School-to-Prison Pipeline: What are the Problems? What are the Solutions?

Present

Friday, August 8, 2014
9am - 11am
Hynes Convention Center
Room 204, Level 2
900 Boylston Street
Boston, MA
# A TOWN HALL FORUM

## SCHOOL-TO-PRISON PIPELINE

Friday, August 8, 2014  
Hynes Convention Center  
Boston, MA

## Table of Contents

<table>
<thead>
<tr>
<th>Welcome Letter from the Chairperson and Co-Chairpersons</th>
<th>4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Program Schedule</td>
<td>5</td>
</tr>
<tr>
<td>List of Supporters and Sponsors</td>
<td>6</td>
</tr>
<tr>
<td>Overview of the ABA Coalition on Racial and Ethnic Justice (COREJ)</td>
<td>7</td>
</tr>
<tr>
<td>Speaker Roster and Biographies</td>
<td>11</td>
</tr>
<tr>
<td>Speakers’ Materials:</td>
<td></td>
</tr>
<tr>
<td>Eliminating Excessive and Unfair Exclusionary Discipline in Schools Policy</td>
<td>16</td>
</tr>
<tr>
<td>Recommendations for Reducing Disparities</td>
<td></td>
</tr>
<tr>
<td>By Daniel Losen, Damon Hewitt and Ivory Toldson</td>
<td></td>
</tr>
<tr>
<td>Discipline Disparities: A Research-to-Practice Collaborative (March 2014)</td>
<td></td>
</tr>
<tr>
<td>Relevant Articles, Fact Sheet Materials and Reports:</td>
<td></td>
</tr>
<tr>
<td>SS v Springfield Complaint</td>
<td>32</td>
</tr>
<tr>
<td>Submitted by Robert Fleischner (June 2014)</td>
<td></td>
</tr>
<tr>
<td>Getting Back On Track: Syracuse Report on Student Discipline Practices</td>
<td>53</td>
</tr>
<tr>
<td>By Daniel J. Losen (June 2014)</td>
<td></td>
</tr>
<tr>
<td>The Emergence of the School-to-Prison Pipeline</td>
<td>107</td>
</tr>
<tr>
<td>By Dr. Artika Tyner (June 2014)</td>
<td></td>
</tr>
<tr>
<td>Youth Congress Commemorates Mississippi Freedom Summer</td>
<td>110</td>
</tr>
<tr>
<td>By Dr. Artika Tyner (July 2014)</td>
<td></td>
</tr>
</tbody>
</table>
August 2014

Dear Colleague:

Welcome to Boston and the American Bar Association Town Hall Forum on the School-to-Prison Pipeline: What are the Problems? What are the Solutions? Your participation in this dynamic and interactive Forum is essential to the success of this significant event.

The American Bar Association Coalition on Racial and Ethnic Justice, Criminal Justice Section, and Council for Racial and Ethnic Diversity in the Educational Pipeline bring voices and convening powers to the issue by hosting a series of Town Halls across the country. Additional Town Hall Forums have been planned over the next year for Washington, D.C., Arizona State University-Tempe, AZ, Los Angeles, Houston, and New Orleans.

The goal of the Town Halls individually and collectively is to bring together key individuals and organizations like you to recognize ongoing research, and to showcase local programmatic interventions. These Forums will particularly call for conversations about the role of implicit bias in the current disproportionalities and about the potential role for lawyers and law students in dismantling the school to prison exodus.

The Town Halls will offer a forum for presentations, discussion, networking, and resource sharing, as well as provide a critical opportunity for organizations who are interested in developing a collaborative plan of action. The ABA Coalition on Racial and Ethnic Justice along with its partners, seek your assistance in identifying possible speakers, coordinating projects and programs, and developing partnerships with entities that are interested in addressing the solutions to the “School-to-Prison Pipeline.”

Sincerely,

Justice Michael B. Hyman
Chairperson
Coalition on Racial and Ethnic Justice

Sarah Redfield
Co-Chairperson, School-to-Prison Pipeline Committee

Wesley Sunu
Co-Chairperson, School-to-Prison Pipeline Committee
ABA TOWN HALL FORUM
SCHOOL-TO-PRISON PIPELINE

Friday, August 8, 2014
9 a.m. – 11 a.m.
Hynes Convention Center
Boston, MA

PROGRAM SCHEDULE

PART ONE: 9 a.m. – 10 a.m.

Professor Sarah Redfield, Co-Chairperson
• Introductions

Panelists Presentations
• Robert Fleischner
• Damon Hewitt
• Daniel J. Losen
• Mike Ortiz
• Marlies Spanjaard
• Honorable Gloria Y. Tan

PART TWO: 10 a.m. – 11:00 a.m.

Wesley Sunu, Co-Chairperson

1. Q & A of the Panelists - Professor Sarah Redfield and Wesley Sunu
2. Open Forum – Comments from the audience
3. Acknowledgement of the Supporters and Sponsors – Wesley Sunu

PART THREE:

Wrap-up and Next Steps – Professor Sarah Redfield and Wesley Sunu

SUPPORTERS

ABA Section of Litigation, Children’s Rights Litigation Committee
ABA Criminal Justice Section

SPONSORS

ABA Coalition on Racial and Ethnic Justice
ABA Council for Racial and Ethnic Diversity in the Educational Pipeline
ABA Criminal Justice Section
The American Bar Association
Coalition on Racial and Ethnic Justice (COREJ) and its Partners
Would like to thank our Supporters and Sponsors

SUPPORTERS

ABA Section on Litigation: Children’s Rights Litigation Committee

ABA Criminal Justice Section

SPONSORS

ABA Coalition on Racial and Ethnic Justice

ABA Council for Racial and Ethnic Diversity in the Educational Pipeline

ABA Criminal Justice Section
A presidential Task Force on Minorities in the Justice system was created in 1992 in the aftermath of the Rodney King disturbances. Shortly thereafter, a report was issued with recommendations by the Task Force. In 1994 the Task Force was re-named the Council on Racial and Ethnic Justice (now the Coalition or COREJ). The Coalition was designed to implement the recommendations and develop partnerships among community groups, civil rights organizations, businesses, religious organizations, and bar associations for the purpose of eliminating racial and ethnic bias in the justice system. Its primary goal is to serve as a catalyst for eliminating racial and ethnic bias in the justice system with a focus on systemic change.

COREJ (1) assists with the development of educational programs; (2) provides public forums for dialogue between legal institutions and non legal groups; and (3) provides technical assistance and advice on how to implement specific programs, strategies, and partnerships that eliminate racial and ethnic bias.

Since its inception in 1992, COREJ has been on the cutting edge of social justice issues. It has focused on a number of substantive and diverse issues such as racial profiling, access to the justice system, overrepresentation of juveniles of color and “Teen Violence”, indigent defense, racial profiling and the war on terrorism, the impact of foreclosures on communities of color, voting disenfranchisement and the impact of technology, election protection, injustices and discrimination in Tulia, Texas, restoring justice and equity by providing strategies for disaster preparedness and response that reduce patterns of discrimination and unfairness in the delivery of disaster aid and services e.g. Katrina Project, and most recently, the impact of Stand Your Ground Laws on people of color.

RECENT PROGRAMS

- The School-to-Prison Pipeline: What are the Problems? What are the Solutions ?(Chicago, IL, February, 2014)
- National Stand Your Ground Task Force Public Hearing (Miami, FL, October 2013)
- National Stand Your Ground Task Force Public Hearing (San Francisco, CA, August 2013)
- National Stand Your Ground Task Force Public Hearing (Philadelphia, PA, June 2013)
- National Stand Your Ground Task Force Public Hearing (Chicago, IL, May 2013)
- National Stand Your Ground Task Force Public Hearing (Dallas, TX, February, 2013)
- Know Your Foreclosure Rights: There’s Hope (Tampa, FL, August 2012)
- Do or Die: Analysis of the Stand Your Ground Statutes (Chicago, IL, August 2012)
- Raising The Bar on Foreclosure Prevention Efforts – Implementing Pro Bono Programs To Help Michigan Homeowners, Hosted by Federal Reserve Bank of Chicago- Detroit Branch (Detroit, MI, October 2011)
- HELP! I Need A Housing LIFELINE! (Detroit, MI, October 2011)
- The War Against Foreclosures: Combating Foreclosures and Mortgage Crisis in Communities of Color (Baltimore, MD, July 2011)
- Combating Foreclosures and the Mortgage Crisis in Communities of Color (Atlanta, GA, February 2011)
- Stop Teen Violence: Time To Deliver (San Francisco, CA, August 2010)
- Stop Teen Violence: Time To Deliver (Detroit, MI, May 2010)
- Stop Teen Violence: Time To Deliver (Chicago, IL, November 2009)
SIGNIFICANT PROJECTS

- **The School-to-Prison Pipeline**
  The “School-to-Prison Pipeline” has been a crucial concern of parents, educators, ministers, civil rights activists, lawyers and youth advocates for a number of years. Recently, it has become a major concern of the general public across our country due in large part to the spiraling statistics and the negative impact on children of color. Some advocates have defined the problem as a systematic way of syphoning children out of public schools and funneling them into the juvenile and criminal justice system. A number of civil rights lawyers regard the journey from “school-to-prison pipeline,” as a critical civil rights issue.

  Town hall forums will bring together the experts who have developed programs and projects; advocates from diverse backgrounds who are working toward solutions to this devastating issue as well as those who have a plan of action to recommend to those who are concerned. These town hall forums will be open to parents, youth, lawyers, judges, educators, administrators, advocates, and the public.

- **National Stand Your Ground Task Force**
  The Task Force will embark upon a comprehensive legal analysis of the impact of the Stand Your Ground statutes and the extent to which racial or ethnic bias impact the construction, application, and/or operation of Stand Your Ground laws.

  The Task Force’s multidisciplinary study will be national in scope, incorporating criminological and social science methodology and perspectives to assess the utility and necessity of existing and proposed Stand Your Ground laws across the United States. The scope of the analysis the Task Force intends to undertake will encompass several areas that directly and indirectly impact the criminal justice system.

  There are four integral components of the Task Force: (1) Four Public Hearings across the country; (2) Research and an Investigative Review of the Statutes; (3) Policies and Resolutions; and (4) Final Report.

- **Joint Project with the 10CORE Law Student Organization on Foreclosure**
  The co-sponsored project is titled “Combating Foreclosures and Mortgage Crisis in Communities of Color.” This project is an outgrowth of the 10CORE Project, and it consists of a series of educational panels in key cities that have some of the highest foreclosure rates in the country, especially in communities of color.

  The primary goals of the Foreclosure & Mortgage Crisis Program are to: (1) provide pro bono assistance to individuals and communities that are in the throes of the challenges of foreclosures and the mortgage crisis; (2) educate the legal community and communities of color regarding strategies and resources that are available to help save homes from foreclosure; and (3) train, educate and recruit law students and young lawyers to provide pro bono assistance to communities of color that have been plagued by foreclosures and the mortgage crisis.

- **Overrepresentation of Juveniles of Color in the Juvenile Justice System**
  After an alarming number of national studies and reports revealed evidence that there is an overrepresentation of juveniles of color in the juvenile justice system and the justice system, the Coalition implemented a two-prong attack on the problems confronting juveniles of color. The first prong focuses on strategies that prevent young people of color from being trapped in the justice system; and the second prong focuses on strategies that divert young people of color and prevent their initial entrance into the juvenile justice system. A complete listing of juvenile justice programs sponsored by COREJ is available.
- **Election Protection Project**

  COREJ developed a partnership in conjunction with the Lawyers’ Committee and five ABA sections, divisions and entities to remove barriers to the electoral process for citizens of color who sought to participate in the 2004 election. COREJ, along with the Section of Individual Rights & Responsibilities and the Election Law Committee renewed their partnerships for the 2008 Elections and broadened the scope of the Project.

  The goals of the 2008 Election Protection Project were: (1) Safeguard voters’ rights before, during and after Election Day by giving voters the information and resources they needed to cast meaningful ballots; and (2) Provide a comprehensive support system for eligible voters across the country that included support for registration programs, developing voter education materials, and providing direct legal assistance to protect the rights of voters. A primary goal for COREJ was to train volunteer lawyers who worked with voters on a national and local level to monitor polling places, educate voters, facilitate dialogues with state and local election officials, provide legal support to poll monitors and help answer the Lawyers’ Committee Hotline.

  The three primary ABA Partners for the Election Project developed a plan for recruiting volunteer lawyers and law students and the major activities began in June 2008. An Election Protection website was launched on the ABA website.

- **Katrina Project**

  The goal of the project was to educate, conduct outreach and coordinate resources and services across the country to assist those survivors that received disparate treatment in the midst and aftermath of Hurricane Katrina. These goals were accomplished by holding a national conference and three CLE programs, conducting outreach, and publishing a Report.

**NATIONAL CONFERENCES**

- **Third National Conference – “Making the Invisible Visible: A Dialogue About Lessons Learned In the Aftermath of Katrina”**

  **Conference Overview:** The Coalition brought together approximately 200 judges, lawyers and their clients, health care workers, social workers, doctors, psychiatrists, psychologists, high school, college and law students, community groups, religious organizations, public and private leaders, survivors, responders and others who have devoted time to assisting victims of Katrina. The primary goals of the Conference: (1) conduct a productive dialogue among the survivors, planners (commissioners), and the participants; (2) produce a Report which identifies the type of problems that might emerge due to race and ethnicity, how to avoid inequities based on race and ethnicity, and how to mitigate the problems; and (3) assist the survivors of Katrina with the rebuilding of their lives, restore justice and provide equity and respect to those victims that have been treated unjustly.

  **Educational Programs:** Three successful panel presentations have been presented (1) ABA Midyear Meeting in Chicago, 2006 titled “Equity for Racial & Ethic Survivors of Katrina;” (2) a jointly sponsored program with the National Bar Association as a Webcast Program “Hurricane Relief Seminar,” March, 2006 in Chicago; and (3) “Surviving Together; Healing Together” COREJ convened this special panel of experts in New Orleans to provide an in-depth status report of the communities that suffered disproportionately economically, legally, educationally and medically from Hurricane Katrina.

  **Report:** The Final Report of the Conference contains specific recommendations from the speakers, participants and survivors. The Report titled “Making the Invisible Visible: A New Approach to Disaster Planning and Response,” contains an analysis of issues ranging from communications and language skills, to resource allocation, to pre-existing economic and social inequities. A number of
excellent recommendations were received from the Conference. The recommendations were included in the Report that was issued in August 2007.

- **Second National Conference on the Impact of Race and Ethnicity on the Justice System**
  In March 2002, the Coalition held a highly successful conference in Baltimore. The conference was diverse, intergenerational, interactive and action-oriented. Recommendations from the Conference were used as blueprints for COREJ programs and projects. A report is available on the Conference.

- **First National Conference on the Impact of Race and Ethnicity on the Justice System**
  In Los Angeles, CA 1999, after holding two "think tank" meetings, COREJ convened an extraordinary conference. Two reports are available: *Report on the Impact of Race and Ethnicity on the Justice System* provides a brief overview; and the *Draft of the National Conference Proceedings with Recommendations*.

Several major follow-up projects were developed from the 1999 conference:

1. Enhancing Access to the Justice System through Technology: Would Technology Have Changed the Outcome of the Vote in Florida?
2. Data Collection Project on Color/Racial Profiling: The Tulia, Texas Project
3. Friends of the Council

Justice Michael B. Hyman, Chairperson
Leigh-Ann Buchanan, Vice Chairperson
Rachel Patrick, Director
Deidra Franklin, Program Assistant
Website: www.ambar.org/corej
Email: corej@americanbar.org
SCHOOL-TO-PRISON PIPELINE
TOWN HALL FORUM

SPEAKERS

Robert Fleischner  
Assistant Director  
Center for Public Representation  
22 Green Street  
Northampton MA 01060  
RFleischner@cpr-ma.org

Sarah Redfield (Moderator)  
Professor  
University of New Hampshire  
York, ME 03909-5231  
sarah.redfield@gmail.com

Damon Hewitt  
Senior Advisor, U.S. Programs  
Open Society Foundations  
224 West 57th Street  
New York, NY 10019  
damon.hewitt@opensocietyfoundations.org

Marlies Spanjaard, Esq.  
Director of Education Advocacy  
The EdLaw Project - Children’s Law Center of Massachusetts and the Committee for Public Counsel Services  
44 Bromfield Street  
Boston, MA 02108  
mspanjaard@publiccounsel.net

Daniel J. Losen  
Director, Center for Civil Rights Remedies  
The Civil Rights Project at UCLA  
Box 951521  
Los Angeles, CA 90095  
losendan@gmail.com

Wesley Sunu (Moderator)  
General Counsel  
Sentry Insurance a Mutual Company  
1800 North Point Drive  
Stevens Point, WI 54481  
wesley.sunu@sentry.com

Mike Ortiz  
Staff Counsel, Student Services  
Lowell Public Schools  
43 Highland Street  
Lowell MA 01852  
mortiz@lowell.k12.ma.us

Honorable Gloria Y. Tan  
Middlesex County Juvenile Court  
110 Mt. Wayte Ave  
Framingham, MA 01702  
gloria.tan@jud.state.ma.us
ROBERT D. FLEISCHNER is an attorney and assistant director at the Center for Public Representation, a national public interest law firm in Northampton, Massachusetts. He has represented children and adults with disabilities since graduating from Boston College Law School in 1973. He has litigated school, prison and juvenile justice reform cases, guardianships, civil commitment, right to treatment, and right to community services cases in several states. He is the co-author of Guardianship and Conservatorship in Massachusetts, 2d Edition, published by Lexis and has published several law journal articles. Bob has served on the faculties of Western New England University Law School and Smith College School for Social Work, teaching courses on juvenile justice and disability law.

DAMON HEWITT is a Senior Advisor for the U.S. Programs unit at the Open Society Foundations (OSF). He helps to guide OSF’s efforts on reforming school discipline policies and improving the life outcomes of boys and men of color. His first major project at OSF involves working with a number of other foundations to coordinate the philanthropic parallel to My Brother’s Keeper, a new White House initiative designed to transform opportunities for young men of color. Damon’s work will help to ensure that, in addition to providing individual supports, the initiative will lift up these young men’s contributions to their communities and develop strategies to eliminate structural barriers for those who are locked out of educational and economic opportunity and unfairly targeted or stereotyped.

Prior to joining OSF Damon worked for over a decade as a litigator at the NAACP Legal Defense and Educational Fund (LDF), where he began his career as a Skadden Fellow. Most recently, he served as Director of LDF’s Education Practice Group and specialized in school integration, affirmative action, and school discipline. He also served as Director of LDF’s Katrina (Gulf Coast) Project, working on assignment in his hometown of New Orleans to coordinate LDF’s post-Hurricane Katrina litigation and advocacy on education, housing and voting rights issues. From 2009-2010 he took a leave of absence from LDF to work as Executive Director of the New York Police-on-Police Shootings Task Force—an entity created after the deaths of two off-duty African-American police officers who were shot by fellow officers after being mistaken for criminal suspects.

Damon is co-author of The School-to-Prison Pipeline: Structuring Legal Reform (NYU Press 2010), and has published numerous other articles on school discipline policy and progressive education reform. He holds a B.A. in Political Science from Louisiana State University and a J.D. from the University of Pennsylvania Law School.
DANIEL J. LOSEN is director of the Center for Civil Rights Remedies, a new initiative at the Civil Rights Project/Proyecto Derechos Civiles (CRP). He has worked at the Civil Rights Project since 1999, when it was affiliated with Harvard Law School, where he has also been a lecturer on law. His work concerns the impact of law and policy on children of color and language minority students including: the reauthorization of the Elementary and Secondary Education Act with a focus on promoting diversity, access to effective teachers, and improving graduation rate accountability; the IDEA and racial inequity in special education; school discipline and revealing and redressing the “School-to-Prison Pipeline;” and protecting the rights of English learners to equal educational opportunity. On these and related topics he conducts law and policy research; publishes books, reports, and articles and works closely with federal and state legislators to inform legislative initiatives. Both for The Civil Rights Project, and independently, he provides guidance to policymakers, educators and advocates at the state and district level. Before becoming a lawyer, Mr. Losen taught in public schools for ten years, including work as a school founder of an alternative public school.

