

REPORT TO THE SENATE AND HOUSE COMMITTEES ON EDUCATION AND  
THE SENATE SELECT COMMITTEE ON WOMEN AND CHILDREN  
OF THE LOUISIANA LEGISLATURE



RESPONSE TO SENATE CONCURRENT RESOLUTION 134  
OF THE 2014 REGULAR SESSION

FROM THE STATE BOARD OF ELEMENTARY AND SECONDARY EDUCATION

Prepared by the Louisiana Department of Education

## REQUIREMENTS OF THE RESOLUTION

Senate Concurrent Resolution (SCR) 134 requested that the State Board of Elementary and Secondary Education (BESE) examine and consider the status of school suspensions and expulsions, as well as plans to revise current school discipline policies in response to the "Supportive School Discipline Initiative" launched by the United States Departments of Education and Justice.

## FINDINGS

### Background

In September 2011, the U.S. Department of Education and U.S. Department of Justice announced the launch of the Supportive School Discipline Initiative, a collaborative project to support the use of school discipline practices that foster safe, supportive, and productive learning environments while keeping students in school. The initiative focuses on building consensus, investing in research and data, issuing guidance, and building awareness, capacity, and leadership. Since its launch, the effort has also placed a new emphasis on reducing disproportionality by student subgroups. The U.S. Department of Education has found that, nationwide, students of color and students with disabilities are disproportionately impacted by suspensions and expulsions. African-American students are more than three times as likely as their white peers to be suspended or expelled. Likewise, the percentage of students with disabilities suspended and expelled exceeds the percentage of students with disabilities enrolled in school. Most troubling is the fact that an overwhelming percent of out-of-school suspensions are for non-violent, minor disruptions such as tardiness or disrespect.

The national project has involved a number of activities, including federal grants to support stakeholder collaboration, policy and legal guidance, and leadership summits to kick off planning and local implementation. A detailed summary of the initiative is attached as **Appendix A**. Key components include the following:

- Joint legal guidance (**Appendix B**) to assist public elementary and secondary schools in meeting their obligations under federal law to administer student discipline without discriminating on the basis of race, color, disability, or national origin;
- The "Guiding Principles" resource guide (**Appendix C**) to help state, district, and school level officials improve school climate and discipline in a comprehensive, practical way; and
- The School Discipline Consensus Project, managed by the Council of State Governments, which resulted in a School Discipline Consensus Report that integrates some of the best thinking and innovative strategies from the fields of education, health, law enforcement, and juvenile justice leaders (**Appendix D**).

The Louisiana Department of Education has made these resources available on its website (<http://www.louisianabelieves.com/resources/library/school-policy>) for use by public elementary and secondary schools and has urged school leaders to make use of them. Many school districts are implementing the best practices outlined, including reviewing student data, using positive behavioral supports, and engaging in deeper collaborations with local officials, juvenile justice, and social service agencies.

## Improving School Behavior and Discipline in Louisiana

While state-level standards and expectations are appropriate and needed to empower educators and protect students, behavior-related programs and initiatives are best implemented at the local level by school administrators and educators. While the state and school district central offices can provide information, resources, and supports, school-based strategies designed to complement the school’s mission, culture, and priorities have proven to be most effective, most easily implemented, and embraced by students and staff.

Also supported locally and regionally are school district level partnerships with law enforcement, juvenile justice offices, social services agencies, and other community organizations that support family needs. These comprehensive approaches offer “wrap-around” services to address the underlying causes of behavior problems, absenteeism, and other problems, including but not limited to homelessness, poverty, nutrition, abuse, illness, and mental health issues. By taking advantage of federal and state programs and resources like the ones offered through the Supportive School Discipline Initiative, local school districts can partner with other agencies and organizations throughout the community to address student needs.

### Suspensions and Expulsions

SCR 134 requested that the board examine and consider the status of school suspensions and expulsions. The table below summarizes in and out of school suspensions and expulsions in Louisiana public elementary and secondary schools for the 2013-2014 school year. These figures are unduplicated, meaning that they represent the number of students disciplined, not the number of times students may have been suspended or expelled that year.

Grade	In School Suspension	Out of School Suspension	In School Expulsion	Out of School Expulsion	In School Suspension Rate	Out of School Suspension Rate	In School Expulsion Rate	Out of School Expulsion Rate
PreK	54	159	<10	<10	<5%	<5%	<5%	<5%
K	805	1,040	11	<10	<5%	<5%	<5%	<5%
1	1,469	1,663	24	<10	<5%	<5%	<5%	<5%
2	2,010	2,042	29	<10	<5%	<5%	<5%	<5%
3	2,596	2,667	67	<10	<5%	<5%	<5%	<5%
4	3,950	4,015	144	<10	6.74%	6.86%	<5%	<5%
5	3,969	4,013	167	12	7.59%	7.67%	<5%	<5%
6	7,832	6,833	402	25	14.23%	12.41%	<5%	<5%
7	9,243	7,908	724	45	16.77%	14.35%	<5%	<5%
8	9,769	8,722	871	47	17.06%	15.23%	<5%	<5%
9	11,139	8,704	911	160	19.05%	14.89%	<5%	<5%
10	8,393	5,995	557	84	16.57%	11.83%	<5%	<5%
11	6,303	4,243	286	45	14.52%	9.77%	<5%	<5%
12	4,903	3,197	199	23	11.38%	7.42%	<5%	<5%

Table 1: 2013-2014 Suspensions and Expulsions

Statewide suspension and expulsion rates in Louisiana have been relative stable over the past several years, although there are large differences in rates across school systems. School systems annually report suspensions and expulsions and the reasons for such disciplinary actions (by category), but the Department does not routinely collect information about specific school discipline policies or behavior-related programming, or the extent to which they align with supports or interventions called for as part of the Supportive School Discipline Initiative. School systems have, however, offered anecdotal evidence that

supportive school disciplinary policies and programming have led to improved student behavior, fewer out-of-school disciplinary actions, and more consistent application of consequences. Data and anecdotes from other states likewise have shown positive results when supportive discipline is prioritized and out-of-school consequences are used as a last resort.

As shown in the 2013-2014 suspension and expulsion table, suspensions and expulsions are highest in the middle school and early high school years but they are not limited to those grades. Although the numbers are relatively small, students in elementary school are also suspended and expelled. The data also show that African American male students are suspended and expelled at higher rates than other student populations, a trend consistent with national statistics that not only exists in upper grade levels, but also in grades prekindergarten through five. African American students make up 44 percent of Louisiana’s public school population, yet make up 63 percent of in-school suspensions, 67 percent of out-of-school suspensions, 71 percent of in-school expulsions, and 68 percent of out-of-school expulsions in grades prekindergarten through twelve. The Department is continuing to analyze the data by other student subgroups, including students with disabilities and economically disadvantaged students.

**Appendix E** shows the reasons for the above suspensions and expulsions. The top reasons are shown in Table 2 below.

In School Suspension	Out of School Suspension	In School Expulsion	Out of School Expulsion
Grades PreK through 12			
Willful disobedience Disturbs the school and violates rules Treats authority with disrespect	Instigates or participates in fights Willful disobedience Treats authority with disrespect	Uses or possesses dangerous substances Instigates or participates in fights Disturbs the school and violates rules	Instigates or participates in fights Uses or possesses dangerous substances
Grades PreK through 5			
Willful disobedience Exhibits injurious conduct Disturbs the school and violates rules	Instigates or participates in fights Willful disobedience Exhibits injurious conduct	Disturbs the school and violates rules Commits any other serious offense Exhibits injurious conduct	Willful disobedience Disturbs the school and violates rules Instigates or participates in fights

Table 2: Top Reasons for 2013-2014 Suspensions and Expulsions

Of particular interest are the large percentages of students suspended out of school in middle school and early high schools, as well as the large numbers of young children disciplined out of school – 159 in prekindergarten, over 1,000 in kindergarten, and nearly 15,700 in grades K-5 for the 2013-2014 school year. Over 8,000 students in grades prekindergarten through five were suspended out of school for willful disobedience, treating authorities with disrespect, and violating school rules; a small number were expelled out of school for the same reasons.

