers of school-based arrests were consistently lower than the referrals to law enforcement.
48. While the reported risk for these responses on the CRDC is fairly low for all groups, the impact of these extreme disciplinary responses is often life-long. To describe the disparities in discipline categories that have relatively low frequency for all subgroups, each group's percentage of total enrollment is compared with their percentage in the following categories: expelled, subjected to school-based arrest, and referrals to law enforcement.
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54. Shollenberger. (in press).
55. Toldson, McGee, & Lemmons. (in press).
56. Balfanz et al. (in press).
57. In the state of Texas, school discipline is linked to approximately 4,700 grade retentions. Delayed workforce entry related to grade retention costs the state over \$68 million, including \$5.6 million in lost tax revenue. Each additional year of instruction for students who are retained at grade level costs the state nearly \$41 million dollars. For each year an individual student is held back, the effect on the net social surplus exceeds \$23,000 (Marchbanks, III, et al., in press).
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62. Fabelo et al. (2011).
63. Finn & Servoss. (in press); Skiba, R. J., Shure, L., & Williams, N. (2012). Racial and ethnic disproportionality in suspension and expulsion. In A. L. Noltemeyer & C. S. McLoughlin (Eds.), *Disproportionality in education and special education* (pp. 89-118). Springfield, IL: Charles C. Thomas Publisher, Ltd.
64. Fabelo et al. (2011).
65. First, research on implicit bias, and specifically a test developed by neuroscientists, shows that most people have implicit negative bias against Blacks (Akalis, Banaji, & Kosslyn, 2008). There is no reason to think teachers and administrators would be an exception. Second, research has shown that bias is an important indicator with regard to racial disparities in the field of juvenile justice (Goff, Eberhardt, Williams, & Jackson, 2008). Finally, studies seeking to unpack the contributing factors to racial disparities have found insufficient support for theories that the observed disparities can be explained by poverty or differential behavior.
- Several studies have demonstrated evidence of differential treatment by race, where administrators gave different consequences for the same offense. The most direct links we have for teachers are: a) Patricia Devine has been able to show that pre-service teachers hold implicit bias; b) that with intervention, it is possible to reduce that; and c) that some students see bias in micro-aggressions (Devine, Forscher, Austin, & Cox, 2012). When these sources are considered altogether, they do support the assertion that teacher/administrator bias may be contributing to the racial disparities in discipline. Akalis, S. A., Banaji, M. R., & Kosslyn, S. M. (2008). Crime alert!: How thinking about a single suspect automatically shifts stereotypes toward an entire group. *Du Bois Review: Social Science Research on Race, 5*, 217-233; Devine, P. G., Forscher, P. S., Austin, A. J., & Cox, W. T. L. (2012). Long-term reduction in implicit race bias: A prejudice habit-breaking intervention. *Journal of Experimental Social Psychology, 1-12*; Goff, P. A., Eberhardt, J. L., Williams, M., & Jackson, M. C. (2008). Not yet human: Implicit knowledge, historical dehumanization, and contemporary consequences. *Journal of Personality and Social Psychology, 94*, 292-306.
66. Another theory is that in selecting leadership for schools serving students from poor or high-crime neighborhoods, school boards are more likely to seek authoritarian leaders who embrace punitive approaches. Such leaders may then hire teachers with a similar disciplinary philosophy.
67. The American Psychological Association has explained: "When applied correctly, effective classroom management principles can work across all subject areas and all developmental levels... They can be expected to promote students' self-regulation, reduce the incidence of misbehavior, and increase student productivity" (Kratochwill, 2012, p. 5). Kratochwill, T. (2012). *Classroom management: Teachers modules*. American Psychological Association at <http://www.apa.org/education/k12/classroom-mgmt.aspx> (p. 5).

68. Toldson, I.A. (2011). *Breaking barriers 2: Plotting the path away from juvenile detention and toward academic success for school-age African American males*. Washington, DC: Congressional Black Caucus Foundation, Inc., Center for Policy Analysis and Research. Retrieved from <http://www.cbcbfinc.org/oUploadedFiles/BreakingBarriers2.pdf>
69. Toldson, McGee, & Lemmons. (in press).
70. See, e.g., Darling Hammond, L., & Post, L. (2000). *Inequality in teaching and schooling*. Available at <http://www.stanford.edu/~ldh/publications/LDH-Post-Inequality.pdf>
71. See, e.g., Strauss, V. (2013, December 17). Coalition to Duncan: Stop backtracking on teacher equity. *Washington Post*. Available at <http://www.washingtonpost.com/blogs/answer-sheet/wp/2013/12/17/coalition-to-duncan-stop-backtracking-on-teacher-equity/>. Title I of the ESEA seeks to correct any unequal access to highly qualified teachers. If properly implemented, the requirement below should improve access to experienced and in-field teachers. If such teachers are more successful at engaging and redirecting potentially disruptive students, then this provision could also, indirectly, decrease the frequency with which poor and minority students are suspended and expelled from school.