MIKE ORTIZ has served as Staff Counsel for Student Services for the Lowell Public Schools since August 1, 2001. He is responsible for handling all legal matters of an educational nature on behalf of the Lowell Public Schools. This includes litigation of educational matters and compliance with federal and state regulations. It also includes training staff, conducting various investigations and writing and enforcing policies and guidelines. Mr. Ortiz is also involved in disciplinary matters/hearings, truancy issues, and the development of alternative educational programs and in community outreach. From 1993-2001, Mr. Ortiz served as an Assistant District Attorney for the Middlesex County District Attorney’s Office. As an Assistant District Attorney, Mr. Ortiz supervised the prosecution of juvenile cases for the Lowell Regional Office. He also handled the prosecution, litigation and disposition of criminal matters. This included jury and single justice trials, and writing and researching various legal motions. Mr. Ortiz was responsible for the Community Based Justice Program in Lowell, and he worked closely with community organizations and law enforcement officials. He also had the opportunity to write Appellate Court Briefs. Mr. Ortiz also teaches at Middlesex Community College and Nashua Community College.
Sarah E. Redfield is Professor Emerita at the University of New Hampshire School of Law and Affiliate Professor at the University of New Hampshire. Her primary practice and teaching area is education law (including special education). Her primary research focus is diversity and inclusion in the legal profession and along the education pipeline; her recent research and scholarship focuses on implicit bias and group dynamics at all levels. She is currently the co-chair for the American Bar Association Coalition on Racial and Ethnic Justice Town Hall initiative on the School-to-Prison Pipeline.

She is a member of the Maine and American Bar Associations as well as education law groups in the United States and Canada. She is a member of the ABA Coalition on Racial and Ethnic Justice, co-chair of the Section of Litigation Implicit Bias Task Force, and a member of the Criminal Justice Section Racial and Ethnic Justice and Diversity Committee.

Professor Redfield is a nationally known author and presenter. She was a lead author for the ABA Section on Litigation’s Toolkit on Implicit Bias and is currently the lead consultant for the ABA project on Achieving an Impartial Jury. Her recent writings include textbooks in education and special education law and various articles and chapters on jury selection as well as articles on implicit bias, diversity, and related issues.

MARLIES SPANJAARD is the Director of Education Advocacy for The Edlaw Project, an initiative of the Children’s Law Center of Massachusetts and the Youth Advocacy Division. EdLaw advocates for the education rights of Massachusetts’ highest risk children. As the Director of Education Advocacy, Ms. Spanjaard is responsible for supervising staff attorneys and interns, making program-wide policy decisions, and conducting state-wide trainings on education-related issues with a specific focus on representing court-involved youth. Prior to serving as coordinator Ms. Spanjaard was a staff attorney at the Edlaw Project and, in that role, represented students in school disciplinary hearings, special education team meetings, and administrative hearings before the Bureau of Special Education Appeals. Ms. Spanjaard has trained a wide variety of audiences including parents, youth workers, students, and lawyers. Ms. Spanjaard as an adjunct instructor at Wheelock College in the Juvenile Justice and Youth Advocacy Department. She earned her J.D. and her M.S.W. at Washington University Law School and George Warren Brown School of Social Work in St. Louis, Missouri.
WESLEY SUNU serves as the Associate Counsel at Sentry Insurance a Mutual Company. Mr. Sunu handles legal matters for Sentry Insurance including bad faith litigation, class action lawsuits, reinsurance, policy drafting and regulatory matters. He coordinates discovery and investigations. He works with business units to help manage risk and address compliance issues. He reviews contracts, commutation agreements and settlement agreements. He also works on cyber risk and data breach issues. Mr. Sunu is a chapter co-author for the ABA Cybersecurity Handbook and is a member of the ABA Cybersecurity Legal Task Force. He previously practiced as an insurance attorney in Chicago and graduated from Loyola University of Chicago School of Law. Mr. Sunu has been elected to Counsel for the Trial Tort & Insurance Practice Section.

GLORIA TAN is a Middlesex County Juvenile Court judge. She formerly served as the deputy director at Harvard Law School’s Criminal Justice Institute, where she taught and supervised law students representing indigent adults and youth in criminal and delinquency proceedings. She also worked as a public defender in both the Youth Advocacy Project and the Boston trial unit of the Committee for Public Counsel Services. She formerly chaired the Massachusetts Bar Association criminal justice section council and is currently a member of the MBA juvenile law section council. She formerly served as a member of the Governor’s Juvenile Justice Advisory Committee. She is a member of the Massachusetts Trial Court Task Force on Diversity and Cultural Competence. She earned her J.D. from Yale Law School.
Introduction

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. 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. 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. 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, and in Denver, Colorado, where steady and consistent achievement gains coincided with large reductions in suspensions attributed to restorative practices.

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. Strong teacher-student and teacher-parent relationships are important to academic achievement as well as safety. 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 once in grade 9 was associated with an increased risk for dropping out from 16% to 32%. 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. 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.

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

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. That number would more than fill every National Football League and Major League Baseball stadium in America.

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. 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.

Many districts’ suspension rates reveal profound disparities that dwarf the national averages: Research shows wide variation in the risk 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. Racial disparities also vary widely. 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.

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. In sheer numbers, approximately 8,000 secondary schools from nearly 4,000 districts suspended fewer than 10% of every major subgroup enrolled.
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. 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 and disproportionality in the use of suspension.

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, report 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.

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; the level and quality of teacher training in student and parent engagement; the extent to which the implementation of interventions includes attention to disparities and/or the influence of bias. Most important, the wide variety of promising and effective alternative approaches 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.”

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). Most recently, the state of Virginia mandated the formation of threat assessment teams to implement a protocol designed to prioritize prevention over punishment.

New federal guidance on “disparate impact” seeks to spur better practices: 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.37 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-12.38

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.39 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.40

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.41 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,42 and the male/female gap at the secondary level is much larger than at the elementary level.43

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.44 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.45

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.46

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.47 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.48 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](image)

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.49

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.50 Research has shown that Black and White youth are processed through the juvenile justice system differentially for similar offences: for example, Black youth are referred to juvenile court for delinquency at a rate 140% greater than White youth.51 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.52

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.53 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.

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.

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%.54 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.55 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.56

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.57

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

Behavioral differences do not explain the disparities:58 Research indicates that Black students are often disciplined more harshly than their White peers, even when engaging in the same conduct.59 Several studies indicate that racial disparities are far more likely to be found in the minor subjective offense categories,60 and that the racial disparities in suspensions are not sufficiently explained by disparities in misbehavior or poverty.61 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.69 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 leaders66 and our perceptions of the need for high security compared to factors like classroom management.67 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.68 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.69

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.70 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.71

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.72 Educators’ feelings toward their students and knowledge of their students’ culture are important to the learning process.73 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.74

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.75 This rigorous study controlled for student demographics and the safety of the neighborhood of the attending students.76 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.77 Researchers have also found that Black principals in urban schools who promoted parental involvement have also reduced the use of suspensions.78

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…”79

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.80

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.81
the school community. 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. 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.

(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.”

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. 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.

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.” 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.

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.”

(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. Improving teacher efficacy and teacher-student dialogue and aligning their mutual understanding of school rules have also demonstrated to be effective.

(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.” 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.

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.

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

(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. 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.

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. 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 and adapt the PBIS framework to pay specific attention to the data on race and ethnicity.

VI. There are Promising Policy Approaches. Yet Some Current Federal and State Policies Need Mending

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. 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.”

Annual collection and public reporting of discipline data is essential to improvement efforts: Public reporting of the CRDC often reveals 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 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. 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. 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,
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 documented their failure and suggests that such placements contribute to racial disparities in disciplinary consequences.

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 including possibly suspend lower-performing students before testing dates. 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.

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. Most recently OCR and Christian County Public Schools, Kentucky entered into a voluntary agreement aimed at reducing excessive and disparate discipline.

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.

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.

- 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.

... the information gap is a standing obstacle to closing the discipline gap.
3) Provide Support and Funding for Effective Alternatives

- 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.124

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.115 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.


New York: Teachers College Press.


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.


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.


25. 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://wisdash.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/bc-md-state-discipline-regs-20140127_1_discipline-policydale-rauenzahn-suspensions. The California data can be found here: http://dqk.edc.ca.gov/dataquest/Expulsion/ExpSearchName.asp?TheYear=2012-13&cTopic=Expulsions&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/yr/14/yr14rel11.asp. In Connecticut, the state reports continued declines. See Linda Carter Lambak, Suspensions down but imbalance persists, December, 8, 2013, available at http://www.etpost.com/local/article/Suspensions-down-but-imbalance-persists-5046595.php


30. Gregory, Allen et al. (in press).


34. Gonzalez. (in press).


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.


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/Projecions_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.


54. Shollenberger. (in press).
55. Toldson, McGee, & Lemmons. (in press).
56. Balfanz, Byrnes, & Fox. (in press).

57. In the state of Texas, school discipline is linked to approximately 4,700 grade retenions. 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).


60. One study from a large sample of high school students that controlled for teacher ratings of behavior as well as student self-reports suggested that Black students were suspended more harshly than others (Finn & Servoss, in press). This finding comports with several other studies suggesting that racial disparities are most pronounced in the less serious subjective offense categories (Marchbanks, III, et al., in press; Shollenberger, in press; Skiba et al., 2011) and that Blacks may tend to receive harsher treatment for minor misbehavior (Skiba et al., 2011). Disciplinary disparities are, in most cases, not due to different levels of misbehavior (Skiba et al., in press).

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-agressions (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” (Kratowich, 2012, 27).
controlling The authors concluded that even when

76. Toldson, I.A. (2011). Breaking barriers 2: Plotting the path away from juvenile
detention and toward academic success for school-age African American males. Wash-
ington, DC: Congressional Black Caucus
cbncfn.org/UploadedFiles/BreakingBarri-

77. Steinberg, Allensworth, & Johnson. (in press).

78. Toldson, McGee, & Lemmons. (in press).

79. Alliance for Excellent Education. (Decem-
ber 5, 2013). Creating a positive school cli-

tate: Implementing equitable and effective


82. See the Interventions Brief in this series.

83. Osher et al. (in press).

84. Vincent, C. G., Pavel, M., Sprague, J. R., &

85. Porter, A. (2007). Restorative practices in

86. Schiff, M. (2013, January). Dignity, dispar-

87. Teicher Khadaroo, S. (2013). Restorative


89. Gonzalez. (in press).

90. Gregory, Allen et al. (in press).

91. Gregory, Allen et al. (in press).

ration of the influence of teacher efficacy and

93. Osger, D., Bear, G. G., Sprague, J. R., &

94. Osher et al. (2010).

95. Osher et al. (in press).

96. School-wide annual suspension rates were

Policy Recommendations for Reducing Disparities
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).


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.


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.”


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.


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. [in press]. Reconsidering the alternatives: The relationship between suspension, disciplinary alternative school placement, subsequent juvenile detention, and the salience of race. In D. J. Losen (Ed.), Closing the school discipline gap: Research for policymakers. New York: Teachers College Press.)


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
About the Authors

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. 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.

Damon T. Hewitt, J.D.
is currently Senior Advisor in the U.S. Programs division of Open Society Foundations. Previously, he was Director of the Education Practice Group at the NAACP Legal Defense and Educational Fund (LDF). Damon initially joined LDF’s New York office as a Skadden Fellow in October 2001. He was formerly Director of the Katrina (Gulf Coast) Project. In that capacity Mr. Hewitt worked on assignment in New Orleans to facilitate LDF’s post-Katrina Katrina litigation and advocacy, including Wallace v. Blanco (the first post-Katrina federal voting rights lawsuit) and Boisseau v. Picard (a suit challenging the denial of education to displaced children in New Orleans). From 2009-2010, he took leave of absence from LDF to serve as Executive Director of the New York Police-on-Police Shootings Task Force—an entity created to address the implications arising from the deaths of two off-duty African-American police officers who were shot by fellow officers after being mistaken for criminal suspects. Damon is co-author (with Catherine Y. Kim and Daniel J. Losen) of The School to Prison Pipeline: Structuring Legal Reform (NYU Press, 2010).

Ivory Toldson, Ph.D.
is the newly appointed Deputy Director for the White House Initiative on Historically Black Colleges and Universities. Prior to this role, Dr. Toldson served as an associate professor at Howard University, senior research analyst for the Congressional Black Caucus Foundation, and editor-in-chief of The Journal of Negro Education. He was also contributing education editor for The Root, where he debunked some of the most pervasive myths about African-Americans in his “Show Me the Numbers” column. Dr. Toldson has more than 60 publications and research presentations in 36 states, Puerto Rico, Dominican Republic, Scotland, South Africa, Paris, and Barcelona. He has been featured on C-SPAN2 Books, NPR News, POTUS on XM Satellite Radio, and numerous local radio stations. His research has been featured on The Root, The National Journal, Essence.com, BET.com, The Grio, and Ebony Magazine. Dr. Toldson was named in the 2013 The Root 100, an annual ranking of the most influential African-American leaders.

Additional writing, editing, research, design, and formatting on the series was contributed by the staff of The Equity Project at Indiana University:

Russell J. Skiba, Ph.D.
Director

Mariella I. Arredondo, Ph.D.
Research Associate

M. Karega Rausch
Project Coordinator

Natasha Williams
Graduate Assistant

D. Leigh Kupersmith
Copyeditor
## Members of the Discipline Disparities Collaborative

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Affiliation</th>
</tr>
</thead>
<tbody>
<tr>
<td>James Bell, J.D.</td>
<td>Founder and Executive Director</td>
<td>W. Hayward Burns Institute</td>
</tr>
<tr>
<td>Judith Browne-Dianis, J.D.</td>
<td>Co-Director</td>
<td>Advancement Project</td>
</tr>
<tr>
<td>Prudence L. Carter, Ph.D.</td>
<td>Professor</td>
<td>Stanford University, School of Education and (by courtesy) Sociology</td>
</tr>
<tr>
<td>Christopher Chatmon</td>
<td>Executive Director of African American Male Achievement</td>
<td>Oakland Unified School District</td>
</tr>
<tr>
<td>Tanya Coke, J.D.</td>
<td>Distinguished Lecturer</td>
<td>John Jay College of Criminal Justice</td>
</tr>
<tr>
<td>Matt Cregor, J.D.</td>
<td>Staff Attorney</td>
<td>Lawyers Committee for Civil Rights and Economic Justice</td>
</tr>
<tr>
<td>Manuel Criollo</td>
<td>Director of Organizing</td>
<td>The Labor/Community Strategy Center</td>
</tr>
<tr>
<td>Jim Eichner, J.D.</td>
<td>Managing Director, Programs</td>
<td>Advancement Project</td>
</tr>
<tr>
<td>Edward Fergus, Ph.D.</td>
<td>Assistant Professor</td>
<td>New York University</td>
</tr>
<tr>
<td>Michelle Fine, Ph.D.</td>
<td>Distinguished Professor of Psychology</td>
<td>City University of New York (CUNY) The Graduate Center</td>
</tr>
<tr>
<td>Phillip Atiba Goff, Ph.D.</td>
<td>Assistant Professor</td>
<td>University of California Los Angeles (UCLA) Department of Psychology</td>
</tr>
<tr>
<td>Paul Goren, Ph.D.</td>
<td>Senior Vice President</td>
<td>Collaborative for Academic, Social, and Emotional Learning</td>
</tr>
<tr>
<td>Anne Gregory, Ph.D.</td>
<td>Associate Professor</td>
<td>Rutgers University, Graduate School of Applied and Professional Psychology</td>
</tr>
<tr>
<td>Damon T. Hewitt, J.D.</td>
<td>Senior Advisor, U.S. Programs</td>
<td>Open Society Foundations</td>
</tr>
<tr>
<td>Daniel J. Losen, J.D.</td>
<td>Director, Center for Civil Rights Remedies</td>
<td>The Civil Rights Project at UCLA</td>
</tr>
<tr>
<td>Tammy B. Luu</td>
<td>Associate Director</td>
<td>The Labor/Community Strategy Center</td>
</tr>
<tr>
<td>Kavitha Mediratta, Ph.D.</td>
<td>Children and Youth Programme Executive</td>
<td>Atlantic Philanthropies</td>
</tr>
<tr>
<td>Pedro Nogueria, Ph.D.</td>
<td>Executive Director</td>
<td>The Metropolitan Center for Urban Education</td>
</tr>
<tr>
<td>Blake Norton, M.Ed.</td>
<td>Division Director, Local Government Initiatives</td>
<td>The Justice Center</td>
</tr>
<tr>
<td>Mica Pollock, Ph.D.</td>
<td>Director</td>
<td>University of California San Diego (UCSD) Center for Research on Equity, Assessment, and Teaching Excellence</td>
</tr>
<tr>
<td>Stephen T. Russell, Ph.D.</td>
<td>Distinguished Professor</td>
<td>University of Arizona Norton School of Family and Consumer Services</td>
</tr>
<tr>
<td>Russell Skiba, Ph.D.</td>
<td>Director</td>
<td>The Equity Project at Indiana University</td>
</tr>
<tr>
<td>Leticia Smith-Evans, J.D., Ph.D.</td>
<td>Interim Director, Education Practice NAACP Legal Defense and Educational Fund</td>
<td></td>
</tr>
<tr>
<td>Lisa Thomas, Ed.D.</td>
<td>Associate Director</td>
<td>American Federation of Teachers</td>
</tr>
<tr>
<td>Michael Thompson</td>
<td>Director</td>
<td>The Justice Center</td>
</tr>
<tr>
<td>Ivory A. Toldson, Ph.D.</td>
<td>Deputy Director</td>
<td>The White House Initiative on Historically Black Colleges and Universities</td>
</tr>
</tbody>
</table>

---

**The Equity Project at Indiana University**

**Center for Evaluation and Education Policy**

1900 East Tenth Street

Bloomington, Indiana 47406

812-855-4438

equity@indiana.edu

rtpcollaborative.indiana.edu
UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

S.S., a minor, by his mother, S.Y., on behalf of himself and other similarly situated students, and the Parent/Professional Advocacy League,

Plaintiffs,

v.

CITY OF SPRINGFIELD, MASSACHUSETTS; DOMENIC SARNO, in his official capacity as Mayor of City of Springfield; SPRINGFIELD PUBLIC SCHOOLS; DANIEL J. WARWICK, in his official capacity as Superintendent of Springfield Public Schools,

Defendants.

CIVIL ACTION NO. 14-30116

CLASS ACTION COMPLAINT

I. INTRODUCTION

1. The City of Springfield (“City”), Springfield Public Schools (“SPS”), Mayor Sarno, and Superintendent Warwick (collectively “Defendants”) operate a discriminatory public school system that consigns hundreds of children with a mental health disability to the separate and inferior Public Day School. The Public Day School is not a therapeutic learning environment. Children in the Public Day School do not have the same opportunity to learn and to graduate that is afforded their peers without a disability in Springfield’s other schools (“neighborhood schools”). Academic expectations are low. Education is not the primary mission of the Public Day School, and students make little academic progress there.

2. Instead of fostering learning, the focus of the Public Day School is on behavior control using drastic methods including dangerous physical restraints, inappropriate forced isolation in padded rooms, and repeated arrests and suspensions for minor offenses. Far from
being therapeutic, placement in the Public Day School is more likely to exacerbate a child’s mental health condition than improve it.

3. The Public Day School is also physically segregated from SPS’s neighborhood schools. It is located on three campuses and students consigned to the Public Day School are afforded zero opportunity to interact with students in SPS’s neighborhood schools.

4. Tragically, the children placed in the Public Day School do not need to be there. These are children of great promise. They could be educated in neighborhood schools and given the same opportunity to progress academically and graduate that is enjoyed by their peers without a disability. These children can be educated successfully in SPS’s neighborhood schools with reasonable modification of SPS’s programs and services and with the aid of appropriate school-based behavioral services.

5. Defendants’ failure to reasonably modify SPS’s programs and services, and instead placing these children with a mental health disability in a wholly segregated educational setting, violates the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12132 et seq.

6. The ADA mandates that Defendants (i) provide children with a mental health disability educational opportunities that are equal to and as effective as those provided other students; and (ii) serve students with a mental health disability in the most integrated setting appropriate to their needs, that is, the setting in which they have the greatest opportunity to be engaged with their peers without a disability. By warehousing students with a mental health disability in the Public Day School, Defendants are violating both of the ADA’s legal mandates.

7. The ADA imposes on Defendants the obligation to reasonably modify SPS’s programs and services to avoid discrimination. Providing children with a mental health disability access to school-based behavior services -- to afford them equal educational
opportunity and to enable them to be educated in neighborhood schools -- is a reasonable modification required by the ADA.