While out-of-school discipline is necessary in some circumstances and should remain a disciplinary tool available to school officials, these numbers raise questions about the extent to which in-school discipline is

being prioritized and whether out-of school consequences are used as a last resort. When students fall behind due to missed instruction and time spent away from the structure of the classroom, often their behavior will become worse, not better. In order to keep students on track academically and to reinforce expectations for behavior, removing them from the classroom and from school altogether should occur only after other forms of discipline have proven ineffective or when serious safety concerns exist.

### Louisiana Discipline Laws

Louisiana has stern discipline laws compared to many other states. They require immediate suspensions and expulsions for certain offenses, at times leaving school leaders and teachers with little discretion. The law sets forth mandatory out-of-school consequences for carrying or possessing a firearm or other dangerous instrumentalities, and for possessing any controlled substance in any form. Students in any grade level, including grades prekindergarten through five, who are found to possess a controlled substance must be immediately recommended for expulsion and must remain on out-of-school suspension until their expulsion hearing has taken place. Students in grades prekindergarten through five who are found to possess a knife with a blade less than two inches long may be suspended, but at a minimum, must receive in-school suspension. If the blade of the knife is two inches or longer, out-of-school suspension is required and the student may be recommended for expulsion. 2013-2014 discipline data reveal the following suspensions and expulsions related to weapons and controlled substances:

Reason for Suspension or Expulsion	In School Suspension	Out of School Suspension	In School Expulsion	Out of School Expulsion
Grades PreK through 12				
Uses or possesses dangerous substances	220	1228	750	90
Possesses weapons prohibited by federal law	39	92	49	12
Possesses firearms not prohibited by federal law, or knives more than 2.5" long	129	490	165	16
Possesses blade less than 2.5" long	77	210	36	<10
Grades PreK through 5				
Uses or possesses dangerous substances	20	61	13	<10
Possesses weapons prohibited by federal law	17	27	14	<10
Possesses firearms not prohibited by federal law, or knives more than 2.5" long	65	250	43	<10
Possesses blade less than 2.5" long	58	124	<10	<10

Table 3: Discipline Related to Mandatory Consequences for Weapons and Controlled Substances

These mandatory consequences have raised many questions among school leaders, parents, and advocates about the ability of principals and superintendents to consider these types of offenses on a case-by-case basis, particularly for students in grades prekindergarten through five. The Department of Education has received numerous calls from school officials looking to avoid suspending or expelling young students who have brought plastic knives to school in their lunch box, toys that resemble or could be used as knives, or even actual knives (pocket knives or hunting knives) belonging to their parents or older siblings.

Concerns have also been expressed about the requirement that school officials immediately recommend expulsion for students in lower grades possessing controlled substances and preventing them from returning to school until after the expulsion hearing has taken place. In many of these cases, parents, older siblings, or other older students have been found to be responsible for having given the substance to the child or placing the controlled substance in the child's backpack. However, the immediate suspension and recommendation for expulsion required by law prevents the child from attending school and receiving instruction until after the

matter has been resolved in an expulsion hearing, which may take days or even weeks to schedule. Additionally, Louisiana law requires local school boards to formally vote to admit students who have been expelled, which may cause additional delays in getting students back into school.

Finally, some parents and child advocates have expressed concerns about students in lower grades being suspended for school uniform violations that are the result of parent, not child, disregard of the rules, or due to the family's inability to adhere to school uniform requirements. 2013-2014 data reveal that 23 students in grades prekindergarten through five were suspended in school for "improper dress," fewer than 10 were suspended out of school, and none were expelled. However, it is possible that discipline related to school uniform violations could have been categorized as "willful disobedience" or "violates school rules." Neither state law nor BESE policy addresses these situations. Policymakers might consider a regulation that, at a minimum, prevents students in grades prekindergarten through five from being removed from the classroom or from school for uniform violations that are not tied to willful disregard of the policies.

## CONCLUSION

The Supportive School Discipline Initiative offers comprehensive, research-based resources to help schools address student behavior and develop constructive discipline policies. Louisiana public school officials have access to these resources and many are integrating them into their school-based policies and programs. Some Louisiana state laws, while designed to empower educators and offer clear and immediate consequences to address problematic behavior, may in fact run contrary to the goals of this initiative, limit school leaders' discretion, and restrict their ability to consider behavior or actions on a case-by-case basis, particularly for young children. The legislature should carefully weigh the advantages and disadvantages of revising these laws, always prioritizing student learning yet still retaining the tools that educators need to maintain safe environments conducive to learning. Any changes to these laws should involve consultation of the state's public school system leaders, principals, educators, parents, and other child advocates.

Appendix A

Supportive School Discipline Initiative



## Supportive School Discipline Initiative

In Summer 2011, Education Secretary Duncan and Attorney General Holder announced the launch of a collaborative project – the Supportive School Discipline Initiative (Initiative) – between the U.S. Departments of Education (ED) and Justice (DOJ) to support the use of school discipline practices that foster safe, supportive, and productive learning environments while keeping students in school.<sup>1</sup> The announcement came shortly following the release of the Council of State Government’s groundbreaking study of nearly one million Texas students, *Breaking Schools’ Rules*,<sup>2</sup> which highlighted a number of significant findings regarding one state’s school discipline practices, including:

- Nearly six in ten public school students studied were suspended or expelled at least once between their seventh- and twelfth-grade school years.
- Students involved in the school disciplinary system averaged 8 suspensions and/or expulsions during their middle or high school years, while 15 percent of involved students were disciplined 11 or more separate times.
- Controlling for campus and individual student characteristics, students who were suspended or expelled for a discretionary violation were nearly three times as likely to be in contact with the juvenile justice system the following year.
- African-American students had a 31 percent higher likelihood of a school discretionary discipline action, compared to white and Hispanic students, and nearly three-quarters of the students who qualified for special education services were suspended or expelled at least once.

Since its establishment, the role of the Initiative has been to coordinate federal actions to provide schools with effective alternatives to exclusionary discipline while encouraging new emphasis on reducing disproportionality for students of color and students with disabilities. This brief outlines the successes and achievements of both Departments in collaboration with other federal agencies and private entities. The majority of these achievements align with four guiding strategies for this federal effort – building consensus; investing in research and data collection; issuing guidance; and building awareness, capacity, and leadership. Beyond these four core strategies, ED and DOJ have also worked to embed strategies for improving school climate and school discipline policy and practice into various existing grant programs.

### Building Consensus for National Action

The cornerstone of the Supportive School Discipline Initiative is the School Discipline Consensus Project, managed by the Council of State Governments. DOJ has awarded \$840,000 to the Council of State Governments to initiate the Project, officially launched in October 2012, a sum matched by philanthropic collaborators. The two federal agencies have worked in collaboration with the Atlantic Philanthropies, the



California Endowment, Novo Foundation, and others to support the Council of State Governments to conduct a process to develop consensus recommendations to dismantle what is commonly named the “school-to-prison pipeline.” The School Discipline Consensus Project brings together practitioners from the fields of education, juvenile justice, behavioral health, and law enforcement, as well as state and local policymakers, researchers, advocates, students, and parents to collaboratively develop a comprehensive set of recommendations for change agents working to address this issue. To date, the Council has convened three working sessions – two in Washington, DC, and one in Oakland, CA – at which participants began developing and refining recommendations. The final recommendations are expected to be released in 2014.

## **Investing in Research and Data Collection**

### [A Reinvigorated Civil Rights Data Collection \(CRDC\)](#)

ED’s 2009-2010 CRDC, which was released in the spring of 2012, represented a sample of nearly 7,000 school districts, including all districts above 3,000 students and a sample of smaller districts. In all, the 2009-10 data, which represented 72,000 schools and 85 percent of students in the nation, highlighted how different groups of students, such as boys and girls of color or students with disabilities, were treated across a range of discipline indicators. The database tracks the total number of students receiving in-school and out-of-school suspensions and expulsions, the number of students referred to law enforcement, the number of students with school-related arrests, and the total number of students expelled under zero-tolerance policies. For the 2011-2012 data collection, to be released in 2014, ED’s Office for Civil Rights collected data from all school districts in the country (approximately 17,000 districts). For more information regarding the CRDC, see <http://ocrdata.ed.gov/>.