- Specifically, in order to be eligible for Title I funds, each state plan requires at 20 U.S.C. §6311 (b)(8)(C) that the plan shall describe:
- (C) the specific steps the State educational agency will take to ensure that...schools provide instruction by highly qualified instructional staff...including steps that the State educational agency will take to ensure that poor and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers, and the measures that the State educational agency will use to evaluate a publicly report the progress of the State.
72. Feistritzer, E. E. (2011). Profiles of teachers in the U.S. 2001. Washington, DC: National Center for Education Information.
73. Toldson, McGee, & Lemmons. (in press).
74. Kohli, R. (2012). Racial pedagogy of the oppressed: Critical interracial dialogue for teachers of color. *Equity & Excellence in Education*, 45(1), 181-196.
75. Steinberg, Allensworth, & Johnson. (in press).
76. The authors concluded that even when controlling for differences in community and school context, “[h]igh rates of suspension do not show any benefit for either students’ or teachers’ feelings of safety at school, and . . . may even have adverse effects on school climate by aggravating distrust between students and adults” (Steinberg, Allensworth, & Johnson, in press). The study also noted,
- “In particular, schools serving the least advantaged students—students who live in neighborhoods with high levels of crime and poverty, few human and social resources and who attend lower achieving schools—but with high-quality relationships are as safe, on average, as the most advantaged schools with weak relationships.”
77. Steinberg, Allensworth, & Johnson. (in press).
78. Toldson, McGee, & Lemmons. (in press).
79. Alliance for Excellent Education. (December 5, 2013). Creating a positive school climate: Implementing equitable and effective school discipline practices [webinar]. Available at <http://all4ed.org/webinar/dec-5-2013/>
80. Skiba et al. (in press).
81. Center for Civil Rights Remedies. (2013). *Summary of new research closing the school discipline gap: Research to policy*. Available: <http://civilrightsproject.ucla.edu/events/2013/summary-of-new-research-closing-the-school-discipline-gap-research-to-policy>
82. See the Interventions Brief in this series.
83. Osher et al. (in press).
84. Vincent, C. G., Pavel, M., Sprague, J. R., & Tobin, T. J. (2013, January). *Toward identifying school-level factors reducing disciplinary exclusions of American Indian/Alaska Native students*. Paper presented at the Closing the School Discipline Gap: Research to Practice conference, Washington, D.C.
85. Porter, A. (2007). Restorative practices in schools: Research reveals power of restorative approach, Part II. Restorative Practices Eforum. Retrieved from [http://www.iirp.edu/iirpWebsites/web/uploads/article\\_pdfs/schoolresearch2.pdf](http://www.iirp.edu/iirpWebsites/web/uploads/article_pdfs/schoolresearch2.pdf)
86. Schiff, M. (2013, January). *Dignity, disparity and distance: Effective restorative justice strategies to plug the “school-to-prison pipeline.”* Paper presented at the Closing the School Discipline Gap: Research to Practice conference, Washington, DC.
87. Teicher Khadaroo, S. (2013). *Restorative justice: One high school’s path to reducing suspensions by half*. Retrieved from [http://www.csmonitor.com/USA/Education/2013/0331/Restorative-justice-One-high-school-s-path-to-reducing-suspensions-by-half?nav=645745-csm\\_article-leftColRelated](http://www.csmonitor.com/USA/Education/2013/0331/Restorative-justice-One-high-school-s-path-to-reducing-suspensions-by-half?nav=645745-csm_article-leftColRelated); A new documentary, entitled *Growing Fairness*, chronicles the challenges and successes of teachers who have adopted Restorative Practices in New York City and Oakland, California. The teacher-led organization, Teachers Unite, produced the film. A description and short film clip are available at <http://www.teachersunite.net/growingfairness>
88. Gonzalez. (in press).
89. Gonzalez. (in press).
90. Gregory et al. (in press).
91. Gregory et al. (in press).
92. Pas, E. T., Bradshaw, C. P., Hershfeldt, P. A., & Leaf, P. J. (2010). A multilevel exploration of the influence of teacher efficacy and burnout on response to student problem behavior and school-based service use. *School Psychology Quarterly*, 25(1), 13-27. doi: 10.1037/a0018576; Thompson, A. M., & Webber, K. C. (2010). Realigning student and teacher perceptions of school rules: A behavior management strategy for students with challenging behaviors. *Children & Schools*, 32(2), 71-79.