8. The Massachusetts Department of Elementary and Secondary Education (“DESE”) has cited SPS for many of the deficiencies alleged here. In an April 2014 “Coordinated Program Review Report of Findings” (“Program Review Report”), the DESE found SPS in violation of federal and state law as a result of, among other things: removing students with disabilities from regular classrooms without appropriate justification; failing to provide needed behavior services to children with a mental health disability; and denying children in the Public Day School the opportunity to participate in extra-curricular and vocational programs.

9. Plaintiff S.S., a fifteen year-old with a mental health disability who is currently segregated in the Public Day School, brings this suit on behalf of himself and other similarly situated students. Plaintiff Parent/Professional Advocacy League (“PPAL”) is a statewide, grassroots family organization that advocates for improved access to services for children with a mental health disability and their families. Plaintiffs seek injunctive and declaratory relief for ongoing violations of the ADA, including an order that Defendants provide Plaintiff S.S. and the Plaintiff class with school-based behavior services in neighborhood schools to afford them an equal educational opportunity and enable them to be educated in neighborhood schools with their peers without a disability.

II. JURISDICTION AND VENUE

10. This court has jurisdiction over this action under Title II of the ADA, 42 U.S.C. §§ 12131-12133, and 28 U.S.C. §§ 1331. Declaratory relief is available pursuant to 28 U.S.C. §

11. Venue is proper in the District of Massachusetts pursuant to 28 U.S.C. § 1391(b)(2), since all of the acts and omissions giving rise to these claims occurred in the Commonwealth of Massachusetts. Venue is proper in the Western Division since the individual Plaintiff and all of the Defendants reside or are located in that Division. Local R. 40.1(D)(1)(a).

III. EXHAUSTION OF ADMINISTRATIVE REMEDIES

12. Plaintiff S.S. filed a Request for Hearing with the Massachusetts Bureau of Special Education Appeals (“BSEA”) on behalf of himself and a class of similarly situated students on June 18, 2013, and an Amended Request on July 22, 2013, seeking injunctive and declaratory relief. In particular, S.S. contended that SPS did not reasonably modify its programs and services to ensure that he and members of the class are afforded equal educational opportunity, including the opportunity to receive an education that is equal to and as effective as that provided other students and to receive educational programs and services in the most integrated setting appropriate to their needs.

13. S.S. contended that SPS segregates him and similarly situated students in the separate and inferior Public Day School in violation of the ADA.

14. On October 15, 2013, upon the motion of SPS, a BSEA Hearing Officer dismissed the class claims on the ground that the BSEA had no jurisdiction to decide them.

15. An administrative hearing before the BSEA was held in this matter on January 22-24, 2014 to address S.S.’s individual claims.

16. On March 27, 2014, the BSEA Hearing Officer issued a ruling dismissing all of S.S.’s ADA claims. The Hearing Officer further ruled that S.S.’s placement and Individualized
Education Plan were reasonably calculated to provide him a free appropriate public education under the Individuals with Disabilities Education Improvement Act (“IDEA”), 20 U.S.C. § 1400, et seq., M.G.L. c. 30A and c. 71B, and Section 504 of the Rehabilitation Act of 1973 (“Section 504”), codified at 29 U.S.C. § 794.

17. Having exhausted administrative remedies on behalf of himself and a class of similarly situated students, S.S. now files this Class Action Complaint seeking relief under the ADA. S.S. does not appeal the BSEA Hearing Officer’s decision regarding his claims under the IDEA, M.G.L. c. 30A and c. 71B, or Section 504.

IV. PARTIES

A. Plaintiffs

18. Plaintiff S.S. is an African American 15 year-old student with a mental health disability enrolled in SPS. He resides with his mother and younger siblings in Springfield, Massachusetts. His mother, S.Y., brings this action on his behalf.

19. Plaintiff PPAL is a statewide, grassroots family organization that advocates for improved access to services for children with a mental health disability and their families. Founded in 1991, PPAL is the Massachusetts state affiliate of the Federation of Families for Children’s Mental Health, a national family-run organization that provides leadership at the national level. There are more than 7,000 Massachusetts families who are constituents in PPAL’s network, including Plaintiff S.S. and his mother. In the twelve months prior to the filing of this Complaint, more than 150 Springfield families have sought help from or joined PPAL’s network. Many of PPAL’s constituents from Springfield (i.e., families who have sought help from or joined PPAL’s network) have children with a mental health disability enrolled in SPS, including children who have been placed in the Public Day School or are at risk of being
transferred by SPS into the Public Day School. PPAL’s constituents, including families in Springfield, have a direct and active role in developing PPAL’s advocacy activities.

20. At least fifty-one percent of the members of PPAL’s Board of Directors are parents of children with a mental health disability.

21. PPAL’s primary place of business is 45 Bromfield St., Boston, Massachusetts 02108, and it has an additional office in Worcester, Massachusetts.

B. Defendants

22. Defendant City of Springfield operates and funds SPS, including all public school programs, services, and activities. The City is a public entity as defined by Title II of the ADA. 42 U.S.C. § 12131. The City’s offices are located at 36 Court Street, Springfield, MA 01103.

23. Defendant Domenic Sarno is sued in his official capacity as the Mayor of the City of Springfield. As Mayor, Defendant Sarno supervises and is ultimately responsible for the operations of the executive departments of the City, including SPS and its compliance with federal law. He annually submits a budget to the City Council for funding SPS. By City Charter, Mayor Sarno is the Chairman of the Springfield School Committee. Defendant Sarno’s business offices are located at 36 Court Street, Springfield, MA 01103.

24. Defendant Springfield Public Schools is a public entity as defined by Title II of the ADA. 42 U.S.C. § 12131. SPS’s business offices are located at 1550 Main Street, Springfield, MA 01103.

25. Defendant Daniel J. Warwick is sued in his official capacity as the Superintendent of the Springfield Public Schools. Pursuant to M.G.L. c. 71, § 37, he is appointed by the School Committee. Defendant Warwick is responsible for the daily operations of SPS, including its
programs and services for students with a disability. Defendant Warwick’s business offices are located at 1550 Main Street, Springfield, MA 01103.

V. CLASS ACTION ALLEGATIONS

26. Pursuant to Rules 23(a) and (b)(2) of the Federal Rules of Civil Procedure, Plaintiff S.S. brings this suit as a class action on his own behalf and on behalf of the following class: All students placed now or in the future in SPS’s Public Day School.

27. The class is so numerous that joinder of all members is impracticable. During the 2013-2014 school year, approximately 233 students with a mental health disability were enrolled in the Public Day School. Joinder is also impracticable because SPS routinely enrolls new class members in the Public Day School and most class members lack the means to maintain individual actions.

28. There are questions of law and fact common to the class, including whether Defendants are violating the ADA by, among other actions, employing policies and practices that:

   i. Deny S.S. and members of the class an opportunity to participate in and benefit from educational services that is equal to that afforded students without a mental health disability;

   ii. Deny S.S. and members of the class educational services that are as effective in affording equal opportunity to obtain the same result, gain the same benefit, or reach the same level of achievement as that provided students without a mental health disability;

   iii. Fail to provide S.S. and members of the class educational programs and services in the most integrated setting appropriate to their needs by
unnecessarily segregating Plaintiff and class members in the Public Day School;

iv. Fail to reasonably modify SPS’s programs and services as needed to avoid discrimination; and

v. Utilize methods of administration that have the effect of defeating or substantially impairing the accomplishment of the objectives of Defendants’ educational programs to educate and meet the behavioral service needs of students with a mental health disability, including S.S. and the class.

29. The named Plaintiff S.S.’s claims are typical of the claims of the class.

30. The Plaintiff class includes members who are PPAL constituents.

31. Plaintiff S.S. will fairly and adequately protect the interests of the class. Plaintiff S.S. will vigorously represent the interests of the unnamed class members, and all members of the proposed class will benefit from Plaintiff S.S.’s efforts. There is no conflict between the interests of Plaintiff S.S. and the proposed class.

32. Defendants have acted or will continue to act on grounds generally applicable to the Plaintiff class, thereby making appropriate injunctive and declaratory relief with respect to the class as a whole.

VI. THE AMERICANS WITH DISABILITIES ACT

33. Congress enacted the ADA, 42 U.S.C. § 12101 et seq., to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities and to provide strong and consistent standards for identifying such discrimination. 42 U.S.C. § 12101(b)(1)&(2).
34. The ADA is based on Congress’s findings that, *inter alia*, (i) “historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem,” 42 U.S.C. § 12101(a)(2), and (ii) “individuals with disabilities continually encounter various forms of discrimination, including … relegation to lesser services, programs, activities, benefits, jobs, or other opportunities.” 42 U.S.C. § 12101(a)(5).

35. In enacting the ADA, Congress also found that “discrimination against individuals with disabilities persists in such critical areas as … education.” 42 U.S.C. § 12101(a)(3).

36. Title II of the ADA mandates that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” 42 U.S.C. § 12132; see also 28 C.F.R. § 35.130.

37. Title II of the ADA applies to all of the activities of public entities, including providing education. Each Defendant is either a public entity subject to Title II of the ADA or an official responsible for supervising the operations of a public entity subject to Title II of the ADA. 42 U.S.C. § 12131(1).

38. The discrimination prohibited under Title II of the ADA includes the needless isolation or segregation of persons with disabilities. *Olmstead v. L.C.*, 527 U.S. 581, 600 (1999) (“unjustified institutional isolation of persons with disabilities is a form of discrimination”); see also 2011 *Statement of the US Department of Justice on Enforcement of the Integration Mandate of Title II of the ADA and Olmstead*, June 22, 2011.
39. The ADA directs the Attorney General to promulgate regulations enforcing Title II of the ADA and provides guidance on their content. The regulations promulgated by the Attorney General require public entities to “make reasonable modifications” to their programs and services “when the modifications are necessary to avoid discrimination.” 28 C.F.R. § 35.130(b)(7). The regulations also require public entities to “administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities,” 28 C.F.R. § 35.130(d), which the Attorney General has defined as “a setting that enables individuals with disabilities to interact with non-disabled persons to the fullest extent possible.” 28 C.F.R. pt. 35, App. A, p. 450.

40. The regulations also specify that it is unlawful discrimination for a public entity to:

i. “Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others,” 28 C.F.R. § 35.130(b)(1)(ii);

ii. “Provide a qualified individual with a disability with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others,” 28 C.F.R. § 35.130(b)(1)(iii); or

iii. “[U]tilize criteria or methods of administration … [t]hat have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the public entity’s program with respect to individuals with disabilities,” 28 C.F.R. § 35.130(b)(3)(ii).
VII. STATEMENT OF FACTS

A. The Springfield Public Schools

41. Defendant SPS is the second largest school district in Massachusetts, providing educational programs and services to approximately 25,826 children. Its annual budget for the fiscal year 2014 is $357,868,724. Approximately 62.2% of the children served are Hispanic and 20.2% are African American.

42. SPS has identified approximately 5,032 (19.3%) of its students as having a disability and approximately 640 students (2.4% of all students) as having “emotional disturbance,” a classification used by SPS to refer to students with a mental health disability that interferes with their education. Of the approximately 640 so identified, 233 students (roughly one-third of all students classified as having an “emotional disturbance”) have been assigned to the Public Day School. The Public Day School has separate campuses for elementary, middle, and high school students.

43. SPS operates approximately 50 other schools in addition to the Public Day School, of which 42 are neighborhood elementary, middle, or high schools.

44. In its April 2014 Program Review Report, DESE found that:

i. SPS “does not consistently consider positive behavioral supports or the need for a functional behavioral assessment for students whose behavior repeatedly impedes learning.” DESE, Program Review Report at 48.

ii. For students with disabilities who have had multiple behavioral problems, SPS “does not consider functional behavioral assessments or behavioral interventions, services or modifications to address the behavior so that it does not re-occur.” Id. at 50.
iii. SPS “does not provide professional development to all staff on the mandated special education topics, including state and federal special education requirements, local policies and procedures for special education implementation, and methods of collaboration to accommodate diverse learning styles in the general education environment.” *Id.* at 55-56.

iv. SPS removes students with disabilities from regular classrooms without appropriate justification; fails to provide these students with school-based behavior services; and denies children in the Public Day School the opportunity to participate in extra-curricular and vocational programs. *Id.* at 27-28.

45. Defendants have not reasonably modified neighborhood schools to provide school-based behavior services for children with a mental health disability. For students like S.S. and members of the class, the essential components of school-based behavior services, which Defendants fail to provide, are: (a) a comprehensive assessment, including determination of the purpose and triggers for the child’s behavior; (b) a school-based intervention plan that relies on positive support, social skills training, a care coordinator, and adjustments as needed to curriculum or schedule; (c) training for school staff and parents in implementing the plan; and (d) coordination with non-school providers involved with the child (collectively, “school-based behavior services”).

46. There is a professional consensus that such school-based behavior services are necessary to afford children like S.S. and Plaintiff class members an equal opportunity to
advance academically and graduate and the opportunity to be educated in neighborhood schools along with their peers without a disability.

47. Instead of providing these school-based behavior services, Defendants routinely transfer such students to the Public Day School, where they receive an inferior education and are separate from their peers.

B. Springfield’s Public Day School

48. The Public Day School is exclusively for students with a mental health disability. It starts at kindergarten and extends through grade 12 (and up to age 21). During the 2013-14 school year, of the 233 students reported to be in the Public Day School program, 42 were at the elementary level, 63 at the middle school level, and 128 at the high school level.

49. The students in the Public Day School have many talents and strengths. They have the same aspirations as other SPS students. They have hobbies, enjoy sports, and would like to participate in extracurricular activities. After they graduate from high school, they would like to get good jobs, and many would like to go to college. Most have supportive families.

50. Once transferred to the Public Day School, students remain in there for years.

51. The dropout rate at the Public Day School is 41.1%, compared with the 6.5% overall dropout rate for SPS.

52. Because SPS tells parents that the only viable educational setting for their child is the Public Day School, parents are left with little choice but to acquiesce to that placement.

53. SPS often tells parents that their children need this segregated setting or their children will fail educationally. SPS tells parents this even though children regularly drop out of the Public Day School because of its inferior education, punitive climate, and the high risk of arrest in the Public Day School.
54. Defendants fail to provide Public Day School students and their parents any meaningful alternative to the Public Day School.

55. The Public Day School is inferior to and separate from SPS’s neighborhood schools. Placement in the Public Day School needlessly segregates children from their peers without a disability.

56. The Public Day School operates as little more than a “warehouse” for children with a mental health disability. The Public Day School does not provide the same opportunities to learn that are provided to students without a disability. Academic instruction is “dumbed down” and secondary to behavioral control based on the unwarranted assumption that children in the Public Day School are incapable of achieving academically at the same level as their peers without a disability.

57. Children in the Public Day School have virtually no opportunity to engage in extracurricular activities. Students are denied access to nearly all extracurricular activities available in the neighborhood schools, including afterschool sports and clubs and activities devoted to art, drama, poetry, student government, and various cultures. They cannot play interscholastic sports against other schools within SPS or inter-district sports against teams from other school districts. They do not have the opportunity to participate in SPS sponsored college, military, and job informational and recruitment activities available to students in the neighborhood schools.

58. School-based behavior services are largely unavailable to children in the Public Day School, which does not use effective and professionally accepted practices for managing and improving the behavior of children with a mental health disability. Instead, the Public Day
School uses methods that interfere with their education and the ability to learn, and tend to exacerbate their mental health symptoms.

59. Lacking adequate training and support, Public Day School staff often resort to harsh and counterproductive responses to students’ behavior, including dangerous physical restraints (that risk serious injury or death), unnecessary forced isolation (sometimes for multiple days), and inappropriate arrests and suspensions for minor offenses. The suspensions include formal out-of-school suspensions, in-school suspensions, and “informal suspensions” (e.g., where the Public Day School staff call parents and tell them to remove their child from school for the remainder of the day).

60. The Public Day School also relies heavily on the police for routine disciplinary matters. The City has arranged with the Springfield Police Department for armed and uniformed police officers, known as the “Quebec Unit” to be on the Public Day School campuses. Neither SPS nor the Police Department has adequately trained these officers to work effectively with students with a mental health disability.

61. The police regularly arrest youth for infractions of school rules that elsewhere would be handled through school disciplinary procedures.

62. In addition, Public Day School staff regularly use the police to impose severe discipline, such as physical restraints or placement in isolation rooms, for minor discipline issues such as not following directions or disrupting class.

C. Plaintiff S.S.

63. S.S., who has experienced traumas in his life, is diagnosed with depression and attention deficit and hyperactivity disorder, among other conditions. S.S. has a disability within
the meaning of the ADA. His mental health condition substantially limits one or more major life activities, including developing and maintaining relationships.

64. S.S. is a talented artist who especially likes drawing and theater. S.S. is well organized and has a strong work ethic and keen sense of humor. He enjoys spending time with his family and likes to help his mother with chores around the house and caring for his younger siblings. He enjoys baking cakes, and going to parks, museums, amusement parks, and shopping.

65. S.S. willingly and actively participates in treatment for his mental health disability. He takes prescribed psychiatric medication and regularly participates in outpatient mental health therapy. However, as a result of his mental health disability, S.S. sometimes in school talks out of turn, gets out of his seat, uses inappropriate language, or leaves class. On rare occasions, he has fought with other students, mostly in response to being hit and/or bullied by other students. On occasion, S.S. has responded physically to school staff when they tried to physically restrain him.

66. SPS transferred S.S. to the Public Day School approximately five years ago, when he was in the fourth grade. In the fall, S.S. will be a ninth grader.

67. S.S. and his mother want S.S. to be educated in a neighborhood school, which is the most integrated setting appropriate to his needs. Defendants have not offered S.S. any meaningful alternative to enrollment in the Public Days School.

68. S.S. would like to play interscholastic sports, especially basketball, but such activities are not offered in the Public Day School.

69. S.S. could be educated in a neighborhood school if SPS were to reasonably modify its programs and services and provide S.S. with school-based behavior services.
70. At the Public Day School, S.S. has been subjected to dangerous physical restraints, inappropriate forced isolation, and arrests and suspensions for minor offenses such as swearing, talking out of turn, and getting out of his seat. Staff at the Public Day School have enlisted police officers to help them physically restrain S.S. and to isolate him in a padded basement room, which, on at least one occasion, lasted for several days.

71. The Public Day School has not been effective in improving S.S.’s behavior in school. To the contrary, it has eroded his self-esteem and exacerbated his mental health symptoms.

72. SPS has a High School Choice program, which allows students to choose their high school through a balloting process. Each high school has its own character and a unique focus, such as vocational education or science and technology.

73. Although S.S. wants to participate in the balloting process to choose his high school, as a student in the Public Day School, he is barred from doing so.

74. By not educating S.S. in a neighborhood school, and relegating him to the inferior Public Day School, Defendants have denied S.S. equal educational opportunity and the opportunity to be educated in the most integrated setting in violation of the ADA.

D. The Plaintiff Class

75. S.S. is not alone in his experiences in the Public Day School. It is a situation endured by hundreds of similar children who also have a mental health disability. The Plaintiff class of children who are placed in or will be placed in the Public Day School suffer the same injuries and require the same relief as Plaintiff S.S.

76. Defendants are denying not only Plaintiff S.S. but also the Plaintiff class equal educational opportunity and the opportunity to be educated in SPS’s neighborhood schools.
77. Without school-based behavior services, Plaintiff S.S. and the Plaintiff class will not have the same opportunity as their peers without a disability to learn and graduate, or to be educated in SPS’s neighborhood schools. However, Defendants have failed to reasonably modify SPS’s programs and services to provide S.S. and the Plaintiff class with school-based behavior services.

78. Through the acts and omissions described above, Defendants are:

i. Denying S.S. and the Plaintiff class the opportunity to participate in and benefit from educational services that are equal to those afforded other students;

ii. Denying S.S. and the Plaintiff class educational services that are as effective in affording equal opportunity to obtain the same result, gain the same benefit, or reach the same level of achievement as that provided other students;

iii. Denying S.S. and the Plaintiff class the opportunity to receive educational programs and services in the most integrated setting appropriate to their needs;

iv. Failing to reasonably modify SPS’s programs and services as needed to avoid discrimination against S.S. and the Plaintiff class; and

v. Utilizing methods of administration that have the effect of defeating or substantially impairing the accomplishment of the objectives of Defendants’ educational programs with respect to S.S. and the Plaintiff class.
COUNT I

VIOLATION OF TITLE II OF THE AMERICANS WITH DISABILITIES ACT

79. Plaintiffs re-allege the allegations in all preceding paragraphs as though fully set forth herein.

80. Plaintiff S.S. and the members of the Plaintiff class, who include PPAL constituents, are individuals with a disability within the meaning of the ADA. Their mental health condition substantially limits one or more major life activities, including developing and maintaining relationships.