### [Incentives to Research School Discipline Practice](#)

DOJ awarded nearly \$1.5 million through the 2012 Field Initiated Research and Evaluation Program to focus on research and evaluation studies of school-based practices that relate to reducing student victimization and the risk of delinquency. As one of the grant recipients, Texas A & M University received funding to explore the potential of the school discipline system as an intervention to reduce juvenile justice contact among all youth, but particularly youth of color.

In the fiscal year 2013 and 2014 requests for applications for the Institute Education Sciences’ Education Research Grants program, ED specifically encouraged applications from researchers who proposed to conduct research on the types of programs, practices, and policies that support academic learning by keeping students in schools and engaged in learning.

## Issuing Policy and Legal Guidance

### [Titles IV and VI Civil Rights Guidance](#)

In January 2014, ED and DOJ released joint legal guidance to assist public schools and districts in administering student discipline to meet their legal obligations under Title IV and Title VI of the Civil Rights Act of 1964 which prohibit discrimination on the grounds of race, color, or national origin. For more information, see [www.ed.gov/school-discipline](http://www.ed.gov/school-discipline).

### [Guiding Principles: A Resource Guide](#)

In January 2014, ED released a resource guide to state-, district-, and school-level officials outlining “principles” for improving school climate and discipline practice. The resource guide includes: 1) an organized set of guiding principles and related action steps to help schools to improve school climate, improve discipline policy and practice, and reduce disproportionality, 2) a directory of federal resources to assist with the implementation of the principles, 3) a compendium of state-level laws and regulations relevant to school discipline policy and practice, and 4) this overview of the Initiative’s activities. For more information, see [www.ed.gov/school-discipline](http://www.ed.gov/school-discipline).

### [Mythbuster on Family Educational Rights and Privacy Act \(FERPA\)](#)

ED released a short FERPA mythbuster to clarify the circumstances under which schools may share education records with juvenile justice agencies. This resource document refutes the belief that FERPA prohibits schools from sharing records with juvenile justice agencies and provides links to additional resources and technical assistance.

## Building Awareness, Capacity, and Leadership

### [2012 National Leadership Summit and the Supportive School Discipline Community of Practice](#)

The Initiative provided assistance to the New York Permanent Judicial Commission on Justice for Children to host the March 2012 National Leadership Summit, which convened teams of top state education and judicial officials. Teams from forty-five states, territories and the District of Columbia assembled to undertake the work of improving policy and practice related to school discipline. The Summit brought together expert practitioners, researchers and innovators from education, justice and school health to help kick off planning and action by the attending leaders in partnership with their local counterparts.

In the following months, the Initiative launched a web-based community – the Supportive School Discipline Community of Practice (SSDCOP) – for the state leaders that attended the March 2012 Leadership Summit to provide regular opportunities to consult with each other and share information about best practices in school discipline. Since its launch, it has organized four smaller, topic-specific communities at the request of its membership: Discipline Policy Reform; Supportive Discipline Practices; Truancy Prevention; and Juvenile Justice Alternatives. To date, the SSDCOP has 20 strong state participants, some of which are leads

of state task forces engaged in school discipline practice reform. For more information regarding the SSDCOP, see <http://ssdcop.neglected-delinquent.org/>.

### Supportive School Discipline Webinar Series

In January 2013, the ED, DOJ, and the U.S. Department of Health and Human Services (HHS) launched a Supportive School Discipline Webinar Series. The webinar series is designed to increase awareness and understanding of school disciplinary practices that push youth out of school and many times into the justice system, and provide practical examples of alternative approaches that maintain school safety while ensuring academic engagement and success for all students. As of summer 2013, federal partners have organized seven separate webinars focusing on such topics as: youth courts, restorative justice practices, addressing truancy, and multi-tiered behavioral health frameworks. Additional webinars are also planned. For more information regarding the webinar series, see <http://safesupportivelearning.ed.gov/events/webinars> or [www.juvenilejustice-tta.org/events/ssdWebinarSeries](http://www.juvenilejustice-tta.org/events/ssdWebinarSeries).

### Facilitating School-Court Partnerships

DOJ has provided financial assistance to the National Council of Juvenile and Family Court Judges (NCJFCJ) to replicate successful school-court partnerships working to reduce referrals to court of students for non-serious behavior. To this end, NCJFCJ is developing a curriculum to train a cadre of judges who will guide and support other judges to convene problem-solving school-court teams as well as fund the evaluation of demonstration sites.

## **Integration into Federal Grant making**

### Race to the Top – District

In the 2012 Race to the Top–District competition, a \$400 million investment to help school districts to implement comprehensive education reform, ED included a program requirement that districts with students of color or students with disabilities overly-represented in the district’s discipline rates must conduct a root cause analysis and develop a plan to address these root causes. Further, the sole competitive priority of the competition was devoted to integrating public and/or private resources to augment school capacity to provide student and family supports that address the social, emotional, and behavioral areas of high-need populations.

### Center on Great Teachers and Leaders

This is a critical time for school districts and states to rethink human capital management in education—specifically, how schools and districts select, support and evaluate educators. Given the feedback ED has received from educators – the concern that student misbehavior often interferes with instruction – school climate and student supports must be part of this conversation. This is why, during the 2012 grant competition for the Center on Great Teachers and Leaders, one of the major technical assistance efforts to assist in building the capacity of state education departments, ED specified that the awardee would help states to integrate the competencies relevant to student engagement and positive discipline practices into

comprehensive teacher and principal evaluation systems, professional development, and other essential activities for supporting and enhancing the educator workforce. See <http://www.gtcenter.org/> for more information regarding the Center on Great Teachers and Leaders.

### National Forum for Youth Violence Prevention

ED is working closely with DOJ and HHS to enable selected schools to put in place or strengthen a range of universal and tailored interventions—also known as tiered behavioral supports—in cities of the National Forum for Youth Violence Prevention. As the ten cities that comprise the National Forum have pledged to strengthen local capacity to prevent youth violence and gang violence, tiered behavioral supports will be a key strategy to boost school capacity to prevent youth violence and improve service delivery to students. Federal partners awarded supplemental grants to the National Forum to implement tiered behavioral supports in 2013.

### Fiscal Year 2014 Budget Request

The President’s 2014 budget request proposes a number of new programs to help schools, and their partners, to better support student mental health and behavior while improving student safety. The Administration requests \$50 million for a new School Climate Transformation Grant, to be administered by ED, to help schools train their teachers and other school staff to implement evidence-based strategies to improve school climate, and \$20 million in Juvenile Justice and Education Collaboration Assistance Grants, under DOJ to support approaches to reduce the use of suspension, expulsion, and arrest as responses to youth misbehaving. In addition, \$55 million is requested for HHS to implement Project AWARE, (Advancing Wellness and Resilience in Education) to increase awareness of mental health issues and connect young people with behavioral health issues and their families with needed services.

With these proposals, the FY 2014 request envisions a new interagency, collaborative framework for reducing youth involvement by helping judges, educators, school administrators, law enforcement and other involved persons keep students in schools and out of the juvenile justice system while improving the safety and climate within schools. It emphasizes the use of tiered supports – such as Positive Behavioral Interventions and Supports – which help educators to implement evidence-based practices that prevent misbehavior, provide critical mental and emotional supports to troubled and at-risk students, and thereby reduce reliance on suspensions and expulsions. This proposal will build upon the work and successes of ED’s Office of Special Education and Rehabilitative Services and Office of Elementary and Secondary Education, HHS’ Substance Use and Mental Health Services Administration, and DOJ’s Office of Juvenile Justice and Delinquency Prevention, all of which have invested in behavioral research, demonstration, and technical assistance activities for more than 20 years.