- Examination of teacher and student reports of a restorative practices (RP) intervention implemented in two high schools found that individual teachers with better RP implementation tended to have narrower racial discipline gaps. The quality of teacher-student relationships was measured using two different sources: a) surveys of student experience of their teachers as to whether they thought they were respectful, and b) school discipline records to examine the use of teacher-issued referrals for misconduct/ defiance across racial and ethnic groups. Compared to teachers who were low in implementation of Restorative Practices, high RP teachers had better relationships with their students, were perceived as more respectful by their students from different racial and ethnic groups, and issued fewer exclusionary discipline referrals. During the first year of implementation of RP, the number of students receiving at least one referral declined in 7 of 10 discipline categories. (See Gregory A., Clawson, K., Davis, A., & Gerewitz, J. (in press). The promise of restorative practices to transform teacher-student relationships and achieve equity in school discipline. For a special issue on *Restorative Justice in the Journal of Educational and Psychological Consultation*.)
93. Osher, D., Bear, G. G., Sprague, J. R., & Doyle, W. (2010). How can we improve school discipline? *Educational Researcher*, 39(1), 48-58.
94. Osher et al. (2010).
95. Osher et al. (in press).
96. School-wide annual suspension rates were compared in 971 schools that chose to adopt the Virginia Threat Assessment Guidelines versus 824 schools not using the Guidelines. Use of the Virginia Guidelines was associated with a 19% reduction in the number of long-term suspensions and an 8% reduction in the number of short-term suspensions school-wide during the 2010-11 school year. Length of implementation was associated with greater reductions in suspensions. Schools with formal training in the Virginia Guidelines had greater reductions than schools that adopted them without formal training (Cornell et al., 2013).

97. Cornell et al. (2013).
98. Sugai, G., & Horner, R.H. (2002). The evolution of discipline practices: School-wide positive behavior supports. *Child & Family Behavior Therapy*, 24(1/2) p. 23-50.
99. Fenning, P., Pigott, T., Engler, E., Bradshaw, K., Gamboney, E., Grunewald, S., . . . McGrath-Kato, M. (2013, January). *A mixed methods approach examining disproportionality in school discipline*. Paper presented at the Closing the School Discipline Gap: Research to Practice conference, Washington, DC.
100. Vincent, C. G., Sprague, J. R., & Gau, J. M. (2013). *The effectiveness of School-wide Positive Behavior Interventions and Supports for reducing racially inequitable disciplinary exclusions in middle schools*. Paper presented at the Closing the School Discipline Gap: Research to Practice conference, Washington, DC.
101. In a recent survey of 116 policy professionals, who worked as administrators in the educational and nonprofit sector, participants ranked the top three issues affecting middle school boys of color as: (1) have the highest rates of suspension and expulsion from school; (2) face more punitive punishments for school infractions, often resulting in placement in the juvenile justice system; and (3) exhibit many early warning signs of high school dropout, yet fail to receive the services needed to keep them connected to school. A little more than half of the participants were not aware of policy discussions addressing the issues, but around 42% were aware of efforts to change policy on the issues. They reported that some of the obstacles hindering policy change include lack of parental involvement, lack of political will, and racial politics. They suggested that support should come in the form of funding, teacher training, and community mobilization efforts.
102. A review of discipline data reporting by all 50 states as of September, 2013 conducted by the Council of State Governments and The Center for Civil Rights Remedies is available here: <http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/online-data-resources/nation-wide-survey-of-state-education-agencies2019-online-school-disciplinary-data>.
103. In its statement of support Part A, OCR states: "The transformed 2009-10 CRDC has been heralded as a first-of-its-kind opportunity gap data tool that is allowing citizens and schools nationwide to identify educational equity-related problems and their solutions."
104. MacLean, H. (2012, October). *Supporting schools to improve students' engagement and juvenile justice outcomes*. Paper presented at Justice Center, The Council of State Governments School Discipline Consensus Project meeting, Washington, DC.