81. As school-age children, they are qualified to participate in Defendants’ educational programs and services. 42 U.S.C. § 12131(2).

82. Defendants the City of Springfield and SPS are public entities within the meaning of the ADA and Defendants Sarno and Warwick are officials responsible for running these public entities and supervising their operations. 42 U.S.C. § 12131(1).

83. Through the acts and omissions described above, Defendants are violating Title II of the ADA by:

a. Denying S.S. and the Plaintiff class an opportunity to participate in and benefit from educational services that is equal to that afforded other students;

b. Denying S.S. and the Plaintiff class educational services that are as effective in affording equal opportunity to obtain the same result, gain the same benefit, or reach the same level of achievement as that provided other students;
c. Denying S.S. and the Plaintiff class the opportunity to receive educational programs and services in the most integrated setting appropriate to their needs;

d. Failing to reasonably modify SPS’s programs and services as needed to avoid discrimination against S.S. and the Plaintiff class; and

e. Utilizing methods of administration that have the effect of defeating or substantially impairing the accomplishment of the objectives of Defendants’ educational programs with respect to S.S. and the Plaintiff class.

84. Granting relief to Plaintiffs would not fundamentally alter Defendants’ programs, services, and activities.

85. The acts and omissions of Defendants have caused and will continue to cause S.S. and the Plaintiff class, who include PPAL constituents, to suffer irreparable harm, and they have no adequate remedy at law.

**RELIEF REQUESTED**

WHEREFORE, Plaintiffs pray that the Court grant the following relief:

A. Order that Plaintiff S.S. may maintain this action as a class action pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure.

B. Order and declare that Defendants are violating the rights of S.S. and other similarly situated children under Title II of the ADA, 42 U.S.C. § 12101, et seq., and its implementing regulations.

C. Preliminarily and permanently enjoin Defendants, their successors in office, agents, employees and assigns, and all persons acting in concert with them to provide Plaintiff S.S. and the Plaintiff class with the school-based behavior services they need to enjoy equal educational opportunity and receive educational programs and services in the most integrated setting, as required by Title II of the ADA.
D. Award Plaintiffs’ attorneys’ fees and costs as appropriate and permitted by law, including pursuant to 42 U.S.C. § 12205.

E. Any other relief as this Court finds just and proper.

Dated: June 27, 2014

Respectfully submitted,

S.S., a minor, by his mother, S.Y., on behalf of himself and other similarly situated students, and the Parent/Professional Advocacy League,

By their Attorneys,

/s/ Carol E. Head

Robert E. McDonnell, BBO # 331470
Carol E. Head, BBO # 652170
Elizabeth M. Sartori, BBO # 672577
Jacqueline S. Delbasty, BBO # 676284
BINGHAM McCUTCHEON LLP
1 Federal Street
Boston, MA 02110
(617) 951-8000
robert.mcdonnell@bingham.com
carol.head@bingham.com
elizabeth.sartori@bingham.com
jacqueline.delbasty@bingham.com

Robert Fleischner, BBO # 171320
CENTER FOR PUBLIC REPRESENTATION
22 Green Street
Northampton, MA 01060
(413) 586-6024
rfleischner@cpr-ma.org

Of Counsel*:

Deborah A. Dorfman, BBO # 625003
Samuel Miller, BBO # 624969
CENTER FOR PUBLIC REPRESENTATION
22 Green Street
Northampton, MA 01060
(413) 586-6024
ddorfman@cpr-ma.org
smiller@cpr-ma.org

Ira Burnim
Jennifer Mathis
BAZELON CENTER FOR MENTAL HEALTH LAW
1101 15th Street, N.W., Suite 1212
Washington, D.C. 20005
(202) 467-5730
jenniferm@bazelon.org
irab@bazelon.org

*pro hac vice applications forthcoming
Getting Back On Track
Syracuse Report
on
Student Discipline Practices

By
Daniel J. Losen,
Independent Consultant

June 06, 2014
Introduction: Why Syracuse? Why Discipline?

In April, 2013 the Center for Civil Rights Remedies released a report on middle school suspension rates, including data on many districts’ suspension use that the public found shocking. Many of these districts’ superintendents and school boards acknowledged that their suspension rates were unacceptably high. Superintendent Contreras was among them. That same April, the Superintendent inquired about possible assistance in addressing the issue. The evidence suggests that suspension levels have been extraordinarily high in Syracuse for many years, at least since 2000 and may have contributed to a legacy of poor educational outcomes in the past. This report is focused on the most recent data, and is a more detailed follow-up to the independent work and presentation provided to Syracuse City School District on September 30, 2013 to the district’s School Board and greater school community.

It is important to put the new efforts in Syracuse in the national context. Concerned with new research findings by the Council of State Governments Justice Center in 2011, the Obama administration launched a national initiative called the Supportive School Discipline Initiative. As part of the SSDI, the U.S. Departments of Justice and Education put together guidance for schools about the civil rights implications of school discipline disparities, which they released on January 8, 2014. In this joint DOJ/OCR guidance they outline how school districts are obligated to review their school discipline policies and practices for unnecessary reliance on school exclusion and the possibility that their disciplinary policies and practices could have an unlawful disparate impact by race, gender, disability status or English learner status. The official legal guidance was issued in the form of a “Dear Colleague” letter, and was accompanied by a wealth of resources including a set of guiding principles for schools and districts contemplating reforms and a set of resources to draw from.

This report builds on data analysis completed in September, and is intended to provide a deeper description of the use of suspensions in Syracuse. The empirical analysis in this report and recommendations that follow are presented with the new OCR/DOJ guidance, principles, federal recommendations and resources for school districts in mind. Further, the analysis of the districts’ discipline data is presented in the context of what the latest research says about the frequent use of out-of-school suspensions. (Skiba, 2014). It

---

1 For the years 2000 and 2006 there are Syracuse data disaggregated for K-12 by race/ethnicity on the U.S. Department of Education’s website here: [http://ocrdata.ed.gov/flex/Reports.aspx?type=district#](http://ocrdata.ed.gov/flex/Reports.aspx?type=district#). These data show that in 2000 Syracuse suspended 19.27 percent of all Black students enrolled and 8.8% of all White students enrolled. These older numbers did not include the short-term suspensions of students with disabilities which are usually much higher than students without disabilities and therefore the high rates and large disparities described using more recent data are similar to the observed rates and disparities as far back as 2000.
should be noted that the research cited in this report reflects the findings and recent publications of the Disparities in Discipline Research Collaborative. I am a member of this national collaborative and one of the lead authors of the brief regarding discipline policy. Further, although this report was prepared independently from my work as Director of the Center for Civil Rights Remedies at UCLA’s Civil Rights Project, the analysis and findings draws repeatedly on the empirical and legal research I have conducted as CCRR’s Director.

**Context of change in Syracuse:** In the time between this final report and my presentation of the data last September, the Superintendent of Schools, Sharon L. Contreras has taken several important steps to address the frequency and disparity with which the district suspends students out of school including, but not limited to:

- setting forth the review and revision of the district’s code of conduct;
- retaining professional student advocates for students who are involved in the superintendent hearing process;
- implementing a central student registration process that manages the process for student entry and withdrawal such that there are no student transfers allowed for student behavior that are inconsistent with N.Y. Education Law §3214;
- providing administrators with training opportunities with district legal counsel on N.Y. Education Law §3214, Title VI of the Civil Rights Act of 1964, and the Individuals with Disabilities Education Act (IDEA);
- providing wrap-around services to students

In addition to these steps, the District has committed to the implementation of the recommendations of this report with regard to additional changes to policies and practices and use of resources to address the issue. Moreover, the ongoing cooperation with investigation of the State Attorney General’s office with regard to the need to address discipline disparities is also an important activity toward improvements. Therefore, the purpose of this report is to further assist the process of change that is already underway and to help the members of the school community to improve the conditions of learning in the Syracuse Public Schools such that achievement, attendance, and graduation rate improvements coincide with the reductions in exclusionary discipline. Ultimately, that goal will entail administrators, teachers, parents and students all working together to agree upon new methods to achieving these goals.

As a background matter, it is important to recognize that academically, the Syracuse Public Schools, according to the New York State report cards, are performing below the state average. Syracuse Public Schools are currently struggling to turn around low achievement, low attendance, and low graduation rates. What many do not realize is that Syracuse is also among the nation’s districts that suspend far more students out of school than most others.

In fact, the suspension rate for all students in elementary school, at nearly one in 8 students each year, (12.6%) places Syracuse Schools as among the top 100 school districts in the nation out of nearly 5,800 school districts analyzed. This means that while the district is looking for ways to boost achievement, Syracuse students are losing
valuable instructional time for poor behavior. At the same time, it should be noted that as the district suspends misbehaving students with a high frequency, and has done so for many years, school environments appear no less disruptive in response. Consistent with well-established research findings, the frequent use of suspension in Syracuse appears to not to have the desired impact of improving learning conditions and reducing inappropriate behavior.

It is essential to keep in mind that the challenges with regard to school discipline are rooted in concern about the academic and life outcomes shared by all members of the school community. Some members feel that the schools are too tolerant of student misbehavior, and blame the poor learning environment and low academic performance on lax discipline and the failure to utilize suspension and expulsion more often. This observation is based on documentation through news reports and corresponding comments expressed on-line. Some of these comments were expressed by union leadership. Further, it has been brought to my attention that since my report to the community in September of 2013, that one or more groups have formed within the Syracuse Community to advocate against reductions in the use of exclusionary disciplinary practices. Some hold fast to a belief that far more students should be excluded from the mainstream on disciplinary grounds even though the national data finds the Syracuse City School District on the extreme high end of the spectrum when it comes to disciplinary exclusion. Based on research that demonstrates that a highly punitive approach is counterproductive, it is far more likely that the current harsh disciplinary methods and practices are undermining rather than helping to achieve the shared behavioral and academic goals. With the intent of helping the Syracuse City School District get back on track toward meeting the important outcomes that all stakeholders value, this report presents data and research pertaining to school discipline in 3 parts.

Part I sets the national context, both the growing research-based consensus and the empirical trends. As mentioned suspension rates in Syracuse are far higher than the national averages, but these national averages are regarded as highly problematic in and of themselves. Part I briefly reviews the current use of suspension and references the growing concerns among educators that nationally, we need to resort back to a more common sense and conservative approach to the use of suspensions.

Part II is primarily descriptive and digs deep into the data from Syracuse Public Schools that were presented in September. School level data are presented to illustrate how the broad district disparities appear at the school level. Part II also suggests some possible contributing factors based on research.

Part III sets forth research-based policy recommendations for the district moving forward. Some of the recommendations reflect some of the data patterns found in Syracuse. Others reflect the latest research on what works. The recommendations in this report are entirely consistent with the set of principles for policymakers, district officials, school leaders and stakeholders that the U.S. Department of Education has set forth which as follows:
(1) Create positive climates and focus on prevention
(2) Develop clear, appropriate and consistent expectations and consequences to address disruptive student behaviors; and
(3) Ensure fairness, equity and continuous improvement.⁶

Part I: The National Context:

There is a consensus among educators, researchers, policymakers and child advocates that all schools must be safe places for all members of the learning community. Schools have the right and the responsibility to develop safe school climates. Yet the national 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.⁷ While exclusion on safety grounds is infrequent, students are routinely removed from school for minor offenses like tardiness, truancy, using foul language, disruption, and violation of the dress code. As this report will show, Syracuse data are consistent with these national findings.

Of course public school educators are also responsible for ensuring the integrity of the learning environment and must respond to a wide range of 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, like the national data, the use of suspensions in Syracuse indicates that the district has moved away from reserving school exclusion for only the most serious offenses, and as a measure of last resort.

Researchers find that 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. The comments to articles about suspensions in Syracuse suggest that this sentiment is shared by at least some members of the larger school community.⁸ There are obvious immediate benefits to minimizing disruption by keeping out persistently disruptive youth. However there is a substantial difference between removing a disruptive student from class, as an immediate response, and suspending a student out of school for several days. While there are certainly ways to minimize the likelihood that students will disrupt a class, short-term temporary removals are not the same as removing students from school altogether. There is no research to support the popular theory when it is taken to mean exclusion from school.

One problem with this theory about needing to remove the “bad” kids is that it implies that public schools can pick and choose who may attend. Further, the theory fails to acknowledge that the ways schools are run affects the degree to which students misbehave. Often, student misbehavior is attributed exclusively to students themselves, but researchers know the same student can behave very differently in different classrooms. Disruptions tend to increase or decrease with the skill of the teacher in


providing engaging instruction and in managing the classroom—areas many teachers say they would like help improving. For example, in a national survey of pre-K through 12th grade teachers, respondents identified their greatest needs as help with classroom management and instructional skills.9

Researchers also find a strong connection between effective classroom management and improved educational outcomes. And these skills can be learned and developed.10 According to the American Psychological Association: “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.”11 The Academy of American Pediatrics’ (2013) recent statement put it bluntly when they concluded, “out-of-school suspension and expulsion are counterproductive to the intended goals, rarely if ever are necessary, and should not be considered as appropriate discipline in any but the most extreme and dangerous circumstances, as determined on an individual basis rather than as a blanket policy.”12 Research also suggests an inverse relationship between student misbehavior and a teacher’s ability to engage students.13 As engagement goes up, misbehavior and suspensions tend to go down.

Equally important is that the theory behind removing the “bad apples” to safeguard the learning environment has no support in research on public schools. When public 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 (Skiba, 2006). This Indiana study found that the approach and the attitude of the principal mattered more than demographics for predicting suspension rates as well as racial disproportionality in the use of suspension (Skiba, 2013).14 Similarly, a larger study, called “Breaking Schools Rules” (Fabelo, 2011) tracked every middle school student in Texas and controlled for over 80 variables, including student misbehavior, and 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.

Moreover, several large school districts that have lowered suspension rates recently have made academic gains. Two recent examples are Baltimore City, where decreases in suspensions preceded improvements in graduation rates in subsequent years,15 and in Denver, Colorado, where steady and consistent achievement gains coincided with large reductions in suspensions attributed to restorative practices.16

Although it is understandable why frustrated members of the school community might embrace school exclusion, the most obvious flaw is that this approach fails to recognize the combined detrimental effect of missing valuable instructional time while gaining no guarantee that the behavioral issues will be addressed. Researchers have suggested that out-of-school suspensions likely reinforce the very behavior they are meant to eliminate (Tobin, Sugai & Colvin, 1996).

**Frequent use of suspensions can damage school climate and the conditions for learning:** In addition to preserving 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.17 Strong teacher-student and teacher-parent relationships are important to academic achievement as well as safety.18 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% (Balfanz, 2013). In Texas, the aforementioned study that tracked middle school students for six years found that being removed on disciplinary grounds for a discretionary violation increased by nearly three times the likelihood of being in contact with the juvenile justice system the following year (Fabelo, 2011).

Excessive discipline is also associated with higher economic costs to the schools and communities in the short- and long-term. For example research has found suspension to be associated with increased risk for grade retention, which literally means that taxpayers must pay for an additional year of schooling. The juvenile justice system costs escalate with its use, and taxpayers foot the bill for the costs associated with increases in crime and welfare costs associated with school dropout.19

Although this report did not include a comprehensive review of juvenile delinquency, or associated costs specific to Syracuse, there is no question that suspension rates are high in Syracuse, which means that the associated costs are likely higher here than they need to be. It is worth mentioning that one national longitudinal study (Shollenberger, 2013) suggests that for most delinquent youth, and especially Black and Latino boys, suspensions usually preceded indicators of serious delinquent behavior. Simply put, schools that frequently resort to suspension and expulsion of youth may inadvertently be increasing crime in the community. In fact, this is one reason that the national crime prevention group, “Fight Crime: Invest in Kids,” representing over 5,000 law enforcement agents from across the nation has consistently sought to reduce the reliance on exclusion from school, especially for minor offenses.20

For these and related reasons, the national teachers unions, the NEA and the AFT have supported a reduction in the use of out-of-school suspensions and expulsions in favor of alternatives such as restorative practices and social emotional learning.22 Nationally, divergent stakeholders, including law enforcement, school administrators, researchers and civil rights advocates are embracing the call to reduce suspensions and to replace them with a wide range of more effective approaches. Ideally, stakeholder consensus can be built in Syracuse as well.

**Methods:** This report uses the same basic “risk” calculation for most of the analysis presented. The risk analysis is a straightforward calculation that tells you what percentage of the enrollment of a racial group was found in a certain category. For example, if 10 Black students were suspended out of school at least once in a given year and the school enrolled 100 Black students in all, the “risk” for a Black student being suspended would be 10 percent of their enrollment. In several places the risks of suspension or rate of student suspension for one group are compared to others in terms of
the risk difference or gap. That is based on simple subtraction. If the risk for Blacks was 10% and for Whites it was 5% then the risk “gap” or “difference” would be 5 percentage points.

These simple calculations are not only informative, but anyone can do the calculations if they have the relevant enrollment data and the numbers of students in the given category. These calculations can be based on the enrollment at the level of the district, individual school or grade, or by type of school across the district. Later in the report the number of suspensions per 100 students is also presented. The key difference is that the “risk” for suspension is based on counts of students who were suspended at least once. For this reason the phrase student suspension rate is also used. Conversely, suspensions per 100 students enrolled, sometimes called the rate of suspensions, counts the actual suspensions meted out, not the unduplicated number of students. Another way to keep the two measures clear is that the “risk” for suspension emphasizes how many students were punished. The rate of suspensions per 100 tells us how often suspensions are used.

Additional metrics besides these two are used, but will be explained in the context of the analysis. The following empirical analysis begins with the most straightforward data review of the national discipline data and the “risk” for suspension.

**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. 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. The figure below, based on data collected by the U.S. Department of Education, provides the historical perspective at the level of secondary schools (middle and high schools) where the rise in the use of suspensions has been most pronounced. (Losen & Martinez, 2013).
National Elementary and Secondary Rates

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. 14 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 the aforementioned study of Texas students reporting 60% removal rates during middle and high school. 15 The risk for suspension is usually much larger during the secondary school years (middle and high school). The graph that follows shows the breakdown by race at the elementary versus the secondary levels. Keep in mind that this is just snapshot from one year (2009-10) and doesn’t capture the cumulative risk for being suspended.
Nationally, students with disabilities are supposed to receive special education, which includes individualized supports and services, including behavioral supports if needed, to help them succeed in school. Yet, nationally their out-of-school suspension rates for grades K-12 are at least twice as high as their nondisabled peers. (Losen & Gillespie, 2012). Across this grade span in 2011-12 the rates are much higher for students with disabilities who are Black and male, with one out of every five having been suspended at least once.

**Table 1: National (K-12) suspension risk by race, disability and gender 2011-12.**

<table>
<thead>
<tr>
<th>U.S.</th>
<th>American Indian/Alaskan Native</th>
<th>Asian</th>
<th>Native Hawaiian/Other Pacific Islander</th>
<th>Black/African American</th>
<th>Latino</th>
<th>White</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td>13%</td>
<td>3%</td>
<td>7%</td>
<td>20%</td>
<td>9%</td>
<td>6%</td>
</tr>
<tr>
<td>Female</td>
<td>7%</td>
<td>1%</td>
<td>3%</td>
<td>12%</td>
<td>4%</td>
<td>2%</td>
</tr>
</tbody>
</table>


When we look at the intersection of race, disability, and the gender at the secondary level, we find that 24% of Black secondary students, 31% of Black secondary school students with disabilities, and 36% of Black secondary school males with disabilities were suspended from school in 2009-2010 (Losen & Martinez, 2013).
Suspension Rise Dramatically with the Intersection of Race with Disability and English Learner Status and Gender

National: Students With Disabilities Secondary Level Suspension Risk

![Bar chart showing suspension risk by gender and disability status.](chart.png)
Part II: The Use of Suspensions in Syracuse

Syracuse Profile
2009-2010

Risk for Suspension at the Elementary and Secondary Levels by Selected Subgroups

The profile of Syracuse City Schools was originally published in the report, “Out of School and Off Track.” The Syracuse profile was not featured in the report itself but was one of twenty profiled districts included in the appendix of the report. Although it is clear that these rates are higher than the national average, the report did not provide a detailed comparison. In fact, the suspension rates depicted in the table below shows that Syracuse is well above the national averages for every subgroup.