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<sup>1</sup> See press releases: <http://www.ed.gov/news/press-releases/secretary-duncan-attorney-general-holder-announce-effort-respond-school-prison-p> and <http://www.justice.gov/opa/pr/2011/July/11-ag-951.html> .

<sup>2</sup> Council of State Governments (2011). Breaking Schools’ Rules: A Statewide Study of How School Discipline Relates to Students’ Success and Juvenile Justice Involvement. Accessed July 2013 at <http://knowledgecenter.csg.org/drupal/content/breaking-schools-rules-statewide-study>

## Appendix B

Dear Colleague Letter on the  
Nondiscriminatory Administration of School  
Discipline from the USDOJ and USDOE



**U.S. Department of Justice**  
*Civil Rights Division*



**U.S. Department of Education**  
*Office for Civil Rights*

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Dear Colleague Letter on the  
Nondiscriminatory Administration of School Discipline**

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**U.S. Department of Justice**  
*Civil Rights Division*



**U.S. Department of Education**  
*Office for Civil Rights*

January 8, 2014

Dear Colleague:

The U.S. Department of Education and the U.S. Department of Justice (Departments) are issuing this guidance to assist public elementary and secondary schools in meeting their obligations under Federal law to administer student discipline without discriminating on the basis of race, color, or national origin. The Departments recognize the commitment and effort of educators across the United States to provide their students with an excellent education. The Departments believe that guidance on how to identify, avoid, and remedy discriminatory discipline will assist schools in providing all students with equal educational opportunities.<sup>1</sup>

The Departments strongly support schools in their efforts to create and maintain safe and orderly educational environments that allow our nation's students to learn and thrive. Many schools have adopted comprehensive, appropriate, and effective programs demonstrated to: (1) reduce disruption and misconduct; (2) support and reinforce positive behavior and character development; and (3) help students succeed. Successful programs may incorporate a wide range of strategies to reduce misbehavior and maintain a safe learning environment, including conflict resolution, restorative practices, counseling, and structured systems of positive interventions. The Departments recognize that schools may use disciplinary measures as part of a program to promote safe and orderly educational environments.

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<sup>1</sup> The Departments have determined that this Dear Colleague Letter is a "significant guidance document" under the Office of Management and Budget's Final Bulletin for Agency Good Guidance Practices, 72 Fed. Reg. 3432 (Jan. 25, 2007), available at [http://www.whitehouse.gov/sites/default/files/omb/fedreg/2007/012507\\_good\\_guidance.pdf](http://www.whitehouse.gov/sites/default/files/omb/fedreg/2007/012507_good_guidance.pdf). This and other policy guidance is issued to provide recipients with information to assist them in meeting their obligations, and to provide members of the public with information about their rights, under the civil rights laws and implementing regulations that we enforce. The Departments' legal authority is based on those laws. This guidance does not add requirements to applicable law, but provides information and examples to inform recipients about how the Departments evaluate whether covered entities are complying with their legal obligations. If you are interested in commenting on this guidance, please send an e-mail with your comments to [OCR@ed.gov](mailto:OCR@ed.gov), or write to the following address: Office for Civil Rights, U.S. Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202.



Regardless of the program adopted, Federal law prohibits public school districts from discriminating in the administration of student discipline based on certain personal characteristics. The Department of Justice’s Civil Rights Division (DOJ) is responsible for enforcing Title IV of the Civil Rights Act of 1964 (Title IV), 42 U.S.C. §§ 2000c *et seq.*, which prohibits discrimination in public elementary and secondary schools based on race, color, or national origin, among other bases. The Department of Education’s Office for Civil Rights (OCR) and the DOJ have responsibility for enforcing Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. §§ 2000d *et seq.*, and its implementing regulations, 34 C.F.R. Part 100, which prohibits discrimination based on race, color, or national origin by recipients of Federal financial assistance. Specifically, OCR enforces Title VI with respect to schools and other recipients of Federal financial assistance from the Department of Education.<sup>2</sup>

The Departments initiate investigations of student discipline policies and practices at particular schools based on complaints the Departments receive from students, parents, community members, and others about possible racial discrimination in student discipline.<sup>3</sup> The Departments also may initiate investigations based on public reports of racial disparities in student discipline combined with other information, or as part of their regular compliance monitoring activities.

This guidance will help public elementary and secondary schools administer student discipline in a manner that does not discriminate on the basis of race. Federal law also prohibits discriminatory discipline based on other factors, including disability, religion, and sex.<sup>4</sup> Those

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<sup>2</sup> The Department of Justice enforces Title VI with respect to schools, law enforcement agencies, and other recipients of Federal financial assistance from DOJ; DOJ’s Office for Civil Rights at the Office of Justice Programs (OJP OCR) is the principal DOJ office that enforces Title VI through its administrative process. *See* [http://www.ojp.usdoj.gov/about/ocr/pdfs/OCR\\_TitleVI.pdf](http://www.ojp.usdoj.gov/about/ocr/pdfs/OCR_TitleVI.pdf). DOJ also enforces Title VI upon referral from another Federal funding agency, or through intervention in an existing lawsuit. DOJ also coordinates the enforcement of Title VI government-wide.

<sup>3</sup> Throughout this guidance, “race” or “racial” includes race, color, or national origin; “policy” or “policies” includes policies and procedures; “school” or “schools” includes an elementary or secondary school, a school district, or a local educational agency (LEA) that is a recipient of Federal financial assistance, including a charter or “alternative” school that is a recipient of Federal financial assistance. The terms “program” and “programs” and “programs or activities” and “programs and activities” are used in a colloquial sense and are not meant to invoke the meaning of the terms “program” or “program or activity” as defined by the Civil Rights Restoration Act of 1987 (CRRA). Under the CRRA, which amended Title VI, Title IX of the Education Amendments of 1972 (Title IX), and Section 504 of the Rehabilitation Act of 1973 (Section 504), the term “program or activity” and the term “program,” in the context of a school district, mean all of the operations of a school district. 42 U.S.C. § 2000d - 4a(2)(B); 20 U.S.C. § 1687(2)(B); 29 U.S.C. § 794(b)(2)(B).

<sup>4</sup> While this guidance explicitly addresses only race discrimination, much of the analytical framework laid out in this document also applies to discrimination on other prohibited grounds. Title IV also prohibits discrimination on the basis of sex and religion by public elementary and secondary schools. Title IX prohibits discrimination on the basis of sex by recipients of Federal financial assistance in their education programs or activities. 20 U.S.C. §§ 1681 *et seq.* Section 504 prohibits disability discrimination by recipients of Federal financial assistance, and Title II of the



prohibitions are not specifically addressed in this guidance because they implicate separate statutes and sometimes different legal analyses (although this guidance applies to race discrimination against all students, including students of both sexes and students with disabilities). Schools are reminded, however, that they must ensure that their discipline policies and practices comply with all applicable constitutional requirements and Federal laws, including civil rights statutes and regulations.

## **OVERVIEW OF RACIAL DISPARITIES IN THE ADMINISTRATION OF SCHOOL DISCIPLINE**

The Civil Rights Data Collection (CRDC),<sup>5</sup> conducted by OCR, has demonstrated that students of certain racial or ethnic groups<sup>6</sup> tend to be disciplined more than their peers. For example, African-American students without disabilities are more than three times as likely as their white peers without disabilities to be expelled or suspended. Although African-American students represent 15% of students in the CRDC, they make up 35% of students suspended once, 44% of those suspended more than once, and 36% of students expelled. Further, over 50% of students

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Americans with Disabilities Act of 1990 (Title II) prohibits disability discrimination by public entities, including public school districts, in their services, programs, and activities. 29 U.S.C. § 794; 42 U.S.C. §§ 12131 *et seq.* Section 504 and Title II and their implementing regulations provide certain protections when students with disabilities are disciplined. Part B of the Individuals with Disabilities Education Act (IDEA) provides Federal funds to State educational agencies and through them to local educational agencies to assist in the provision of special education and related services to eligible children with disabilities. The IDEA contains specific provisions regarding the discipline of students with disabilities who are or may be IDEA-eligible and requires an analysis of discipline data disaggregated by race and ethnicity as well as possible review and revision of policies, practices, and procedures. *See, e.g.*, 20 U.S.C. §§ 1412(a)(22), 1415(k), 1418(d); 34 C.F.R. § 300.530(e)-(g). Additional information about Part B of the IDEA is available at <http://idea.ed.gov>.