105. Creating a positive school climate: Implementing equitable and effective school discipline practices. Alliance Webinar. (December 5, 2013). Webinar sponsored by the Alliance for Excellent Education, available at: <http://all4ed.org/webinar/dec-5-2013/>
106. The February GAO report, entitled *Individuals with Disabilities Education Act standards needed to improve identification of racial and ethnic overrepresentation in special education*, addressed more generally the poor oversight of the enforcement of the provisions of 618 (d) regarding racial disproportionality in several areas, of which discipline disparities is just one. The other areas are identification and placement in restrictive educational settings.
107. Hewitt, D. T. (2011). Reauthorize, revise, and remember: Refocusing the No Child Left Behind Act to fulfill Brown's promise. *Yale Law & Policy Review*, 30, 69-194.
108. Figlio, D. N. (2006). Testing, crime and punishment. *Journal of Public Economics*, 90(4), 837-851.
109. This longitudinal investigation within a large school district serving 100,000 students found a strong relationship between out-of-school suspensions, disciplinary alternative school placement, and subsequent juvenile detention. Nearly 1 in 10 children entering grade 3 experienced placement in a disciplinary alternative school by grade 12. Racial gaps in alternative school placement were pronounced—13% of all African-American students in the cohort experienced placement, compared to 4% of White students. Half of the students placed in alternative school while in elementary school experienced subsequent juvenile detention within less than four years, while 43% of students placed while in middle school were detained as juveniles within less than two years (Vanderhaar, J. E., Petrosko, J. M., & Munoz, M. (2013). *Reconsidering the alternatives: The relationship between suspension, disciplinary alternative school placement, subsequent juvenile detention, and the salience of race*. In Losen, D. [Ed.], *Closing the school discipline gap: Research for policymakers*. New York: Teachers College Press.)
110. Vanderhaar et al. (2013).
111. Agreement to Resolve. OCR Case Number 09125001, Oakland Unified School District and OCR. (September 17, 2012). <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/09125001-b.pdf/>; Press Release, OCR. U.S. Department of Education (September 28, 2012) Announces Voluntary Resolution of Oakland Unified School District Civil Rights Investigation (available online at <http://www.ed.gov/news/press-releases/us-department-education-announces-voluntary-resolution-oakland-unified-school-di>).
112. See U.S. Department of Education Announces Voluntary Resolution of Kentucky's Christian County Public Schools Discipline Investigation. Available at <http://www.ed.gov/news/press-releases/us-department-education-announces-voluntary-resolution-kentucky-s-christian-county-public-schools-discipline-investigation>. Available at <http://www.ed.gov/news/press-releases/us-department-education-announces-voluntary-resolution-kentucky-s-christian-county-public-schools-discipline-investigation>.
113. Press Release, Department of Justice, Justice Department Files Consent Decree to Prevent and Address Racial Discrimination in Student Discipline in Meridian, Mississippi (March 22, 2013), <http://www.justice.gov/opa/pr/2013/March/13-crt-338.html>
114. Vincent, C. G., & Tobin, T. J. (2010). The relationship between implementation of school-wide positive behavior support (SW-PBS) and disciplinary exclusion of students from various ethnic backgrounds with and without disabilities. *Journal of Emotional and Behavioral Disorders*, 19(4), 217-232.
115. The SSDI's School Climate and Discipline package of recommendations is available at: <http://www2.ed.gov/policy/gen/guid/school-discipline/index.html?exp=1>



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### **Dan Losen, J.D., M.Ed.**

is the Director of the Center for Civil Rights Remedies (CCRR) at The Civil Rights Project/Proyecto Derechos Civiles (CRP) at UCLA. CCRR is committed to producing useful education data analysis along with research on effective alternatives to disciplinary exclusion from school. For example, data on most large school districts can be found on CCRR's web-tool, located at [www.schooldisciplinedata.org](http://www.schooldisciplinedata.org). Losen has worked on the School to Prison Pipeline and other issues at the CRP since 1999, when it was affiliated with Harvard Law School. In general, his work concerns the impact of law and policy on the rights of children of color, children with disabilities, and language minority students to equal educational opportunity. On these and related topics he conducts law and policy research; publishes books, reports, and articles; has testified before the U.S. Congress and the United Nations; helps draft model legislation; and provides guidance to policymakers, educators, and civil rights advocates. As part of his work with the Discipline Disparities Research Collaborative, in 2014 Losen will be editing a book of new research (including many of new the studies referenced here), slated for publication by Teachers' College in 2014.

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