Syracuse Suspension Rates Are Above the National Average

<table>
<thead>
<tr>
<th>Secondary Schools</th>
<th>National Average</th>
<th>Syracuse</th>
<th>Difference</th>
</tr>
</thead>
<tbody>
<tr>
<td>ALL</td>
<td>11.3</td>
<td>30.8</td>
<td>+19.5</td>
</tr>
<tr>
<td>White</td>
<td>7.1</td>
<td>19.1</td>
<td>+12</td>
</tr>
<tr>
<td>Black</td>
<td>24.3</td>
<td>38.2</td>
<td>+13.9</td>
</tr>
<tr>
<td>Hispanic</td>
<td>12</td>
<td>29.5</td>
<td>+17.5</td>
</tr>
<tr>
<td>English Learners</td>
<td>11.3</td>
<td>15.2</td>
<td>+3.9</td>
</tr>
<tr>
<td>All Students with Disabilities</td>
<td>19.3</td>
<td>44.1</td>
<td>+24.8</td>
</tr>
</tbody>
</table>
As mentioned in the introduction, Syracuse City was among the highest suspending districts in the nation. One may regard these rates as “extraordinarily high” because out of 5,675 school districts that had elementary schools, the overall suspension rates in Syracuse places the district among the top 100. Rankings are purely relative and are presented in this report to put the Syracuse numbers in perspective and to raise doubts in the minds of those who think that any reduction will make Syracuse schools far too lenient.

To make the comparison of Syracuse more meaningful, data for nearly 7,000 school districts from the 2009-10 school year were digested to select 32 districts with similar numbers of Black students and where Black students made up a similar proportion of the total enrollment. Among these 32 demographically similar districts I found that Syracuse’s suspension rates ranked as follows:

- 8th highest for Black and Asian students.
- 4th highest for White students
- 6th highest for students with disabilities
- 3rd highest for Latino students
- 5th highest overall

To illustrate the comparison to similar districts graphically the following example was presented in September. The graph below compares suspension rates in Syracuse to those in Yonkers, New York. Yonkers was chosen because of the 32 used above it had a similar demographic make-up to Syracuse and is subject to the same State laws and regulations.

---

Syracuse VS. Yonkers
Secondary Schools 2009-10

---

Syracuse

Yonkers

---

---

---
It is worth noting that both districts suspended students at high rates, and both districts suspended far higher numbers of students with disabilities within the same racial group (except for Asian American students). Two striking differences are that: 1) Syracuse suspended substantially higher rates of nearly every subgroup, often as much as 10 percentage points higher; and 2) English learners with disabilities were suspended at such high rates.

These comparisons to demographically similar districts suggest that barring obstacles to reform that are unique to Syracuse, reducing suspension rates in Syracuse is likely an achievable goal. Toward achieving that goal, it is more important to understand the suspension use patterns within the school district.

Often overlooked in state and national reports is the analysis of certain race/gender combinations. These tend to reveal that the most profound differences in suspension rates are found in the cross sections of race and gender.

The presentation of race/gender data begins with females because the high frequency with which we suspend girls in some racial groups sometimes gets overlooked when we focus on the highest suspended group. Notice, for example that one out of every three Black females at the secondary level were suspended at least once, making them the 3rd highest subgroup in terms of their risk for suspension, with only Black and Latino males at the secondary level having higher rates.
Percentage of Enrolled Syracuse Subgroup Suspended at Least Once by Race and English Learner Status (ELS) for Males by School Level

Rates in Syracuse Remain High and Have Increased Since 2009-10
Up until this point this report has relied on analysis of data from 2009-10 academic year. With the assistance of Syracuse City Schools’ personnel, a more current and detailed review of data disparities was made possible. To begin with, the most current data indicate that suspension rates have been rising slightly since 2009-10. Although not represented in the figure above, the rates in 2009-10 were all within one percentage point of the rates for 2010-11. This important background information indicates that despite Superintendent Contreras’ efforts, little has changed with regard to the use of suspensions in Syracuse City Schools over the last 4 consecutive years. This stable data picture also presents a fairly reliable benchmark against which the district’s future efforts to reduce suspensions and disparities can be measured.

The stability is also found with regard to the size of the racial disparities and the suspension rates at the elementary, middle and high school levels. The next graph presents these disparities using the most recent data from 2012-13 and like the overall trends, indicates that very little has changed. All the descriptions from this point are based on the 2012-13 school year.

### Syracuse Disparate Rates of Suspension (All Students) 2012-13

![Bar chart showing disparate rates of suspension by race and grade level for the 2012-13 academic year.]
These district averages provide a limited snapshot. To better understand the use of suspensions in Syracuse this report looked at individual school level data; data on the reasons for suspensions and calculations of the days of lost instruction; and, data that enable the analysis to control for differences in student level poverty. The kind of deeper analysis that follows will be important to replicate in the future to gain a complete understanding of the use of suspensions in Syracuse, the disparate impact, for identifying areas of greatest need for reform, as well as to document success. As a side note, many large districts have tremendous variation in the use of suspensions. In Los Angeles, for example, we found both the greatest number of high-suspending middle schools, where 25% or more of at least one subgroup was suspended - but also the greatest number of low-suspending secondary schools, where the suspension rates were less than 10% for all subgroups. (Losen & Martinez, 2013). These variations sometimes result from dramatically different approaches to school discipline within the same district. The analysis of school level data in Syracuse did find important variations; however, there were no schools that could be fairly characterized as low-suspending.

In fact, nearly all the schools in Syracuse would be considered high-suspending if these same national comparison benchmarks for secondary school were used. Specifically, in 2012-13, I found the following:
In 10 Syracuse schools, 25% or more of all the enrolled secondary students were suspended at least once.

15 of the 17 Syracuse City School serving secondary students suspended at least 25% of one major subgroup (race, gender, disability)

Of these 4 secondary schools suspended at least one subgroup at a rate of 50% or more.

Syracuse had 6 schools serving elementary students where the rate of suspension was below 10% for every major subgroup.

However, that 10% threshold was exceeded by every school in Syracuse when the subgroups were further disaggregated to look at the rates by the cross-section of race with disability.

In Syracuse it’s simply a myth that just a few kids are disruptive and so the solution cannot be to focus on a small subset of students. If “getting tough” on misbehavior means doling out harsh consequences and frequently removing rule breakers from school, then Syracuse is among the most consistent and toughest districts in the nation, especially for elementary school children. More than one in seven elementary and nearly 4 out of every 10 middle school kids were suspended out of school at least one time. Given that some research suggests that suspending non-delinquent children from elementary school might promote delinquency (Shollenberger, 2014), Syracuse should focus on reducing the use of suspensions in elementary schools. This will be discussed further in the recommendations section.

The volume of suspensions also matters: The facts analyzed thus far don’t actually capture the full magnitude of suspension use in Syracuse because we have only analyzed the numbers of students suspended at least once. We have not counted the number of suspensions. Counting suspensions, and their length, is a stronger indicator of the impact of suspensions. If we know the number of suspensions and their length we can better assess the direct impact.

Days of Lost Instruction: In the first part of this report a reference was made to the fact that out-of-school suspensions often have hidden costs. One obvious cost is that suspended students lose days of instruction. The cumulative loss in Syracuse, for example, was 23,555 days in 2012-13 alone. With the district’s data and assistance we were able to further specify the racially disparate impact of days of lost instruction. Here are the numbers for average days of lost instruction per enrolled student:

All: 1.2
White: 0.76
Latino: 1.08
Black: 1.64
Asian/PI: 1.08
Amer. Ind. 0.7
Over the course of a K-12 education, the average Black student enrolled in Syracuse will lose 21.32 days of instruction. That is a per-pupil average. These average per-student days of lost instruction are not to be confused with the how much time each suspended student loses. Many students are never suspended and lose no instruction. Therefore the average loss of instruction per student actually suspended would be far higher.

**Suspensions per 100 Students Enrolled:** Often readers assume that the discussion of suspension rates did not account for the fact that a few unruly students can wind up getting suspended multiple times and drive up the rates. This is a common misconception by readers who are shocked by the data. The rates below are higher than those examined thus far because up until this point the analysis was of students who received one or more suspensions. Below are the far higher counts of suspensions per 100 students. In Syracuse suspensions per 100 are typically three to four times higher than the student suspension rates.

### Suspensions

**(K-12) Per 100 Students Enrolled 2012-2013**

<table>
<thead>
<tr>
<th>Race Ethnicity</th>
<th>Without Disabilities</th>
<th>With Disabilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Asian/Pacific Islander</td>
<td>4.1</td>
<td>16.1</td>
</tr>
<tr>
<td>Black</td>
<td>64.2</td>
<td>104.9</td>
</tr>
<tr>
<td>Latino</td>
<td>44</td>
<td>75.8</td>
</tr>
<tr>
<td>American Indian</td>
<td>40.6</td>
<td>21.5</td>
</tr>
<tr>
<td>White</td>
<td>31.2</td>
<td>57</td>
</tr>
<tr>
<td>ALL</td>
<td>47.1</td>
<td>84.1</td>
</tr>
</tbody>
</table>

In Syracuse, in the 2012-13 academic year, the district meted out 47 suspensions for every 100 students without disabilities enrolled, K-12. This number nearly doubled to 84 per 100 suspensions meted out to students with disabilities.

At this point, it is worth reiterating that the American Psychological Association, Academy of American Pediatrics, the National Association of School Psychologists, and the National School Boards Association, all say we need to return to using suspensions as measures of last resort.
With so many suspensions meted out each year, could suspensions in Syracuse only reflect measures of last resort? Most do not argue about the use of disciplinary removal in response to weapons and drugs possession and to serious violent offenses. Many in the general public believe that schools only resort to suspension from school in response to serious offenses. Although there is insufficient national data, extensive data from large states including California and Texas suggest that serious offenses are relatively rare and that out-of-school suspensions are meted out in response to minor offenses with higher frequency than any other category. Syracuse certainly follows that pattern.

Critically important to both understanding the issue in Syracuse and to designing a remedy is that the disparities by race and disability status are largest (in absolute terms) in the least serious offense categories and smallest in the most serious categories. One likely reason for greater disparities in the least serious categories is that most involve perception and subjectivity. For example, suspension for defiance, disruption or disobedience can be triggered by misunderstanding and miscommunication. Subjectivity means that what one teacher may label serious disrespect or a gang sign, another may dismiss as a harmless joke or gesture. On the other hand the most serious offenses can usually be determined using objective criteria such as actual possession of a weapon or violence that resulted in a serious injury requiring treatment.

The two images that follow compare the suspensions per 100 students for these two ends of the offense spectrum. The first set of columns covers weapon and drug possession and violence leading to serious injury. The second set of columns is restricted to suspensions for minor altercations, and all other minor offenses.
This graph answers two questions about the use of suspensions in Syracuse. First, most suspensions, regardless of race are not for serious more objective offense categories. The suspensions per 100 students is not very high for the most serious offenses for White or Black students. Second, the racial gap is almost non-existent for the serious offenses and nearly 25 times larger for the subjective minor offenses.

When race and disability status are viewed together, the gaps become larger for both the serious and non-serious offense categories but remain very small for the most serious offense categories and very large for the minor offenses.

The evidence thus far suggests that Syracuse is not reserving suspensions as measures of last resort. If so, part of the remedy may lie in restricting the use of suspension to only serious offenses, or at least ruling out suspensions for a subset of the most minor offenses that currently may be grounds for an out-of-school suspension.

Some may find it unfair to assume that suspensions are not reserved as a last resort. One additional indicator would provide evidence that other alternatives were tried first, or at least were being used on a regular basis. One such indicator might be in-school suspensions. Of course a school that is very punitive in its approach to discipline may have very high numbers of both in- and out-of-school suspensions and use both as frequent responses to minor offenses. No single indicator can tell the whole story and a close review of individual student files may be more helpful. This report did not analyze any student files to determine whether most suspended students were first given support and non-punitive responses. Of course individual file reviews are extremely costly in terms of time. There may be justification for conducting occasional file reviews as part of
a monitoring system, but they would not be a very viable form of routine quarterly or even annual review for every school.

**Referrals to Law Enforcement May be Rising:** One area of discipline disparity that may seem acceptable concerns the percentage of students referred to law enforcement. Clearly, if police were called in to prevent or stop violence, referrals to law enforcement, and the disparities that result would be justified. Unfortunately, the data do not come with the reasons. In the context of very high-suspending schools, however, high rates of referral to law enforcement, and disparities in their use may also suggest an area of concern not covered in my initial presentation. We know from the data from the U.S. Department of Education for 2011-12 that 437 students were referred to law enforcement and that there were zero school based arrests. Two years earlier in 2009-10, the numbers were 105 and 25, respectively. Assuming the numbers are all accurate, the more recent 11-12 data represent more than a fourfold increase in law enforcement involvement in school discipline. In 2009-10 the referral rate did not exceed 1% for any subgroup of students.

Along with this huge increase, in 11-12 students with disabilities were over twice as likely as their non-disabled peers to be referred. 3.1% of all students with disabilities were referred, compared with 1.4% of students without disabilities. Further disaggregated by race we see that 3.8 percent of Blacks with disabilities compared to 2.2% of Whites with disabilities were referred to law enforcement. While it is true that the absolute size of the disability and racial gaps, all below 2 points, are small compared with suspensions, the consequence, which is often arrest and detention is of a much higher magnitude and can be devastating. Closer analysis of these data and information on the use of law enforcement in the public schools is needed as Syracuse moves forward.

**School level analysis:** Up to this point, this report has focused on analysis of data at the district level. A school level analysis is needed to fully understand how discipline is meted out in Syracuse. Individual school level data can help identify different approaches to school discipline, including schools that may be more effective than others. Such a variance is common and means that within the district there are leaders and teachers that have the experience needed to help others in the district reduce suspensions while improving the learning environment.

With these dual goals in mind, for this report, I developed a way to review the data on in-school suspensions in direct comparison to out-of-school suspensions using the current school-level data collection already in place in Syracuse. In my September presentation to the school board I called it an “alternative” or “second chance” indicator, although it is more accurately a ratio of the use of “in-school-suspensions” (ISS) to “out-of-school” suspensions (OSS). One cannot be certain that every ISS is meted out as an alternative to an OSS although that may often be the case. It should be noted that this indicator helps identify schools that are using in-school suspension much more than out-of-school suspensions, but is not good at detecting whether a school is high or low suspending in terms of either ISS or OSS because the ratio is a relative measure. Therefore, it is most useful to look at this ratio together with the actual OSS risk levels.
The Alternative ISS/OSS Ratio: To apply this indicator, for each subgroup of students the number of in-school suspensions (ISS) was divided by the number of out-of-school suspensions (OSS) at the school level. A ratio of 1.0 means that equal numbers of students received an ISS as received an OSS. District wide, in 2012-13, there was almost no difference for Black and White students with regard to this ratio. Blacks scored 1.14 and Whites scored 1.11. This suggests that across the district, students who misbehaved were nearly as likely to receive an OSS as they were an ISS. At first blush one might think that this suggests that alternatives are used often and that OSS is often NOT meted out the first time a student violates a school rule. However, a school that sought to address misbehavior within the school, and reserved an OSS as a last resort would be expected to have a much higher ratio. Further, the school level breakdown of the ratio shows a much wider variety. Specifically, most of the elementary schools had a high ratio of 2.0 or greater. Most of the high schools and middle schools had a ratio of 0.75 or lower. 23

The ISS/OSS “Alternatives Ratio” and racial disparities in discipline: Additional analysis revealed some important patterns. All the schools that had an ISS/OSS (Alternatives) ratio over 2.0 were also relatively low suspending in terms of OSS for Black students and none were secondary schools. In contrast, all that had an Alternatives Ratio at 0.75 or lower suspended 25% or more of their Black students except Expeditionary Learning Middle School (20%). When combined with the district wide analysis comparing the OSS use for serious versus non-serious offenses, the Alternatives ratio I developed for Syracuse suggests not only that high suspending (OSS) schools are not using ISS often enough, but that the tendency to rely on OSS and not utilize ISS may also be contributing to the substantially higher rates of OSS for Black students. Even though Syracuse has some of the nation’s highest suspension rates for elementary schools, the secondary schools are much higher in absolute terms. Therefore, within the district there may be some approaches used at the elementary level, such as using OSS less often than ISS that the secondary schools may find useful.

An important caveat is that “in-school” suspensions, which remove students from class, can also have a negative impact. Studies like the famous Breaking School Rules study in Texas (Fabelo, 2011) found that suspensions from classrooms, both in and out of school, were highly correlated with negative academic outcomes and risks for dropping out and involvement in the juvenile justice system (Fabelo, 2011). Unless “in-school” suspensions are places where students are actively engaged in improving academically and behaviorally, they may not be the best intervention. On the other hand, research on interventions in Cleveland, Ohio (Osher, 2013) suggest that when disciplined students were sent to “learning centers” where they received academic and behavioral supports as one part of a systemic effort to teach social and emotional learning and improve school climate and safety, such in-school suspensions could provide more benefits than out-of-school suspensions.

Is the K-8 Model More Conducive to Developing a Positive School Climate? The school level analysis prompted further exploration of school differences by school type.
There are three types of general education configured schools in Syracuse, elementary, middle, high and K-8. To explore the school level differences the elementary school analysis entailed separating out the elementary grade level data and the secondary level data from K-8 schools in Syracuse. The two graphs that follow revert back to the straightforward analysis of the student risk for out-of-school suspension, also called the student suspension rate, used in the first part of this report. In other words these graphs did not count the number of suspensions, but the number of students who were suspended one or more times and that were used to calculate the percentage of enrolled students suspended.

The first graph compares the suspension the risk for suspension by racial group for middle school students by type of school. The middle school equivalent student suspension risk of those attending K-8 schools was calculated by looking at only enrollment and the suspended students of students from grades 6-8. These findings are represented in the columns on the left. What is striking is that district-wide the sixth, seventh and eighth grade students attending K-8 schools have substantially lower risk for OSS and this pattern held true for each racial group. The Black/White gap for students in grades 6-8 was 15 percentage points in K-8 schools and 26 percentage points in traditional middle schools. However the Latino/White gap was constant across both school types at only 1 percentage point. The data presented cover just the 2012-13 school year but the analysis was conducted, and the same pattern was found, for three consecutive years.

Syracuse Suspension Risk in Grades 6-8 for Middle Schools versus in K-8

<table>
<thead>
<tr>
<th>Grades 6-8 Disparities in 2012-2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black</td>
</tr>
<tr>
<td>-------</td>
</tr>
<tr>
<td>30</td>
</tr>
<tr>
<td>55</td>
</tr>
<tr>
<td>6-8 in K8</td>
</tr>
</tbody>
</table>

0 10 20 30 40 50 60

2012-2013
It is important to note that the district-wide analysis does not mean that each school fits the pattern. While transforming middle schools to K-8 institutions may be worth considering in Syracuse, one cannot assume that doing so will automatically lower suspension rates and racial disparities. As the next graph demonstrates, not all K-8 schools were among the lower-suspending schools. Like the graph above, the rates in the two graphs that follow examined the OSS rates by rates for students in grades 6-8 in each type of school.

![Bar Chart: Not All K-8* Schools Were Lower-Suspending](image-url)
These descriptive data raise important questions, but should not be confused with full-scale research findings on the benefits of K-8 grade configurations in Syracuse. While switching to a K-8 configuration does not guarantee a reduction in suspensions, Syracuse should not ignore the baseline observation, that the K-8 grade configuration in Syracuse appears to be related to a lower risk for suspension, especially for Black students. The 30% risk for OSS for Blacks in grades 6-8 attending K-8 schools is also still quite high, but it is a substantial improvement over the 55% Black student suspension risk in Syracuse’s traditional middle schools.

**Questions about remedies:** The school level analysis was conducted in part to learn more about what is working well already in Syracuse. The individual school analysis revealed two outlier schools in terms of suspension rates and raise the question about whether Expeditionary Learning and Roberts K-8 doing differently? Keep in mind that the patterns represented were consistent for three consecutive years although just one year is represented. Further, analysis (not presented here) was conducted to examine whether these individual school results would hold after controlling for poverty. This analysis revealed that both of these schools had lower OSS rates for each racial group when further disaggregated by the poor and non-poor students. In other words, the fact that these two schools have somewhat lower percentage of students receiving free and reduced lunch did not alter the finding that they had substantially lower suspension rates.
Lower-suspending schools would be expected to be generally higher performing in Syracuse to be consistent with the research findings in Indiana. A preliminary analysis was conducted to test this hypothesis, at least superficially. However, I did not conduct a scientific correlational study, nor did I control for poverty as I did with the comparison of suspension rates. With those caveats I did find that two relatively lower-suspending schools in Syracuse did out-perform most of the districts other schools. For example, the Expeditionary Learning Middle School had the highest ELA and Math scores among middle schools and Roberts’ 8th graders outperformed all but Edward’s 8th graders. It is also worth mentioning that in Syracuse the K-8 schools had better grade 8 test scores.