<sup>5</sup> The CRDC is a mandatory data collection authorized under Title VI, Title IX, and Section 504, the regulations implementing those statutes, and the Department of Education Organization Act, 20 U.S.C. § 3413. Since 1968, the CRDC (formerly the Elementary and Secondary School Survey) has collected data on key education and civil rights issues in our nation's public schools. Unless otherwise noted, statistics referenced in this letter are drawn from unpublished (as of January 8, 2014) data collected by the CRDC for the 2011-12 school year. Additional information and publicly available data from the CRDC can be found at <http://ocrdata.ed.gov>.

<sup>6</sup> While this document addresses race discrimination against all students, including students with disabilities, evidence of significant disparities in the use of discipline and aversive techniques for students with disabilities raises particular concern for the Departments. For example, although students served by IDEA represent 12% of students in the country, they make up 19% of students suspended in school, 20% of students receiving out-of-school suspension once, 25% of students receiving multiple out-of-school suspensions, 19% of students expelled, 23% of students referred to law enforcement, and 23% of students receiving a school-related arrest. Additionally, students with disabilities (under the IDEA and Section 504 statutes) represent 14% of students, but nearly 76% of the students who are physically restrained by adults in their schools.

The Departments are developing resources to assist schools and support teachers in using appropriate discipline practices for students with disabilities.

who were involved in school-related arrests or referred to law enforcement are Hispanic or African-American.

The Departments recognize that disparities in student discipline rates in a school or district may be caused by a range of factors. However, research suggests that the substantial racial disparities of the kind reflected in the CRDC data are not explained by more frequent or more serious misbehavior by students of color.<sup>7</sup> Although statistical and quantitative data would not end an inquiry under Title IV or Title VI, significant and unexplained racial disparities in student discipline give rise to concerns that schools may be engaging in racial discrimination that violates the Federal civil rights laws. For instance, statistical evidence may indicate that groups of students have been subjected to different treatment or that a school policy or practice may have an adverse discriminatory impact. Indeed, the Departments' investigations, which consider quantitative data as part of a wide array of evidence, have revealed racial discrimination in the administration of student discipline. For example, in our investigations we have found cases where African-American students were disciplined more harshly and more frequently because of their race than similarly situated white students. In short, racial discrimination in school discipline is a real problem.

The CRDC data also show that an increasing number of students are losing important instructional time due to exclusionary discipline.<sup>8</sup> The increasing use of disciplinary sanctions such as in-school and out-of-school suspensions, expulsions, or referrals to law enforcement authorities creates the potential for significant, negative educational and long-term outcomes, and can contribute to what has been termed the "school to prison pipeline." Studies have suggested a correlation between exclusionary discipline policies and practices and an array of serious educational, economic, and social problems, including school avoidance and diminished educational engagement;<sup>9</sup> decreased academic achievement;<sup>10</sup> increased behavior problems;<sup>11</sup>

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<sup>7</sup> See generally Michael Rocque & Raymond Paternoster, *Understanding the Antecedents of the "School-to-Jail" Link: The Relationship Between Race and School Discipline*, 101 J. CRIM. L. & CRIMINOLOGY 633 (2011); Russell J. Skiba et al., *Race Is Not Neutral: A National Investigation of African American and Latino Disproportionality in School Discipline*, 40 SCH. PSYCHOL. REV 85 (2011); T. Fabelo, M.D. Thompson, M. Plotkin, D. Carmichael, M.P. Marchbanks & E.A. Booth, *Breaking Schools' Rules: A Statewide Study of How School Discipline Relates to Students' Success and Juvenile Justice Involvement* (Council of State Governments Justice Center, 2011); A. Gregory & A.R. Thompson, *African American High School Students and Variability in Behavior Across Classrooms*, 38 J. COMMUNITY PSYCHOL. 386 (2010); R.J. Skiba, R.S. Michael, A.C. Nardo & R.L. Peterson, *The Color of Discipline: Sources of Racial and Gender Disproportionality in School Punishment*, 34 URBAN REV. 317 (2002); Michael Rocque, *Office Discipline and Student Behavior: Does Race Matter?* 116 AM. J. EDUC. 557 (2010).

<sup>8</sup> Compare the 1984 CRDC National Estimations to the 2009 CRDC National Estimations for the category of suspension-out of school.

<sup>9</sup> Emily Arcia, *Achievement and Enrollment Status of Suspended Students: Outcomes in a Large, Multicultural School District*. 38 EDUC. & URB. SOC'Y 359 (2006).

<sup>10</sup> *Id.*

increased likelihood of dropping out;<sup>12</sup> substance abuse;<sup>13</sup> and involvement with juvenile justice systems.<sup>14</sup>

As a result, this guidance is critically needed to ensure that all students have an equal opportunity to learn and grow in school. Additionally, fair and equitable discipline policies are an important component of creating an environment where all students feel safe and welcome. Schools are safer when all students feel comfortable and are engaged in the school community, and when teachers and administrators have the tools and training to prevent and address conflicts and challenges as they arise. Equipping school officials with an array of tools to support positive student behavior – thereby providing a range of options to prevent and address misconduct – will both promote safety and avoid the use of discipline policies that are discriminatory or inappropriate. The goals of equity and school safety are thus complementary, and together help ensure a safe school free of discrimination.

This guidance summarizes schools' obligations to avoid and redress racial discrimination in the administration of student discipline. It provides a detailed explanation of the Departments' investigative process under Title IV and Title VI, including the legal framework within which the Departments consider allegations of racially discriminatory student discipline practices, and examples of school disciplinary policies and practices that may violate civil rights laws. In the Appendix to this guidance, the Departments have provided a set of recommendations to assist schools in developing and implementing student discipline policies and practices equitably and in a manner consistent with their Federal civil rights obligations. These recommendations are intended to be illustrative, not exhaustive. The Departments are available to provide technical assistance to support school efforts to cultivate an environment in which all students are safe and have equal educational opportunities.<sup>15</sup>

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<sup>11</sup> S.A. Hemphill, J.W. Toumbourou, T.I. Herrenkohl, B.J. McMorris & R.F. Catalano, *The Effect of School Suspensions and Arrests on Subsequent Adolescent Antisocial Behavior in Australia and the United States*. 39 J. ADOLESCENT HEALTH 736 (2006); S.A. Hemphill, T.I. Herrenkohl, S.M. Plenty, J.W. Toumbourou, R.F. Catalano & B.J. McMorris, *Pathways from School Suspension to Adolescent Nonviolent Antisocial Behavior in Students in Victoria, Australia and Washington State, United States*, 40 J. COMMUNITY PSYCHOL. 301 (2012).

<sup>12</sup> Arcia, *supra*; Fabelo et al, *supra*; Linda M. Raffaele Mendez, *Predictors of Suspension and Negative School Outcomes: A Longitudinal Investigation*, 99 NEW DIRECTIONS FOR YOUTH DEV. 17 (2003).

<sup>13</sup> S.A. Hemphill, J. A. Heerde, T.I. Herrenkohl, J.W. Toumbourou & R.F. Catalano, *The Impact of School Suspension on Student Tobacco Use: A Longitudinal Study in Victoria, Australia, and Washington State, United States*. 39 HEALTH EDUC. & BEHAV. 45 (2012).

<sup>14</sup> V. Costenbader & S. Markson, *School Suspension: A Study with Secondary School Students*. 36 J. SCH. PSYCHOL. 59 (1998); Fabelo et al, *supra*.