These observations are consistent with the latest research on the benefits of K-8 schools. As part of a recent summary published in Harvard’s ED Magazine a leading Harvard researcher states, “[O]ur evidence indicates that effective school practices are more common in K-8 schools than in middle schools and that the transition to middle school itself is detrimental for students and should be eliminated wherever possible.”

A second researcher (focused more on qualitative analysis comparing middle to K-8) states in the same article, that the one consistency she has found among K-8 schools is that “kids tend to say they feel safer, so there is less of a Lord of the Flies environment” at a critical stage when they are “navigating through social currents. For many kids, it’s distracting.”

**Part III: The Need for Remedies and Recommendations for Syracuse**

The combined review of both the district and individual school level data suggests a number of conclusions that are highly relevant to whether remedies are needed and my specific recommendations for next steps. The recent OCR/DOJ guidance is the basis for much of the analysis that follows. Following the guidance, there are three questions about school discipline that Syracuse stakeholders should address:

1. Are there substantial disparities in the disciplinary exclusion of students along the lines of race, EL status, disability status or gender?

2. Are school or district policies or procedures causing these disparities, and if so are they educationally necessary?

---

3. Are there viable, less discriminatory, alternatives?

Based on my review of the data, there is no question that there are substantial disparities. The research on the harm from disciplinary exclusion described at the beginning of this report is well established. Further, Syracuse is among the highest suspending school districts in the nation, and in Syracuse the largest disparities are found in the minor offense categories. These findings alongside evidence of the underutilization of in-school suspensions among the schools with the largest disparities, the large differences in the use of OSS and racial disparities between K-8 and traditional middle schools all indicate that school and district policies likely do contribute to the observed disparities. In addition, Syracuse has already embarked on a path toward changing its policies and practices indicating that there is agreement that its own policies and practices contribute to rates of disciplinary exclusion that are unacceptable. Finally, this analysis, combined with the latest research on reducing racial disparities in discipline suggests several alternatives that would help lower racial disparities in Syracuse. In fact, the model for some less discriminatory alternatives may already be in place in at least two lower-suspending schools.

Although the analysis in this report was not designed to answer legal questions, as a matter of policy, and with the OCR/DOJ guidance about compliance with civil rights law in mind, one could conclude that the evidence is compelling, morally and legally, to move Syracuse City Schools to pursue changes to discipline policies and practices in a manner that will not only reduce the use of out-of-school suspensions but also reduce or eliminate the observed disparities along the lines of race, disability status, gender and EL status. The summary of research findings that follows further supports this conclusion.

**The disparate impact of suspensions:** Three reasons appear to account for the common use of out-of-school suspension or expulsion for non-violent or repeated school code violations:

- to improve the student’s behavior in the future by getting the parents’ attention and active involvement;
- to deter other students from misbehaving; and
- to ensure that the school environment is conducive to teaching and learning.

These justifications, which are not mutually exclusive, all merit close examination. The third listed reason is the most common and this report has addressed it with both a review of the research and with some specific data showing that the lower-suspending schools in Syracuse, (even after adjusting for differences in student poverty) are also the highest performing. However, sentiments in favor of disciplinary exclusion run high in Syracuse. In fact the presentation of these arguments and data has been met with resistance and has even been cited by some teachers as a reason that the school climate in Syracuse feels chaotic and unsafe.

It is worth noting that in my discussions with Superintendent Contreras, she has consistently acknowledged that the high frequency of suspensions, and extraordinary disparities along the lines of race and disability jeopardizes the
provision of equal educational opportunity. The superintendent and senior level administrators have consistently expressed concern that current suspension practices are hurting students. It is disconcerting that as the superintendent has taken steps to change practices that are harmful and likely unlawful, the issue has become politicized such that some have called for her removal as a result of her efforts to change disciplinary policy and practice in the district as justification, as reflected in comments to Syracuse.com articles and as posted on the blogspot, Take Back Our Schools. To the extent that current policies and practices may have contributed to violations of state law, and federal civil rights protections, meeting the rights of school children in Syracuse will entail changing current policies and practices and implementing with integrity those that are aligned with the best research available on what works.

The following excerpt from a recent news article suggests that many may resist making changes:

“Three Syracuse teachers and their union president stood before the school board tonight and told its members that student behavior has come to the point where it is difficult to maintain order, let alone teach effectively.

....Syracuse Teachers Association President Kevin Ahern thanked the teachers for coming forward. He said that despite the fact that Superintendent Sharon Contreras has taken "a variety of proactive steps" to attack the problems, he still gets "too many reports of students receiving few consequences for their behavior."

Ahern said many things were responsible for the increasing behavior problems. Those include the loss of nearly 1,000 positions in the district over the past few years due to budget cuts, including 40 percent of teaching assistants; the elimination of police officers in the middle schools; a reluctance to discipline students given a study that found the district’s suspension rates are unusually high and racially disproportionate; and an ongoing state attorney general’s investigation of the district.

On behalf of the STA, Ahern called on district administrators, the school board, elected officials, community leaders and parents to come together with teachers "to ensure our schools are safe."

Often opponents of change do not consider the range of responses available, and some only consider punitive and harsh responses adequate. The need for consequences and interventions could be answered with a wide set of supportive approaches and responses that effectively improve behavior yet do not rely on frequent out-of-school suspension. Teachers and leaders who have not received (or resist) training in other forms of classroom and behavioral management may have no tools besides suspensions. Comments posted on-line to the article quoted above were overwhelmingly supportive of
the district taking a more punitive approach, and many suggested the schools should only have to teach the well behaved.25

To the extent possible, those disagreeing with the change in direction of school discipline policy and practice should look to the recently issued by the non-partisan Council of State Governments’ Consensus Report, Keeping Students in School and out of the Juvenile Justice System, released on June 3. This report reflects consensus among educators, law enforcement officials, juvenile justice leaders, behavioral health specialists, advocates, policymakers, youth, and families, to keep students engaged in school and out of the juvenile justice system. The Consensus report provides policy and practice recommendations that are field-driven and consensus-based around how to improve conditions for learning for all students, provide targeted interventions for students with behavioral health needs, design effective school-police partnerships, and divert students away from courts.

Given that some in the school community continue to express a strong reluctance to veer from the status quo, despite the evidence in this report which was presented in September, I also introduce the following anecdotal example to bolster the research findings that overwhelmingly establish that districts can reduce their reliance on disciplinary exclusion while simultaneously improving the school climate in terms of both safety and learning opportunities.

Evidence does suggest the viability of alternatives to frequent disciplinary exclusion. In Baltimore public schools, for example, recent reforms that began in 2005 illustrate one such alternative policy. According to The New York Times: Since he [the superintendent, Dr. Andres Alonso] was hired, the dropout rate has fallen by half, more students are graduating and for the first time in many years, the system has gained students instead of losing them. …Next he took on the culture of the schools, which relied heavily on suspensions for discipline, a practice Dr. Alonso strongly opposed. “Kids come as is,” he likes to say, “and it’s our job to engage them.” Now school administrators have to get his deputy’s signature for any suspension longer than five days. This year, suspensions fell below 10,000, far fewer than the 26,000 the system gave out in 2004. Instead, schools handled discipline problems more through mediation, counseling and parent-teacher conferences, and offered incentives like sports and clubs. Mental health professionals were placed in every school with middle grades. “There was a lot of punishment energy focused on the kids,” said Michael Sarbanes, executive director of community engagement. “We were trying to overcome a perception that had built up over years that we don’t want you.”26 According to the Baltimore Sun, the reductions in Baltimore City mirror statewide efforts, including regulations that would eliminate many minor offenses as grounds for suspension.3

---

Considering the accomplishments in Baltimore, and given that the Syracuse City School District’s Superintendent Sharon L. Contreras has publicly expressed a clear and unwavering commitment similar to that of Baltimore’s Superintendent Alonzo, there is reason to believe that with public support, internal commitment, and adequate resources, Syracuse could make substantial progress toward improving the conditions of learning and safety while reducing its reliance on disciplinary exclusion.

It is worth noting that according to recently released data, the combined unduplicated suspension rate in Baltimore City Schools, K-12, was below 8% for Blacks in 2012-13. The research-based response to the other most common reasons for relying on frequent suspensions is summarized as follows:

**Exclusion to Get Parental Attention**

Ideally, heightened parental awareness would foster a more effective partnership with educators and a collaborative effort to teach appropriate behavior. The expectation is that more parental involvement will reduce disruptive behavior and in turn improve the learning environment. The reality, however, may be far from this ideal. To the extent that a child’s persistent misbehavior is a reflection of serious problems or weaknesses attributable to family or home, there is little reason to believe that removing a child from school to spend more time in such a dysfunctional setting will improve behavior.

Moreover, even for the most effective parents, a child’s suspension can have harmful ramifications for the entire family, such as lost work and income or even employment, particularly for poor or single parents. For some parents, the only alternative may be to leave a child unsupervised. Consider the following research-based policy statement on out-of-school suspension and expulsion, issued by the Academy of American Pediatrics’ Committee on School Health:

> Children who are suspended are often from a population that is the least likely to have supervision at home. According to the 2000 US census, children growing up in homes near or below the poverty level are more likely to be expelled. Children with single parents are between 2 and 4 times as likely to be suspended or expelled from school as are children with both parents at home, even when controlling for other social and demographic factors.

> [C]hildren most likely to be suspended or expelled are those most in need of adult supervision and professional help. In one study, 15% of children who have never been abused but had witnessed domestic violence were suspended or expelled.

---

4 The data needed to perform this calculation is available from the Maryland State Department of Education and available on line: http://www.marylandpublicschools.org/MSDE/divisions/planningresultstest/2012+-+2013+Student+Publications.htm
violence were suspended from school in the previous year. This was attributed to heightened aggression and delinquency from living in a violent home environment. For students with major home-life stresses, academic suspension in turn provides yet another life stress that, when compounded with what is already occurring in their lives, may predispose them to even higher risks of behavioral problems.  

Further, and as noted earlier, the exclusion of these students presents immediate risks to their success and well-being. In the words of the Academy: Without the services of trained professionals (such as pediatricians, mental health professionals, and school counselors) and without a parent at home during the day, students with out-of-school suspensions and expulsions are far more likely to commit crimes. A Centers for Diseases Control and Prevention study found that when youth are not in school, they are more likely to become involved in a physical fight and to carry a weapon.... The lack of professional assistance at the time of exclusion from school, a time when a student most needs it, increases the risk of permanent school drop-out.  

Thus, there seems little reason to accept the claim that school exclusion will secure productive parental support for the children most likely to be excluded from schools.  

**Exclusion as Deterrence**  

If frequent use of suspensions deters future misbehavior, we would expect to see a positive cycle, with each new suspension improving the school environment. Yet, according to the American Psychological Association, which reviewed the research literature available on this topic, there is no evidence that zero-tolerance disciplinary policies and their application to mundane and non-violent misbehavior improve school safety or student behavior. The research on the efficacy of suspension can be summarized as follows:  

Longitudinal studies have shown that students suspended in sixth grade are more likely to receive office referrals or suspensions by eighth grade, prompting some researchers to conclude that suspension may act more as a reinforcer than a punisher for inappropriate behavior (Tobin, Sugai, & Colvin, 1996). Other research raises doubts as to whether harsh school discipline has a deterrent value (Raffaele Mendez 2003).  

Raffaele Mendez, who studied longitudinal data on students from 150 schools in Florida’s Pinellas County, found a strong relationship (after controlling for other at-risk factors) between the number of sixth-grade suspensions and the number of seventh- and eighth-grade suspensions. She pointed out that the county provided no real assistance to students to help them correct their behavioral problems. She also explained that frequent use of suspension alone has no measurable positive
deterrent or academic benefit to either the students who are suspended or to non-suspended (observer) students.

In sum, research review summarized above offers no support for the theory that suspensions deter future misbehavior.

**Summary of the need for change in Syracuse:** The research evidence is overwhelming that reliance on frequent out-of-school suspensions is harmful. The largest racial and disability disparities in Syracuse are for minor non-violent offenses where safety is not at issue. Based on the alternatives ratio developed for this report, Syracuse schools in which alternatives (such as in-school suspensions) was likely used least often, the racial disparities tended to be the largest. The data from individual Syracuse schools further demonstrated that schools with less frequent suspensions were among the most productive learning environments. These reasons should be sufficient on their own to drive concerted changes to school discipline policies and practice in Syracuse. However, they also support an argument that the status quo in Syracuse, as experienced by students of color, students with disabilities, and possibly English learners, may violate the disparate impact standards established by federal anti-discrimination law and outlined by the recent guidance issued by the federal government. Simply put, ignoring the research and sticking with the status quo may violate the civil rights of many subgroups of students enrolled in the Syracuse City schools.

**Recommendations:**

In September, several recommendations were touched upon in the course of the data review. They include the following:

1. Actively review annual, as well as quarterly, data reports on school suspension including a focus on the disparities and days of lost instruction.
2. Revise the code of conduct including the elimination of the use of out-of-school suspension as a response to minor violations of the school code. Eliminate out-of-school suspensions for most elementary school-aged students. Ensure that the use of both in- and out-of-school suspension in response to a certain offense has a clear research-based justification. For example, there is no support to use in-school suspension for truant or tardy students.
3. Consider reconfiguring high-suspending middle schools as K-8 schools.
4. Invest in alternatives as part of a package of policy and corresponding training changes to encourage the more frequent use of alternatives to out-of-school suspension to ensure that OSS are restricted to measures of last resort. This would entail further exploration of the policies and practices at the two lower-suspending and relatively high performing schools in Syracuse toward discovering and replicating more effective approaches that appear to be in place.
5. Address the possible contribution of implicit bias.

This report builds on these recommendations with the following specific suggestions:

1. Actively review annual, as well as quarterly, data reports on school suspension.
The school district should issue an annual report card containing school and district level information on school discipline that covers much of the same information provided in this report. Much of the data provided in this report was developed with the assistance of the Syracuse City Schools. The district has been very efficient and has proven to be very skillful in accessing and analyzing data. Therefore, replicating the analysis in this report annually should not be too difficult. The reports should include breakdowns by race, disability, gender and English Language Learner status. While always abiding by standards to prevent disclosure of personally identifiable information, additional breakdowns should be provided by race with disability status and race with gender.

**Annual discipline reports:** The following areas should be part of each annual report and reported publicly at the school and district level:

1. Unduplicated counts of students who were suspended out of school at least once, and separately the same for those suspended in-school at least once. Each should be expressed as percentage of enrolled subgroup.
2. Alternatives ratio at the school level.
3. Suspensions per 100 enrolled. These data should be further grouped by offense category and reported at the school and district level.
4. Days of lost instruction from suspension.

In addition, individual schools engaged in PBIS and/or restorative practices should track discipline referrals by referring teacher for internal evaluation, training and support purposes.

**Recommended quarterly data analysis:** Although the central office reports reviewing discipline data regularly, suspension rates are often only collected and reported at the end of the school year for principals to review. In the past this meant that reports on issues such as suspension for the prior year were often not readily available for review or analysis until well into the next academic year. However, more and more, schools and districts are able to keep on-going cumulative records on certain education outcomes which allow educators to reflect on the data and intervene as needed in a much more timely manner.

**Overarching concept:** Quarterly tracking should focus on data collection and analysis of elements that will be most useful in real time for finding examples of success in progress while also flagging potential problems with individual schools as well as district-wide concerns. These data points should also be used for evaluating the efficacy of new and ongoing interventions. At quarterly meetings the best measures are simple and consistent measures that are easy to calculate and understand, and can help highlight particularly successful programs or interventions and also flag issues at the school and district levels as they may arise for certain subgroups and/or at certain schools.

Further, the quarterly analysis should allow for meaningful comparisons to prior years at similar points in the school calendar. A simple calculation like the “risk” for suspension, based on the unduplicated number of students given out-of-school suspensions can be coupled with other clear benchmarks, such as cumulative days of lost instruction or the “alternatives ratio” described in this report. Together, these three measures can flag
emerging concerns in the course of the school year and help the district prioritize or reprioritize available resources and interventions as needed.

**Methods for quarterly analysis:** One simple method would be to calculate the “risk” for suspension on a quarterly basis, but using a cumulative rate, one that counts each student only once; regardless of how many times the student was suspended. Here is an example of how Syracuse can calculate this “risk” on a cumulative quarterly basis. If 5% of the students enrolled were suspended in the first quarter, and in the second quarter three out of five of the students making up that first 5% got suspended a second time in the second quarter, along with an additional 7% of the enrollment (all initial offenders) for a total of 10% of the enrolled students getting suspended in the second quarter, the **cumulative unduplicated** suspension rate (risk) for the second quarter would be 12% (not 10% and not 15%). The cumulative unduplicated rate would grow in each subsequent quarter only to the extent to which there were new initial offenders suspended. Reporting the cumulative unduplicated student suspension rate would help district educators determine whether large numbers of certain subgroups were being suspended, or whether it was the same students who were the source of most of the trouble. Often educators assume the latter is the case, and that strict enforcement of rules early serves as a strong deterrent to all students. If that were the case, the unduplicated cumulative rate would not grow very much after the first quarter. This common “few bad apples” theory or the concept that “sending a strong message” will deter future misbehavior was not supported by the analysis of the data in Syracuse for any subgroup. However, reviewing the data quarterly in this manner will raise awareness of the deterrent impact, or lack thereof.

Given concerns brought to my attention about inadequate provisions of required due process, more frequent review of racially disaggregated data should also include students who are sent to a superintendent’s hearing, and students with disabilities who are suspended subsequent to a manifestation determination.

**Grade and school level breakdowns:** Another core recommendation for data use is that the review of “risk” be conducted each quarter, and annually by grade level but also for each school in Syracuse. The school type analysis can help district administrators quickly see if progress in reducing suspensions is being made and to evaluate systemic interventions that may be specific to school type. Often interventions are specifically designed for, or have been modified for, certain grade spans, so they should be evaluated based on the relevant grade-span data. The building level quarterly analysis will also help building and district wide administrators evaluate their efforts to use alternatives to out-of-school suspension as implemented in each school. Having both individual and district-wide analysis available will allow for meaningful comparisons to the most relevant district averages as well as between individual schools. Further, the analysis will provide a strong sense of the variance by school of the risk for suspension. Comparisons to district wide numbers will also be useful over the course of one year to determine within the district whether some schools are consistently producing significantly greater racial or disability disparities than other schools and may be responsible for driving up the district’s numbers.
Quarterly reports can have important predictive value:

Some common questions a quarterly review would help answer are whether schools suspending students at much higher rates in certain quarters? Did the frequent use of suspension in the first quarter or first half of the year work to deter misbehavior in the latter quarters (in which case high suspension rates early on would not reliably predict high rates for the year)? In the appendix to this report please find “Table 1.” which represents one way the district might track discipline as part of a quarterly review.

One would not expect that students who stayed out of serious trouble the first half of the year would wind up out of school in the latter quarters. However, one reason the number of first time suspended students might not diminish more dramatically may be that cumulative minor misbehaviors don’t accrue until the latter half of the academic year when their repetition, rather than seriousness, causes students to receive out-of-school suspensions. If this logical inference is true, and if it is one reason the district has such high numbers suspended for minor offenses, then Syracuse could dramatically reduce its suspensions if it replaced the use of OSS for certain minor offenses categories (regardless of repetition) with alternative disciplinary measures that might escalate in intensity but never result in an out-of-school suspension.

**Days of Lost Instruction:** Ideally, at the district level, the table above would be completed for each major racial/ethnic group that has at least 100 students enrolled. School level data for students with disabilities by race should be reviewed at the school level as well, but the small enrollment numbers may limit the value of this analysis to larger schools.

Further, once completed for each racial group, a quarterly report can also be useful in reminding educators that one essential goal behind reducing suspensions is to boost instructional time. One way to keep reinforcing the connection is to analyze days of lost instruction due to OSS on a quarterly and cumulative basis. Those who think of OSS as “cost-free” disciplinary action will be regularly reminded of the cost in lost instructional time. The impact of lost instruction will become more and more evident with each quarterly review. Looking at days of lost instruction per suspended student would likely be more useful than the number of suspensions per 100 enrolled or per suspended students.

Further, tracking these racial data by “lost days” will help ensure that more frequent suspensions are not simply replaced by fewer but longer suspensions. This monitoring will be especially useful as a real-time indicator for evaluating the efficacy of interventions intended to reduce the frequent use of suspensions, the racial disparities, and the impact in terms of lost instruction.

**Track Disciplinary Referrals:** The PBIS system is in place in several schools in Syracuse and includes a method for tracking disciplinary referrals to the office, called ODRs. These should be collected and tracked by race and disability down to the classroom/teacher level for internal purposes. The ODR data should be used by principals
and support staff to identify teachers that need support or training as well as teachers who are particularly successful academically yet rarely seeks disciplinary removal of students. The use of teacher-level data must be focused on supporting teachers and enhancing internal training opportunities. On the other hand, having strong classroom management skills is an essential component for effective teachers. Therefore, if several years of data suggest that certain teachers have not improved with their classroom management despite added supports and training, these facts should factor into teacher evaluations. To the extent that high numbers of ODRs are generated by staff in charge of supervision in the hallways, school grounds, cafeteria, bus area or playground the data should be reviewed for similar indicators of management problems particular to a staff member or physical location.

**Community School Climate Survey:** The Syracuse central office should seek additional data on school discipline and school climate directly from teachers, parents and students. Survey methods and administration should be carefully constructed and implemented to ensure that the voices of all stakeholders are represented, including that substantial information is received from students who have been excluded on disciplinary grounds. Further, given the evidence of rising tension in Syracuse around changes to discipline policy, surveys designs and use of results may serve several purposes including to help improve relationships and resolve differences in the community. Survey results should be one of several sources of information used to evaluate the protection of civil rights, and the integrity of implementation of reform efforts. Further, anecdotal evidence from other districts pursuing changes to discipline policy and practice suggests that when attention is focused on reducing suspensions, data reporting requirements are not always adhered to and can result in students being removed on disciplinary grounds without documentation. Without safeguards to ensure accurate reporting reductions on paper might not reflect actual changes. To ensure that efforts to evaluate interventions are based on accurate data, Syracuse should consider employing means to assess the frequency of exclusionary discipline that can be compared with self-report data. Furthermore, the aforementioned Consensus Report, provides several examples and recommendations for school climate surveys worthy of consideration.

Communication Strategy: The district should work with the media outlets that report on the Syracuse City School District to ensure comprehensive reporting. The media can be of great assistance as the district works to inform the community of restorative justice practices.

**Increasing capacity for data quality, monitoring and reporting:** The District must improve its data quality, and monitoring and reporting processes. Therefore, it must allocate adequate resources to improve data quality, establish procedures for data validation and correction, and have the capacity for data monitoring and reporting. An analysis should be done to determine what additional staffing is needed, as well as the procurement of any software. Lastly, the District should continue to to work with an outside consultant to assist with the analysis, alignment of processes and data interpretation.
2. **Revise the code of conduct:** In general, the code should be aligned with the non-punitive principals of PBIS, or restorative practice or any other systemic program of support and intervention Syracuse uses to address behaviors. The new code of conduct should combine evidence-based practices with community input. Syracuse has already begun this important work. One recommendation is that certain minor offenses be eliminated as grounds for out-of-school suspensions. Along these same lines, repeated violations of minor infractions can have escalating consequences, yet still stop short of an out-of-school suspension. If Syracuse adopts a code with escalating consequences, the most severe consequences should still be reserved for only the most serious misbehavior. Except where a student poses an immediate danger to self or others, for offenses that can result in an out-of-school suspension, the schedule of consequences should require that certain alternatives are pursued, and due process provided, before an out-of-school suspension or expulsion is meted out. School administrators should be required to track and produce a record of the alternatives provided prior to the use of an out-of-school suspension. Similarly, in most cases, out-of-school suspensions should be limited to one to five days. Longer-term suspensions should only be permitted if reviewed and approved by the superintendent, consistent with NY state law.

As referenced earlier, the idea of limiting the use of suspensions for only the most serious offenses is endorsed by leading experts in child development, such as the Academy of America Pediatrics. Further, in my September presentation to the school community, I referenced the principal from San Jose high school and included a link to a news story about a high school that did eliminate suspensions as a response to most offenses with great success. Examples of schools and districts like this are increasing. One recommendation would be to bring in as a consultant a successful practitioner from a school similar to those in Syracuse, someone who has shepherded through a major turnaround, to assist the district with the implementation of discipline reform efforts.

While this report recommends a swift and dramatic change to the code of conduct, if the Syracuse community is not comfortable with a sudden change the district should consider phasing in school code revisions. One place to start could be with use of suspensions in the early grades. By eliminating suspensions for elementary school aged children, perhaps starting with grades K-3, except where future safety was at risk, doing so might help reduce the elementary rates considerably and pave the way for further limits if the policy change gained acceptance over time.

Revising a code of conduct is a difficult task especially if multiple stakeholders are to be involved in the decisions in a meaningful way. The process need not be rushed and can be spread out over more than one year. Each year a community committee appointed by the superintendent of schools should review the data and the code of conduct and be encouraged to suggest additional revisions toward the goal of eliminating all unnecessary suspensions.

The school code should comport with the best available research. During the final stages of this report writing the district was completing it’s suggest revised code of conduct for
submission to the Board. One draft reviewed in the preparation of this report included in-school suspensions for truancy and tardiness, and had no variability in responses aligned with age or grade level. Moreover, even very minor offenses could ultimately result in an out-of-school suspension if they were repeated, violating the principle that suspensions should be reserved as a measure of last resort for the most serious offenses.

A more comprehensive review of the draft revisions to the code will be issued separately.

3. Reconfiguration: The third recommendation for school reconfiguration is concrete and may help, but is offered with caveats. This is simply a response to observed differences in Syracuse schools and not grounded in research on the impact of K-8 configuration on school discipline. Although the research on K-8 versus middle schools does suggest greater academic benefits from the former, and although anecdotal evidence suggesting that K-8 schools might also encourage better behavior, the findings are not definitive.

Increasing capacity for the implementation of the code of conduct to support school staff, including the daily monitoring for compliance with all federal and state laws governing discipline practices: The District currently does not have the district capacity to fully support school based staff in the implementation of the code of conduct, as well as to ensure compliance with all federal and state laws, namely NY state law 3012(c). An analysis of the Pupil Support Services department should be done to determine what additional staffing is needed.

4. Invest in Alternatives: The fourth recommendation, although based partly on the review of the relative use of in- and out-of-school suspensions, should not be considered an endorsement of increasing in-school suspensions, or of removal to an alternative school, both of which involve removal from the regular classroom. The core recommendation is to review practices and the use of all alternatives by teachers and principals at the school level including parent conferences, behavioral interventions and less punitive approaches to ensuring safe and productive learning environments. In the short-term replacing out-of-school suspensions with in-school suspensions might be a first step. However, more systemic and programmatic alternatives are advised. The research-based alternatives summarized below are far more comprehensive. Replacing the status quo with more effective alternatives will most likely require a serious investment in alternative approaches and a corresponding training program for school leaders and teachers.

Summary of alternatives: The following summary of alternatives is excerpted from the recent policy brief published by the Disparities in Discipline Research Collaborative. It is not exhaustive and the selection, development and implementation will require serious review followed by a commitment of resources and monitoring in the years ahead. While systemic district wide adoption of a substantial new initiative is recommended, many districts have found that starting such changes with pilots, or beginning with the elementary school is more manageable. Given that Syracuse was among the highest suspending at the elementary school level, this report recommends consideration of a
phased in approach starting with elementary schools, so long as the intent is to build up to comprehensive systemic change.

**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. 86

**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. 87

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. (Losen 2011). 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 (Osher, 2014).

(a) 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 (Gonzalez, 2014).

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. (Schiff, 2013). 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, cut its suspension rate in half after implementing restorative practices.

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.” (Gonzalez, 2014). 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. While the racial disparities remain substantial, these findings demonstrate that efforts to reduce suspension rates are consistent efforts to improve achievement. (Gregory, 2013).

(b) 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. Improving teacher efficacy and teacher-student dialogue and aligning their mutual understanding of school rules have also demonstrated to be effective. (Gregory, 2013).

(c) 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.” (Losen, 2011)(Osher, 2013). 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.

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 (Osher, 2011).

(d) 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. (Cornell, 2013). 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 (Losen, 2014).

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 (Losen, 2014). 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 and adapt the PBIS framework to pay specific attention to the data on race and ethnicity (Losen, 2014).

(e) Support and training for teachers and leaders in Syracuse:

During my last visit to Syracuse I had the impression that where PBIS and other efforts were underway to address school climate, the training and commitment to these programs may be inconsistent. Whatever systemic approach or combination of approaches the district pursues, training of teachers and leaders will likely be a core component. Success is unlikely if leaders and teachers do not “buy in” to the approach selected. Therefore, whatever obstacles may exist that may undermine the integrity of implementation should be identified and addressed squarely.

Large racial differences in suspension rates also raise questions about whether training to bolster classroom management skills might be even more useful if it included components of multicultural sensitivity to make teachers aware that implicit bias may affect how they discipline their students. Likewise, the data suggest that teachers might
benefit from increased support and training in working with students with disabilities, who are increasingly mainstreamed in general education classrooms.

Leadership Training: Leadership training would also likely generate improvements. Given that a recent study found that the attitudes of principals was among the strongest predictors of both suspensions and racial disparities in discipline. (Skiba 2014). And variations in a leader’s approach to school discipline can make a profound difference in attendance and educational outcomes. Leadership training was identified as critically important to the successful efforts in Baltimore. Therefore, leadership training attached to one of the above programs is highly recommended.

5. Address the possible contributions of bias: The law requires that intentional bias and discrimination must be eradicated. More difficult to address is the well-established problem of unconscious bias and stereotypes that inform our perceptions of behavior and shape our responses to them. In my September presentation I introduced this concept by describing a beer tasting experiment by behavioral economist Daniel Ariely. The experiment demonstrated how mentioning the addition of a drop of vinegar only negatively affected the perception of taste when taste testers were told of the additive before tasting, not after. Simply put, expectations altered perceptions. Similarly, if we accept that negative unconscious racial attitudes exist, then knowing a child’s race/ethnicity can influence how we perceive a child’s behavior.

Too often discussions of unconscious bias are confused with accusations of intentional racism. The research on unconscious bias against Blacks is well established by Tony Greenwald, Mahzarin Banaji and Brian Nosek. Although unconscious bias is likely a bi-product of societal racism, it can only be detected with carefully designed neurological tests. Although difficult to measure, any individual can take an implicit bias test on line thanks to the project implicit website. The hard-to-measure nature of implicit or unconscious race, disability or gender 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 contributing to disparities in discipline. 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.

It is worth noting that research on student behavior, race, and discipline has found no evidence that African American over-representation in school suspension is due to higher rates of misbehavior. A 2010 study by Johns Hopkins researcher Dr. Katherine Bradshaw, based on 21 schools, found that even when controlling for teacher ratings of

5 https://implicit.harvard.edu/implicit/
student misbehavior, Black students were more likely to be sent to the office for disciplinary reasons. Other studies suggest that racial disparities in discipline are larger in the offense categories that are subjective or vague, and vice versa. Specifically, Dr. Russ Skiba and his colleagues reviewed racial and gender disparities in school punishments in an urban setting and found that White students were referred to the office significantly more frequently for offenses that are relatively easy to document objectively (e.g., smoking, vandalism, leaving without permission, and using obscene language). African American students, however, were referred more often for behaviors that seem to require more subjective judgment on the part of the person making the referral (e.g., disrespect, excessive noise, threatening behavior, and loitering). In short, the researchers concluded that there is no evidence that racial disparities in school discipline can be explained by more serious patterns of rule breaking among African American students. It appears that White students are engaging more often in those behavioral transgressions that can be documented and counted without much subjectivity or discretion coming into play. However, for those offenses that require a judgment call by teachers, administrators and others, Black students are disproportionately called out.

In Syracuse, my comparison of disparities in the suspensions per 100 by offense type yielded results that are consistent with the research literature. Conscious and unconscious bias may both contribute to these observed patterns. However, to prove that similarly situated students were intentionally punished more harshly because of race or gender or disability would require a much deeper investigation. Although I would encourage the Syracuse City schools to vigorously investigate any and all instances of intentional discrimination, barring any additional evidence of intentional different treatment, I believe that unconscious bias is far more likely a major contributing factor to the observed trends and disparities.

Further, the race/gender analysis presented in Part II, raised concerns about unconscious discrimination that may include bias by race, gender or disability status, or language minority status, and that these biases, if they do contribute, do not operate in separate silos. For example, if we assume that there is an unconscious tendency to perceive males as more disruptive or threatening, and Blacks as more disrespectful or defiant, these biases may feed each other and increase the likelihood that the confluence of race and gender bias may heighten the perceived need for disciplinary exclusion as a response to behavior by Black males. To the extent the district decides to address the possibility of bias as a contributing factor, remedies should not focus on race to the exclusion of gender or vice versa.

Although researchers can demonstrate the need to reflect on bias and for training in multi-cultural sensitivity, there are no research-based programs that meet research standards for “proven-effective.” On the other hand, there are highly recommended consultants and programs that may be effective and research does suggest they would be worth employing alongside efforts to implement PBIS, for example (Vincent, 2014). In this area I recommend that the district continue to work with community members and
consultants and develop a program of its own. This issue warrants a separate memo and there are several possibilities that I will present in a subsequent memo for consideration if requested.

In addition to these five recommendations that were mentioned in the September presentation, one additional important change is recommended based on my review of the data on school based arrests and referrals to law enforcement.

6. Develop stronger protocols for school policing to improve safety and reduce arrests and referrals: Judge Steven Teske of Montgomery County, Georgia made great strides in reducing violence in schools and school based arrests by working closely with district and police officials to develop an approach to school policing that best served the educational needs and interests of the students and kept all members of the school community safe. The recent rise in school based arrests in Syracuse and large disparities by race and disability status among those students affected is a very serious matter and should prompt a new memorandum of understanding similar to the successful model developed in Clayton County. This issue also deserves a more detailed review of the data and a thorough set of recommendations. Because of the serious safety issues involved, I recommend that Syracuse bring in Judge Teske, or a similar expert, to work with the stakeholders involved.

Next Steps and Conclusion:

Besides revising the code of conduct, training teachers and leaders, tracking discipline data on a quarterly basis, and exploring ways in which the district might address the impact of unconscious bias, the next steps for Syracuse call for strong and purposeful action in several areas:

- Investment in systemic interventions such as fully implementing PBIS and restorative practices;
- Community involvement to annually revise the code of conduct, discipline policies and practices, review of discipline disparities district-wide, and issues of school policing;
- Data connections through annual reporting to the public using straightforward descriptive statistics of academic growth alongside discipline data with both disaggregated by race and disability status;
- Review of school policing practices toward a memorandum of understanding designed to reduce school-based arrests while improving trust and safety;
- Consider school reconfiguration and benefits of K-8 model when introducing new schools;
- State AG settlement agreement with short and long-term goals and independent monitoring.

The degree of disparities by race and disability status combined with a lack of clear justification, especially with regard to the high number of suspensions for minor infractions at all levels (including suspension for tardiness and truancy) as well as the unusually high number of elementary school aged students excluded, suggest a comprehensive change in approach to school discipline is needed. This should start, but not end with, the latest proposed revisions to the school code to ensure it is aligned with a constructive educational mission including positive behavioral interventions and supports.
as well as restorative approaches to discipline. The changes made in the Interim Code of Conduct adopted this year may not be fully aligned with the research or more constructive frameworks. For example, if the school code responded to violations like truancy and tardiness with suspension in or out of school, the code would contradict research suggesting that disciplinary exclusion from the classroom (in our out-of-school suspensions) reward the behavior they intend to deter. Students who are skipping school or coming late need not only more time in the classroom, but a better understanding as to why the attendance issues are re-occurring so that the pattern can be interrupted. Responding to such issues by denying student’s access to school or the classroom only reinforces the behavior educators seek to prevent.

Summer training programs and professional development provided during the school year should ensure that teachers and leaders have the skills and the support they need for more effective and less punitive environments. Such training need not be focused on the changes to the code of conduct per se, but on the deeper overarching changes to the approach to school discipline. Throughout these trainings and as a matter of routine district and building level review, the issue of discipline disparities along the lines of race, disability status, English learner status and gender must remain in the forefront of the discussion.

**Research and monitoring relationship with the Center for Civil Rights Remedies:**
Given the depth and breadth of recommended changes there are potential benefits from entering into a contractual relationship with the Center for Civil Rights Remedies at UCLA to monitor/evaluate progress.

**a. Evaluation Role:** This would entail contracting with CCRR to create an evaluation baseline and then conduct a rigorous evaluation of specific efforts. The degree of involvement would depend in part on what new programs and interventions were to be evaluated.

In addition to or instead of performing a program or intervention evaluation role, CCRR could provide ongoing assistance to the district with both the quarterly data analysis and its use, and could take on the role of creating the quarterly reports the district uses for internal evaluations.

**b. Independent Guidance Role:** CCRR could help create an independent rubric for evaluating the district’s progress and work with the district as a technical assistance provider. In this technical assistance role CCRR could provide ongoing advice related to securing federal grants for discipline reform efforts, improving the use of data among district staff, and addressing all related issues on an ad hoc basis. As a consultant I have already brought several potential funding sources to the attention of the district and through CCRR, could further provide assistance with putting together and submitting grant proposals for the district to build on the strong work it has begun. Where appropriate, CCRR can serve as an academic research and evaluation partner where grant proposals support such relationships. As a T.A. provider, CCRR can also help the district identify and other experts to provide trainings and facilitate the implementation of discipline reform efforts of the district’s choosing.
c. Help to ensure legal compliance: CCRR’s expert understanding of civil rights law would also help ensure the district pursues a plan that is fully complying with both the letter and spirit of agreements entered into with the State Attorney General’s Office of New York with regard to Title VI and Section 504 of the Rehabilitation Action of 1973.

Conclusion: These recommendations are not exhaustive, but first steps based on a combination of close data analysis down to the school level with consideration of the latest research and legal requirements. They also reflect discussions with Syracuse school district personnel and community members. Altogether they stay true to the jointly released U.S. Department of Education and Department of Justice’s principles regarding school discipline described at the outset, which are worth repeating here:

(1) **Create positive climates and focus on prevention:** The protocols for school policing along with the several different interventions outlined above, including restorative practices, PBIS and social and emotional learning are aligned with this principle.

(2) **Develop clear, appropriate and consistent expectations and consequences to address disruptive student behaviors:** The revision of the school code and bringing in an independent monitor to establish a baseline and evaluate progress down to the school will help insure that this principle is adhered to as the district moves forward. Further, reviewing discipline data internally, down to the level of the classroom will help ensure this principle is adopted and adhered to by the district. Pursuing the goals of the new approaches will need to be joined with investments in teacher and leader training to ensure that these approaches are implemented with consistency and integrity. Similarly, the district should plan to expand pilot programs that are successful.

(3) **Ensure fairness, equity and continuous improvement:** The recommended quarterly data review, with disaggregation by race, disability status and gender, aligns squarely with this recommendation. The commitment to review and revise the school district’s code of conduct, annually, with input from community members most affected by the disparities, will also help ensure continuous improvement toward an equitable set of policies and practices.

With these principles in mind, I believe the detailed recommendations provided could help the Syracuse City School District make significant improvements in school climate and academic outcomes while reducing or eliminating the large disparities along the lines of race, disability status and gender.
APPENDIX:

Table 1 represents one way the district might construct a table for such a quarterly review. Additional tables should be constructed for each racial group so that both race and disability disparities can be tracked.