<sup>15</sup> Nothing in this guidance alters a school's obligation to respond to student misconduct that constitutes discriminatory harassment. More information about the applicable legal standards is included in OCR's Dear Colleague Letter: Harassment and Bullying (Oct. 26, 2010), available at <http://www.ed.gov/ocr/letters/colleague-201010.pdf>. See also OCR's Dear Colleague Letter: Sexual Harassment and Sexual Violence (Apr. 4, 2011),

## **THE DEPARTMENTS' INVESTIGATIONS AND ENFORCEMENT ACTIONS UNDER TITLE IV AND TITLE VI**

### **A. Legal Framework**

Titles IV and VI protect students from discrimination based on race in connection with all academic, educational, extracurricular, athletic, and other programs and activities of a school, including programs and activities a school administers to ensure and maintain school safety and student discipline. When schools respond to student misconduct, Titles IV and VI require that the school's response be undertaken in a racially nondiscriminatory manner.

These statutes cover school officials and everyone school officials exercise some control over, whether through contract or other arrangement, including school resource officers. Schools cannot divest themselves of responsibility for the nondiscriminatory administration of school safety measures and student discipline by relying on school resource officers, school district police officers, contract or private security companies, security guards or other contractors, or law enforcement personnel. To the contrary, the Departments may hold schools accountable for discriminatory actions taken by such parties.<sup>16</sup>

Titles IV and VI protect students over the entire course of the disciplinary process, from behavior management in the classroom, to referral to an authority outside the classroom because of misconduct – a crucial step in the student discipline process – to resolution of the discipline incident. In their investigations of school discipline, the Departments have noted that the initial referral of a student to the principal's office for misconduct is a decision point that can raise concerns, to the extent that it entails the subjective exercise of unguided discretion in which racial biases or stereotypes may be manifested. If a school refers students for discipline because of their race, the school has engaged in discriminatory conduct regardless of whether the student referred has engaged in misbehavior. And even if the referrals do not ultimately lead to the imposition of disciplinary sanctions, the referrals alone result in reduced classroom time and academic instruction for the referred student. Furthermore, if a sanction from a discriminatory referral becomes part of the student's school record, it could potentially enhance the penalty for subsequent misconduct and follow the student throughout the student's academic career. Therefore, it is incumbent upon a school to take effective steps to eliminate all racial discrimination in initial discipline referrals.

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available at <http://www.ed.gov/ocr/letters/colleague-201104.pdf>. When addressing such harassment, a school should consider incorporating wide-ranging strategies beyond exclusionary discipline, including, for example, conflict resolution, restorative practices, and counseling, to help meet its obligations under Federal civil rights laws.

<sup>16</sup> The nondiscrimination requirements of Titles IV and VI extend to conduct undertaken by entities that carry out some or all of the schools' functions through "contractual or other arrangements." *See, e.g.*, 34 C.F.R. § 100.3(b)(1), (2).

The administration of student discipline can result in unlawful discrimination based on race in two ways: first, if a student is subjected to *different treatment* based on the student's race, and second, if a policy is neutral on its face – meaning that the policy itself does not mention race – and is administered in an evenhanded manner but has a *disparate impact*, *i.e.*, a disproportionate and unjustified *effect* on students of a particular race. Under both inquiries, statistical analysis regarding the impact of discipline policies and practices on particular groups of students is an important indicator of potential violations. In all cases, however, the Departments will investigate all relevant circumstances, such as the facts surrounding a student's actions and the discipline imposed.

### **1. Different Treatment**

Both Title IV and Title VI prohibit schools from intentionally disciplining students differently based on race.<sup>17</sup> The clearest case of intentional discrimination would be a policy that was discriminatory on its face: one that included explicit language requiring that students of one race be disciplined differently from students of another race, or that only students of a particular race be subject to disciplinary action.

More commonly, however, intentional discrimination occurs when a school has a discipline policy that is neutral on its face (meaning the language of the policy does not explicitly differentiate between students based on their race), but the school administers the policy in a discriminatory manner or when a school permits the *ad hoc* and discriminatory discipline of students in areas that its policy does not fully address.

Such intentional discrimination in the administration of student discipline can take many forms. The typical example is when similarly situated students of different races are disciplined differently for the same offense. Students are similarly situated when they are comparable, even if not identical, in relevant respects. For example, assume a group of Asian-American and Native-American students, none of whom had ever engaged in or previously been disciplined for misconduct, got into a fight, and the school conducted an investigation. If the school could not determine how the fight began and had no information demonstrating that students behaved differently during the fight, *e.g.*, one group used weapons, then the school's decision to discipline the Asian-American students more harshly than the Native-American students would raise an inference of intentional discrimination.

Selective enforcement of a facially neutral policy against students of one race is also prohibited intentional discrimination. This can occur, for example, when a school official elects to overlook a violation of a policy committed by a student who is a member of one racial group, while strictly enforcing the policy against a student who is a member of another racial group. It can occur at the classroom level as well. The Departments often receive complaints from parents

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<sup>17</sup> 42 U.S.C. §§ 2000c *et seq.*; 42 U.S.C. § 2000d; 34 C.F.R. § 100.3(a), (b)(1).

that a teacher only refers students of a particular race outside of the classroom for discipline, even though students of other races in that classroom commit the same infractions. Where this is true, there has been selective enforcement, even if an administrator issues the same consequence for all students referred for discipline.

Intentional discrimination also occurs when a school adopts a facially neutral policy with the intent to target students of a particular race for invidious reasons. This is so even if the school punishes students of other races under the policy.<sup>18</sup> For example, if school officials believed that students of a particular race were likely to wear a particular style of clothing, and then, as a means of penalizing students of that race (as opposed to as a means of advancing a legitimate school objective), adopted a policy that made wearing that style of clothing a violation of the dress code, the policy would constitute unlawful intentional discrimination.

Lastly, intentional discrimination could be proven even without the existence of a similarly situated student if the Departments found that teachers or administrators were acting based on racially discriminatory motives. For example, if a school official uttered a racial slur when disciplining a student, this could suggest racial animus, supporting a finding that the official intended to discriminate based on a particular student's race.

Whether the Departments find that a school has engaged in intentional discrimination will be based on the facts and circumstances surrounding the particular discipline incident. Evidence of racially discriminatory intent can be either direct or circumstantial. Direct evidence might include remarks, testimony, or admissions by school officials revealing racially discriminatory motives. Circumstantial evidence is evidence that allows the Departments to infer discriminatory intent from the facts of the investigation as a whole, or from the totality of the circumstances.

Absent direct evidence of intentional discrimination based on race, the Departments examine the circumstantial evidence to evaluate whether discrimination has occurred. The Departments typically ask the following questions to determine whether a school intentionally discriminated in the administration of student discipline (see also Illustration 1, page 10):

- (1) Did the school limit or deny educational services, benefits, or opportunities to a student or group of students of a particular race by treating them differently from a similarly situated student or group of students of another race in the disciplinary process? (As noted above, students are similarly situated when they are comparable (even if not identical) in relevant respects, for example, with regard to the seriousness of the infraction committed and their respective disciplinary histories.) If no, then the Departments would not find sufficient evidence to determine that the school has

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<sup>18</sup> See, e.g., *Hunter v. Underwood*, 471 U.S. 222, 227, 231-32 (1985).



engaged in intentional discrimination. If the students *are* similarly situated and the school has treated them differently, then:

- (2) Can the school articulate a legitimate, nondiscriminatory reason for the different treatment? If not, the Departments could find that the school has intentionally discriminated on the basis of race. If yes, then:
- (3) Is the reason articulated a pretext for discrimination?<sup>19</sup> Some of the circumstances where the Departments may find that the school's stated reason is a pretext – in other words, not the true reason for the school's action – are: the asserted reason does not explain the school's actions; witnesses contradict the school's stated reason for the disparity, exposing such reason as false; students of other races have received different sanctions for similar instances of misbehavior; or the sanctions imposed do not conform to the school's permitted discipline sanctions in its written discipline policy. If the nondiscriminatory reason offered by the school is found to be pretextual, the Departments would find that the school had engaged in intentional discrimination.