**Table 1. Unduplicated Students Suspended By Disability Status**

<table>
<thead>
<tr>
<th>Description</th>
<th>First Q</th>
<th>Second Q</th>
<th>Third Q</th>
<th>Fourth Q</th>
<th>Avg. Per Quarter</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unduplicated count of students Suspended Out-of-school</td>
<td>A</td>
<td>A+B</td>
<td>A+B+C</td>
<td>A+B+C+D</td>
<td>A+B+C+D/4</td>
</tr>
<tr>
<td>Cumulative OSS as Percentage of Total Enrollment (Risk)</td>
<td>A/cum</td>
<td>A+B/cum</td>
<td>A+B+C/cum</td>
<td>A+B+C+D/cum</td>
<td></td>
</tr>
<tr>
<td>Unduplicated count of students Suspended for the first time</td>
<td>A</td>
<td>B</td>
<td>C</td>
<td>D</td>
<td></td>
</tr>
<tr>
<td>Cumulative Unduplicated Count of Students WITH Disabilities (SWD)</td>
<td>A/cum</td>
<td>A+B/cum</td>
<td>A+B+C/cum</td>
<td>A+B+C+D/cum</td>
<td></td>
</tr>
<tr>
<td>Suspended Out-of-school</td>
<td>A</td>
<td>B</td>
<td>C</td>
<td>D</td>
<td></td>
</tr>
<tr>
<td>Unduplicated count of students Suspended for the first time</td>
<td>A</td>
<td>B</td>
<td>C</td>
<td>D</td>
<td></td>
</tr>
<tr>
<td>Cumulative OSS as Percentage of Total Enrollment (Risk)</td>
<td>A/cum</td>
<td>A+B/cum</td>
<td>A+B+C/cum</td>
<td>A+B+C+D/cum</td>
<td></td>
</tr>
</tbody>
</table>

...
REFERENCES


**ENDNOTES**

1 Even before the “dear colleague” legal guidance was released, and after my presentation in Syracuse in September, the State Attorney General for New York launched an investigation into the districts’ policies and practices pursuant to both state and federal law, including, but limited to, the civil rights regulations referenced in the new federal guidance. The New York Attorney General’s investigation is now underway. This report is wholly independent from that investigation, but not irrelevant to it.

2 The SSDI reflects a groundswell of interest and activity by states and school districts across the nation to improve school climate and the conditions for learning without relying on frequent exclusion from school to accomplish these goals. An overview of the SSDI can be found here: http://www2.ed.gov/policy/gen/guid/school-discipline/index.html

3 A link to the full set of new documents issued by the Collaborative are available here: www.civilrightsproject.ucla.edu

4 The NY Times summarized performance at each grade level in 2012. These are available online at: http://projects.nytimes.com/new-york-schools-test-scores/counties/onondaga/districts/syracuse-city-school-district

5 I ranked the districts as part of my analysis for this report. One can replicate the finding by going to www.schooldisciplinedata.org and finding the excel spreadsheet by clicking on Elementary, Middle, High School Report: District by Gradespan (CRDC 0910 FINAL). The spreadsheet has filters for each column. Click on the elementary tab and then find the column “Suspension rate among all students.” Using the filter, rank order the districts by descending.
expulsions to evaluate their approach to school discipline and ensure students are not inappropriately placed at risk.”

The organization calls for more data to “…help educational authorities track suspensions and violent crime.”

Nottingham HS

Smith K-8; Roberts; Salem Hyde ES; Seymour ES; Van Duyn ES. 0.75 or less: Clary MS, Corcoran HS; Danforth MS; Expeditionary Learning MS; Lemoyne ES, Fowler HS; Huntington MS; Institute of Technology at Syracuse Central; Nottingham HS

---

6 The guidance and guiding principles and related resource documents can be found here: http://www2.ed.gov/policy/gen/guid/school-discipline/index.html


8 See comments excerpted in endnote 50 that followed an article about efforts to address high rates of suspension in Syracuse.


Further, the consensus among experts on child development and emotional health is that relying on frequent out-of-school suspensions to create a safe environment or to improve education outcomes will undermine these goals.

Research cited by the American Academy of Pediatrics, the American Psychological Association, the National Association of School Psychologists, recent studies by the Council of State Governments Justice Center, and several new studies highlighted in this brief have demonstrated that frequently suspending students out of school is associated with higher levels of grade retention, academic failure, dropping out, and involvement in the juvenile justice system. Even if well-intended, reliance on frequent disciplinary exclusion simply does not create safer or more productive learning environments.


20 For example, in California the organization has been pushing for the elimination of suspensions for offenses such as disruption and willful defiance. See http://www.fightcrime.org/state/california/dropout-prevention

21 Fight Crime: Invest in Kids (2009). Comments Pursuant to Notice of Proposed Information Collection Request. Fight Crime: Invest in Kids is a non-profit organization of 5,000 police chiefs, sheriffs, prosecutors and other law enforcement leaders. It recently stated: “While school safety must be maintained and truly dangerous students removed from the school community as appropriate, suspension and expulsion often provide troubled kids exactly what they do not need: an extended, unsupervised hiatus from school that increases their risk of engaging in substance abuse and violent crime.” The organization calls for more data to “…help educational authorities track suspensions and expulsions to evaluate their approach to school discipline and ensure students are not inappropriately placed at risk.”


23 Ratios were grouped as follows: 2.0 or higher: Bellevue Elementary; Delaware, Dr. Weeks ES, Hughes ES, H.W. Smith K-8; Roberts; Salem Hyde ES; Seymour ES; Van Duyn ES. 0.75 or less: Clary MS, Corcoran HS; Danforth MS; Expeditionary Learning MS; Lemoyne ES, Fowler HS; Huntington MS; Institute of Technology at Syracuse Central; Nottingham HS
My daughter-in-law teaches at Fowler HS and the stories she tells are Stephen King material. These teachers need the support of administration to protect them from the daily abuse they encounter. And until administration faces these challenges head-on and admits there needs to be a better solution, we will continue to raise a new generation of animals and eventually revert back to the cave man.

When these kids are being raised by people who only had them to obtain a free living ...are we really surprised with their behavior?
It would be cheaper if we just paid them NOT to have kids.

Teachers must have teachable pupils and be provided an environment where teaching can be performed. My best guess is that 1/3 to 1/2 of the pupils before our teachers in SCSD aren't capable of being taught the specific material presented. Those pupils must be placed in an environment commensurate with their aptitudes.

This is also happening at the middle school level to the point where even the kids are complaining daily about the lack of consequences. The problem students run the halls, destroy classrooms, teacher belonging, textbooks, they curse and verbally abuse staff, they fight, they kick, they throw things at teachers and that only scratches the surface.

I have been injured twice and the students who injured me were back in class the next day. What message does this send to kids when they see this happen day after day.

Student achievement will not go up until problem students are removed and teachers are allowed to teach in a way that meets student needs. Student achievement will not go up until problem students are removed and teachers are allowed to teach in a way that meets student needs. The district needs to stop creating curriculum that has students reading materials that are 1200 lexile for kids that read at a 500 lexile or stop teaching algebraic equations to kids who can't multiply and divide. I believe that this is also part of why kids act up. We need to make learning accessible to our population and frustrating them to the point that they rebel less.

There are huge fights every day, disrespectful students and students who truly care who are missing out on quality education.

Just think of this in another way, suppose you showed up daily on a job, not only didn't do your job but created an unfriendly environment, disrupted all activities, how long do you think you would be working there? Why are you asking these teachers to teach, discipline and to put up with kids that have behavior problems? This isn't a teaching problem!!!!! It's a behavior problem and I see that is something that is not being dealt with.

25 The following are a series of comments to the report on efforts in Syracuse to reduce suspensions:

27 This is an excerpt of the policy brief, Daniel J. Losen, Discipline Policies, Successful Schools and Racial Justice, Policy Brief, National Education Policy Center (2011).
Adult attitudes also create barriers to improving school climate. Principals often justify the use of suspensions with statements such as “I needed to send a message that this behavior will not be tolerated,” while others proclaim that they are protecting the “safety and well-being” of their school communities (by sending the bad kids away). The problem with these sentiments is that they label children as either “bad” or “good.” We need a more realistic concept in which we perceive children as developing beings that require guidance and support.

In Baltimore City, I’m messaging that the adult attitude toward students needs to be restorative, rather than punitive. Adult responses need to invoke the student’s voice and determine why the student misbehaved. The adult also needs to take measures to restore the school community and bring the student back into the safety that the school offers. This requires a huge shift in the average educators’ mind set; but it is a mental shift that I have seen work miracles over and over again.”


Study looked at data from teacher surveys and concluded that when factors of low achievement and poverty were accounted for that Black students were no more disruptive than other students.


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

The guidance and guiding principles and related resource documents can be found here: http://www2.ed.gov policy/gen/guid/school-discipline/index.html
For far too many students, entering the gateway to incarceration begins with a referral from the classroom to the courtroom. This phenomenon is referred to as the school-to-prison pipeline. The NAACP Legal Defense Fund described this pipeline as "funneling of students out of school and into the streets and the juvenile correction system perpetuates a cycle known as the 'School-to-Prison-Pipeline,' depriving children and youth of meaningful opportunities for education, future employment, and participation in our democracy." The emergence of the school-to-prison pipeline has been impacted by trends in school disciplinary practices and zero tolerance policies. It is our challenge to dismantle this pipeline and create new pipelines to success for all children. In order to undertake in this endeavor, we must first become knowledgeable on this contemporary civil rights issue. Let's begin with examining the landscape of America’s classrooms and juvenile justice system.

Students enter into the juvenile justice system through an interaction with a police officer in the community or through a referral from schools. There are two main contributing factors that have led to the expansion of the school-to-prison pipeline:

1. **School disciplinary practices.** Nationally, a public student is suspended every second and a half. This equates to 3.3 million children being suspended each year. One study found that 95 percent of out-of-school suspensions were for nonviolent, minor disruptions such as tardiness or disrespect. Previous studies have shown that even a single suspension can double the odds of that student later dropping out. A simple math equation emerges: missed days in the classroom plus missed learning opportunity equals a decreased likelihood of a student’s ability to successfully complete high school and enter the pipeline to higher education.

2. **Zero tolerance policies.** Zero tolerance policies can also serve as a gateway into the school-to-prison pipeline. Schools are increasingly reliant on zero tolerance as a tool to curb misbehaviors. However, their use may be too drastic. Violence is down at public schools since 1990—down by 30 percent. Further, less than one percent of all violent crimes happen on school grounds. Therefore,
Racial Disparities and a Civil Rights Analysis
Both the implementation of school disciplinary practices and zero tolerance policies have a disproportionate impact on students of color. In the context of the school-to-prison pipeline, race matters because children of color are more likely to be referred out of the classroom and receive harsher punishment for their actions. For instance, a black public school student is suspended every four seconds. Although black students made up only 18 percent of students in public schools in 2009–2010, they accounted for 40 percent of students who received one or more out-of-school suspensions. Furthermore, students of color with disabilities are also referred out of the classroom at a disproportionate rate. For example, 1 in 4 African-American students with disabilities are suspended at least once, in comparison to 1 in 11 white students. Moreover, students of color are more likely to be referred to law enforcement for school-related disciplinary matters. Seventy percent of students referred to “in-school” arrests or law enforcement are African-American or Latino.

Racial disparities in administering school disciplinary practices and zero tolerance policies draw into question a need for a civil rights analysis. According to US Secretary of Education Arne Duncan, “a significant number of students are removed from class each year—even for minor infractions of school rules—due to exclusionary discipline practices, which disproportionately impact students of color and students with disabilities.” At face value, the data may appear to simply show that children of color commit more disciplinary infractions and engage in higher rates of violent behavior, and hence enter the school-to-prison pipeline at a higher rate. However, federal research compiled by the Department of Education’s Office of Civil Rights (OCR) in the Civil Rights Data Collection (CRDC) analysis paints a different picture of the experiences of children of color. The research findings show children of color suffering harsher penalties for the same conduct of other students and primarily being referred out of the classroom for behavior that fits into subjective categories like disrespect, disruptive conduct, or insubordination. This data concludes “racial disparities are not explained by more frequent or more serious misbehavior by students of color.” Lastly, CRDC investigations found cases were African-American students were disciplined more harshly and more frequently based on race in comparison to similarly situated white children.

Recommendations of Change
In order to dismantle the school-to-prison pipeline, strategic action must be taken. The Department of Education and Department of Justice have partnered to provide new tools for systemic change. On January 8, 2014, the agencies jointly issued federal guidelines to advise schools on how to improve school climate and discipline: *Guiding Principles—A Resource Guide for Improving School Climate*.
and Discipline. The guidelines are categorized into three main themes:

1. Create positive climates and focus on prevention
2. Develop clear, appropriate, and consistent expectations and consequences to address disruptive student behaviors (improve behavior, increase engagement, boost achievement)
3. Ensure fairness, equity, and continuous improvement

President Barack Obama has also developed a vision for eradicating the racial disparities associated with the education and justice systems through his initiative called My Brother’s Keeper. His efforts have elevated national attention on the challenges negatively impacting young men of color both inside and outside the classroom. The mission of the program is to create opportunities for boys and young men of color to improve their educational and life outcomes. President Obama is collaborating with key stakeholders in the philanthropic and business communities to invest at least $200 million dollars into exploring evidence-based practices for creating new pipelines to success over the next five years.

Conclusion

In closing, the emergence of the school-to-prison pipeline is detrimental to the success of thousands of children across the United States. Entering the pipeline creates a gateway into the tangled web of mass incarceration. Now more than ever we need a vision for dismantling this pipeline in order to support student engagement, learning, and academic success.

For more information about the school-to-prison pipeline and to discover ways you can aid in dismantling the pipeline, please attend the upcoming town hall forum at 2014 ABA Annual Meeting in Boston, MA. The town hall forum is sponsored by the ABA Coalition on Racial and Ethnic Justice, Criminal Justice Section, and the Council on Racial and Ethnic Diversity in the Educational Pipeline.
Youth Congress commemorates Mississippi Freedom Summer

The 50th Anniversary of Freedom Summer was celebrated June 25 – 29 during a convening in Jackson, Miss.

More than 1,500 young people, community leaders and civil rights veterans gathered in Mississippi to honor the legacy of those who sacrificed their lives for the cause of freedom in 1964, while setting the course for the future. This was an intergenerational assembly with youth traveling from across the nation and convening in the Youth Congress. Participants traveled from Minnesota, Ohio, Florida, North Carolina and beyond. These young leaders were taught civil rights history lessons from living legends including Bob Moses, Marian Wright Edelman and Hollis Watkins. There was also a transference of the mantle of leadership from the veterans of the movement to the youth of today. This was a mandate for the youth to return home and lead social change in their respective communities.

Freedom Summer 1964 represents the power of young people to lead us in becoming a more just society. This is an America where the words engraved on the U.S. Supreme Court building come alive – "Equal justice under the law." As we celebrate the 50th anniversary of Freedom Summer, we are reminded of the young people who traveled from across the nation to Mississippi to fight for equal justice in 1964. They recognized that justice must begin with the end of segregation and access to the ballot box. Through their labor of love, some of the barriers to voting and political engagement have been eliminated. As a result, Mississippi today has close to 1,000 Black state and local elected officials, which is the highest number of Black elected officials in the union. However, the struggle for freedom still continues today.

The legacy of the Freedom Summer movement continues today as member of the Youth Congress build a strategic action plan for addressing the civil rights issues in their communities, ranging from eradicating mass incarceration to protecting worker’s rights. The Youth Congress organized a criminal justice town hall forum to critically analyze the racial disparities in the justice system and create change. The United States represents 5 percent of the world population but 25 percent of the world’s prisoners. The U.S. has the highest incarceration rate in world with more than 2 million people who are incarcerated. According to the Sentencing Project, greater than 60 percent of the people in prison are from racially and ethnically diverse backgrounds. Mass incarceration has far-reaching impacts on the lives of many as they attempt to re-enter society. A criminal record can restrict access to voting, employment, college admissions and obtainment of professional licenses.

The Youth Congress also led a powerful march at the Nissan plant in Canton, Miss. They stood in solidarity with...
Students and actor/activist Danny Glover delivered a petition to Nissan officials which outlined the immediate need for workers’ rights to be protected by having the ability to organize a union. This was a reminder that labor rights are civil rights.

We left Freedom Summer with key marching orders – take action. Danny Glover called upon the young leaders to be architects of the future. The Youth Congress members committed to developing a policy agenda and preparing to run for office in their communities. Through their collective action, they are breathing life into the mission of the original Freedom Summer. They too are fighting for the full participation and citizenship rights of all people. This is a call for America to be true to its creed of life, liberty and the pursuit of happiness. This is the very essence of a democratic society. I am reminded of the words of Judge William Hastie, the first African-American federal circuit judge who said, "Democracy is a process, not a static condition. It is becoming rather than being. It can easily be lost, but never is fully won. Its essence is eternal struggle."

The struggle continues in Mississippi, in Minnesota, and across the nation.
Mississippi Freedom Summer 50th anniversary: A primer in leadership

By Artika Tyner, Planting People, Growing Justice
July 09, 2014

The exercise of leadership is the foundation for creating social change. Freedom Summer of 1964 serves as a primer on how to lead social change movements. In 1964, over 700 students from across the nation gathered in Mississippi to take a stand for justice. Their work is evidence that leaders play a critical role in setting the moral compass of a nation. This transformative
power is leveraged through the exercise of influence. Rev. Dr. Martin Luther King, Jr. described the power of influence when he stated: “I refuse to accept the idea that man is [...] unable to influence the unfolding events which surround him.”

Many of the Freedom Summer participants returned for the MS Freedom Summer 50th Anniversary conference with a renewed commitment to use their influence to end racial inequalities and create a more just society. I had the honor and privilege of meeting with five Freedom Summer leaders during my visit. When asked why they joined the movement, the answer was simple—it was what they were supposed to do. Their principled conviction to leave the world a better place than how they found it compelled them to take action. Freedom Summer represented a moral imperative to eradicate segregation and to move African Americans from second class citizenship to the full realization of their rights. Freedom Summer participants transformed Mississippi. They supported the formation of Mississippi Freedom Democratic Party (MFDP), held voter registrations drives, opened community centers and founded over 40 Freedom Schools. As a result of their activism, some of the barriers restricting access to the ballot box were removed, diverse representation in the government was increased (there are nearly 1,000 African American elected officials in MS today), and key civil rights protections were enacted which include: the Civil Rights Act of 1964 and Voting Rights Act of 1965.

A new generation of young freedom fighters also honored the legacy of Freedom Summer. The Youth Congress was established to bring young people from across the nation together to create the narrative for the next chapter of civil rights history. According to actor and activist, Danny Glover, this was an opportunity for “young people to come into their own voice about the issues.” These young leaders built a strategic action plan for addressing civil rights issues in their communities and made a commitment to continue the struggle for freedom today. They convened to address issues ranging from dismantling the school to prison pipeline to preserving voting rights.

At the conclusion of the conference, we were each left with the challenge to influence the social justice issues of our time by continuing to fight for justice and freedom. In the words of the Honorable Timothy Jenkins: “let us all move forward with a pledge to take on at least one project of one of our past heroes or heroines.” This is how the legacy of Freedom Summer will live on for generations to come.

Planting People, Growing Justice

Dr. Artika R. Tyner is a speaker, writer, and change agent. At the University of St. Thomas School of Law, Dr. Tyner serves as Clinical Law Faculty and Director of Diversity. She teaches in the Community Justice Project, an award-winning civil rights clinic. The work of the Community Justice Project focuses on training law students to serve as social engineers who create new inroads to justice and freedom. Tyner received her B.A. from Hamline University (Major: English; Certificate: Conflict Studies).

COMMUNITY VOICES

Community Voices is a space for reader contributions—including news articles, opinion essays, and personal stories—moderated, but not edited, by Daily Planet staff. We invite you to post stories, send us stories, or suggest stories for inclusion in Community Voices. The opinions expressed by Community Voices contributors are their own and not necessarily the opinion of the TC Daily Planet.

VIDEO: Dinkytown Greenway expands, grand opening by: jakre
Art Rolnick: Support all high quality Pre-K programs equally by: Art Rolnick
Sumer Spika: Home care workers unionize to bring dignity to work we love by: Sumer Spika
Jeff Strate: Meeting the Macbeths in St. Louis Park by: Jeff Strate
Asylum for migrant minors - A letter to HHS and DHS from teachers by: Braulio Carrasco

Comments

http://www.tcdailyplanet.net/blog/artika-tyner/mississippi-freedom-summer-50th-anniversary

7/25/2014
American Bar Association
Coalition on Racial and Ethnic Justice
321 North Clark Street
Chicago, IL 60654

Justice Michael B. Hyman
Chairperson
First District Illinois Appellate Court
Chicago, IL

Rachel Patrick
Director
Rachel.Patrick@americanbar.org
(312) 988-5408

Deidra Franklin
Program Assistant
Deidra.Franklin@americanbar.org
(312) 988-5409