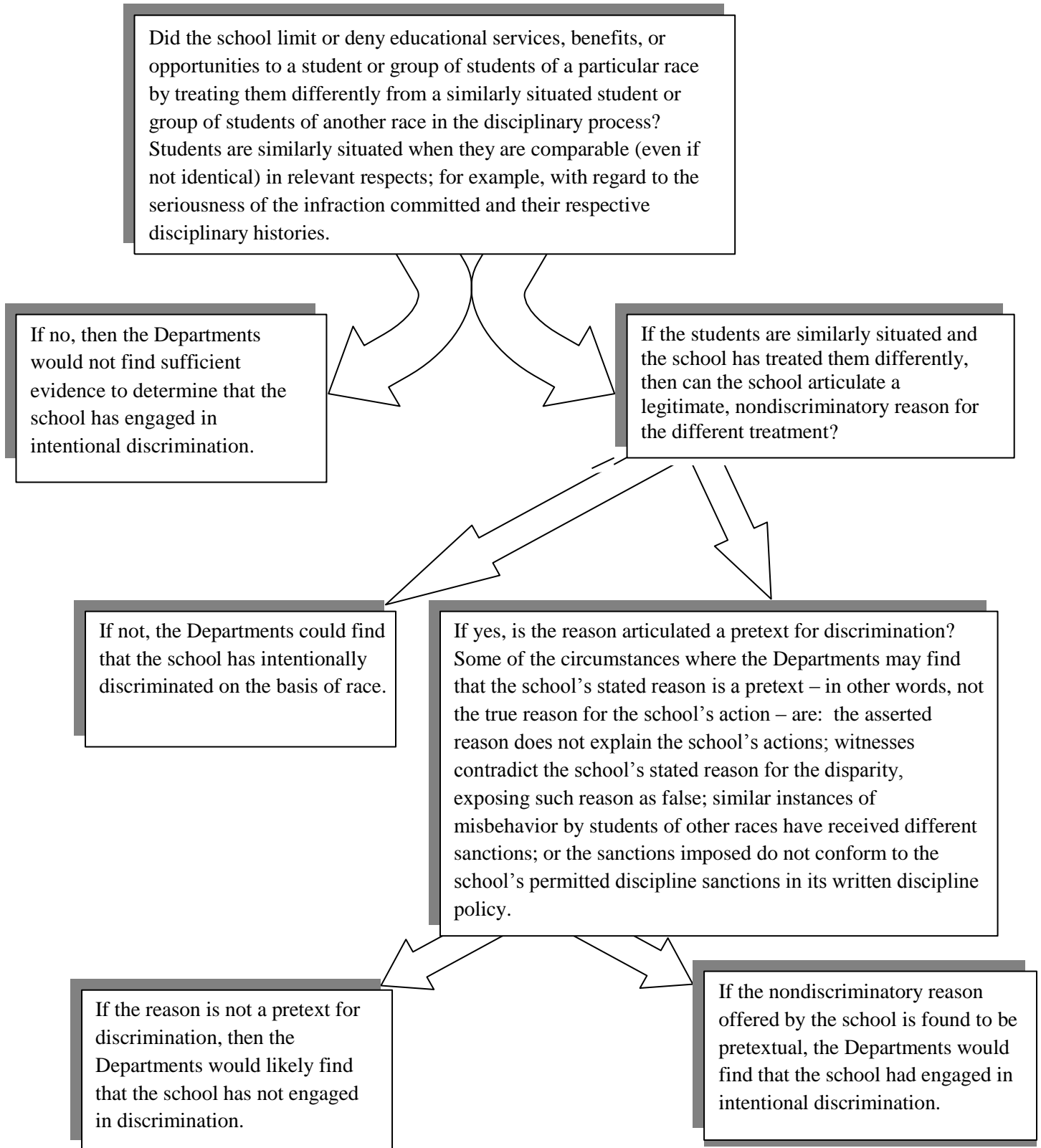
In evaluating claims under this analysis, the Departments may also consider other circumstantial evidence to determine whether there was discriminatory intent underlying a school's administration of discipline. Such circumstantial evidence may include, but is not limited to, whether the impact of a disciplinary policy or practice weighs more heavily on students of a particular race; whether there is a history of discriminatory conduct toward members of a student's race; the administrative history behind a disciplinary policy or decision; and whether there had been inconsistent application of disciplinary policies and practices to students of different racial backgrounds.<sup>20</sup>

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<sup>19</sup> See generally *Elston v. Talladega County Bd. of Educ.*, 997 F.2d 1394 (11th Cir. 1993); U.S. Department of Justice, *Title VI Legal Manual* 44-46 (Jan. 11, 2001) ("Title VI Manual"); U.S. Department of Education, *Racial Incidents and Harassment against Students at Educational Institutions*, 59 Fed. Reg. 11,448 (Mar. 10, 1994). See also *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973), a Title VII case that sets forth a three-part test that also applies in the Title VI and Title IV contexts. The *McDonnell Douglas* test applies in court and administrative litigation to determine whether an institution has engaged in prohibited discrimination.

<sup>20</sup> See, e.g., *Village of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 265-68 (1977) (identifying a non-exhaustive list of factors that may serve as indicia of discriminatory intent).

### Illustration 1: Different Treatment Flowchart





## 2. Disparate Impact

Schools also violate Federal law when they evenhandedly implement facially neutral policies and practices that, although not adopted with the intent to discriminate, nonetheless have an unjustified effect of discriminating against students on the basis of race. The resulting discriminatory effect is commonly referred to as “disparate impact.”<sup>21</sup>

In determining whether a facially neutral policy has an unlawful disparate impact on the basis of race, the Departments will engage in the following three-part inquiry (see also Illustration 2, page 13).

- (1) Has the discipline policy resulted in an adverse impact on students of a particular race as compared with students of other races? For example, depending on the facts of a particular case, an adverse impact may include, but is not limited to, instances where students of a particular race, as compared to students of other races, are disproportionately: sanctioned at higher rates; disciplined for specific offenses; subjected to longer sanctions or more severe penalties; removed from the regular school setting to an alternative school setting; or excluded from one or more educational programs or activities. If there were no adverse impact, then, under this inquiry, the Departments would not find sufficient evidence to determine that the school had engaged in discrimination. If there were an adverse impact, then:
- (2) Is the discipline policy necessary to meet an important educational goal?<sup>22</sup> In conducting the second step of this inquiry, the Departments will consider both the importance of the goal that the school articulates and the tightness of the fit between the stated goal and the means employed to achieve it. If the policy is not necessary to meet an important educational goal, then the Departments would find that the school had engaged in discrimination. If the policy is necessary to meet an important educational goal, then the Departments would ask:
- (3) Are there comparably effective alternative policies or practices that would meet the school’s stated educational goal with less of a burden or adverse impact on the disproportionately affected racial group, or is the school’s proffered justification a pretext for discrimination?<sup>23</sup> If the answer is yes to either question, then the

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<sup>21</sup> Recipients of Federal financial assistance are prohibited from “utiliz[ing] criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect individuals of a particular race, color, or national origin.” 34 C.F.R. § 100.3(b)(2); *see also* 28 C.F.R. § 42.104(b)(2).

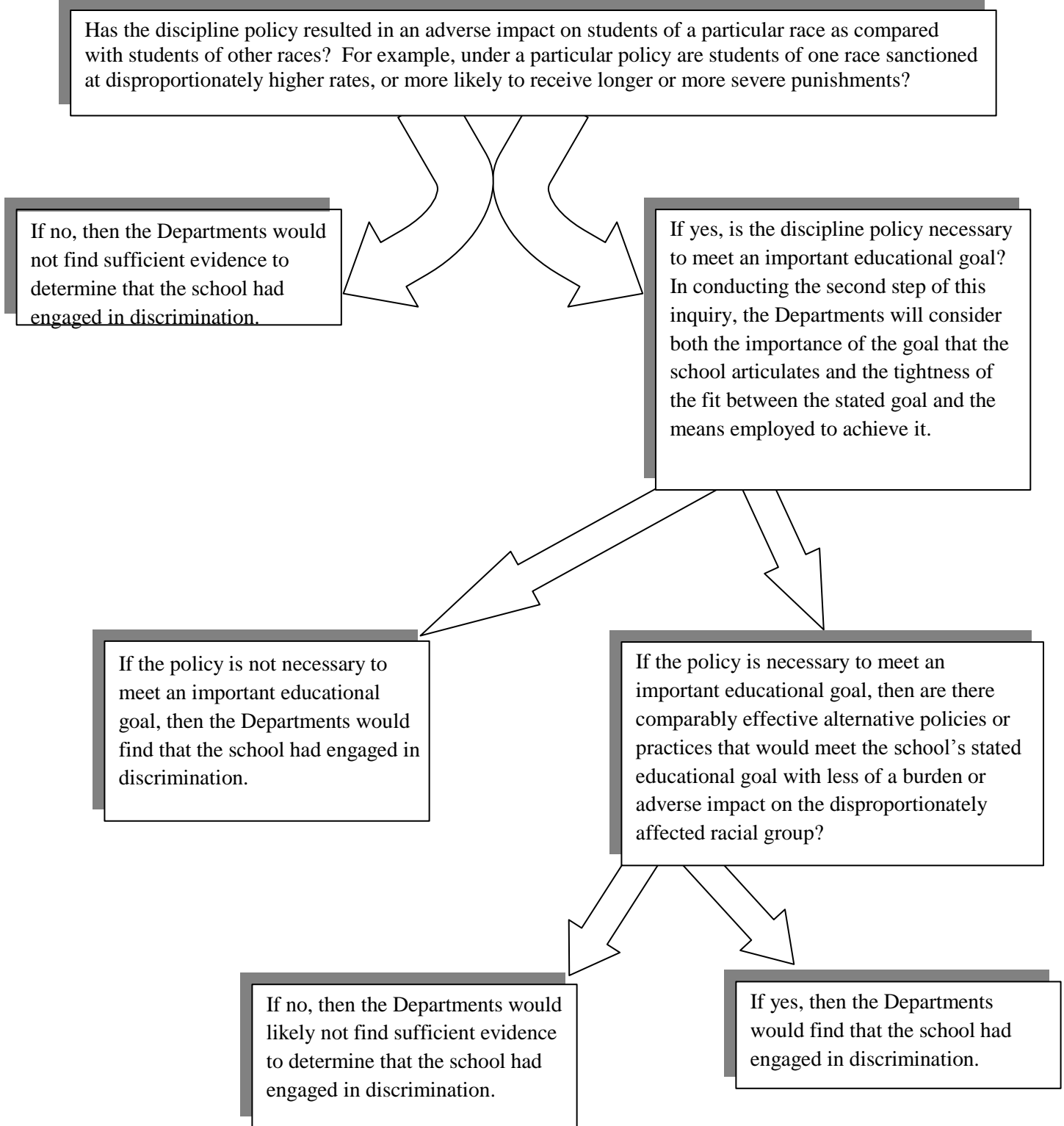
<sup>22</sup> *See Elston*, 997 F.2d at 1411-12 (explaining that courts have required schools to demonstrate an “educational necessity” for the challenged program, practice, or procedure); Title VI Manual at 51.

<sup>23</sup> *See Elston*, 997 F.2d at 1413.

Departments would find that the school had engaged in discrimination. If no, then the Departments would likely not find sufficient evidence to determine that the school had engaged in discrimination.

Examples of policies that can raise disparate impact concerns include policies that impose mandatory suspension, expulsion, or citation (*e.g.*, ticketing or other fines or summonses) upon any student who commits a specified offense – such as being tardy to class, being in possession of a cellular phone, being found insubordinate, acting out, or not wearing the proper school uniform; corporal punishment policies that allow schools to paddle, spank, or otherwise physically punish students; and discipline policies that prevent youth returning from involvement in the justice system from reenrolling in school. Additionally, policies that impose out-of-school suspensions or expulsions for truancy also raise concerns because a school would likely have difficulty demonstrating that excluding a student from attending school in response to the student’s efforts to avoid school was necessary to meet an important educational goal.

## Illustration 2: Disparate Impact Flowchart



### 3. Examples

This Section provides practical examples of situations in which the Departments might find, consistent with the principles set forth in the previous Sections, that violations of Title IV or Title VI have been established. These examples are intended to be illustrative, not exhaustive. We encourage school districts to contact us for technical assistance in applying this guidance to their particular situations.

#### *Example 1*

A complaint was filed alleging discrimination after a school imposed different disciplinary sanctions on two students in the sixth grade – a non-Hispanic student and a Hispanic student – who engaged in a fight. Both students had similar disciplinary histories, having each previously received after-school detention for minor infractions. The Hispanic student received a three-day out-of-school suspension for the student’s involvement in the fight, while the non-Hispanic student received a two-day out-of-school suspension for the same misconduct, raising a concern that the students were treated differently on the basis of race.

Based on these facts and circumstances, the Departments would make an initial determination that the students were similarly situated, as they were involved in the same incident and have similar discipline records. If the school provided evidence of facts and circumstances surrounding the incident that would constitute a legitimate, nondiscriminatory reason for the different treatment, such as evidence that it disciplined the Hispanic student more severely because the student instigated the fight and directly threatened school officials who tried to break up the fight, then these facts and circumstances might constitute a nondiscriminatory reason for the different treatment.<sup>24</sup> If a nondiscriminatory reason for imposing a different sanction on either student were not identified, the Departments could find that the school had violated Titles IV and VI.

If a legitimate, nondiscriminatory reason for the different sanction were identified, the Departments would probe further to determine whether the reason given for the enhanced sanction was a pretext for racial discrimination. In making this determination, the Departments would request and consider information such as witness statements, codes of conduct, and student disciplinary records. The Departments would then evaluate, among other things, whether the school conformed to its written policies; whether the Hispanic student did, in fact, instigate the fight; and whether the school had previously imposed a higher sanction on non-Hispanic students who had instigated fights.

If the Departments found a violation, among the individual remedies that might be required would be the revision of the Hispanic student’s school records to delete the record of additional

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<sup>24</sup> For more information regarding evidence the Departments consider when conducting an investigation, please consult Section B.

punishment and the provision of compensatory educational services to remedy missed class time.<sup>25</sup> The Departments could also require systemic relief, such as training of decision makers and changing disciplinary procedures to prevent different treatment in the future.

### *Example 2*

A district's code of conduct specifies three different categories of offenses, ranging from Level 1, or minor behavior offenses, to Level 3, which covers the most serious conduct.<sup>26</sup> The code of conduct gives school officials the discretion to select among a range of penalties identified for each category of offense. A complainant alleges that her eighth-grade son, who is African-American, was referred to the office at his school and received a one-day in-school suspension for "use of profane or vulgar language" – a Level 1 offense – during a class period. The disciplinary sanction imposed was within the permissible range for Level 1 offenses. The student has had no previous discipline incidents. A white student at the same school and with a similar disciplinary history also committed a Level 1 offense: "inappropriate display of affection" while on the school bus. While the parent of the white student was called, the student received no additional disciplinary sanction.

The fact that the school characterized both types of misconduct as Level 1 offenses indicates that the school itself believes that the misconduct warrants similar disciplinary responses. Based on these facts and circumstances, the Departments would make an initial determination that these students were similarly situated because they engaged in comparable conduct as defined by the school – misconduct classified as a Level 1 offense – and had similar disciplinary records.

The school would be asked whether it had a reason (such as the context or circumstances for these incidents) that would justify treating the students differently for Level 1 offenses. In this case, the school gave teachers and administrators a list of factors to consider when deciding whether to enhance or reduce disciplinary sanctions. Some of the factors relevant to Level 1 offenses were: whether the student's misconduct interrupted the learning process; whether the student had been previously disciplined for the same offense; whether the student accepted responsibility for the misconduct; and whether the student could demonstrate that he or she tried to avoid the situation that resulted in the misconduct. The school provided evidence that the parent of the African-American student previously received a telephone call about her son's prior use of profane or vulgar language in the classroom. The school also determined that the different

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<sup>25</sup> For more information on remedies for violations of Titles IV or VI, please consult Section D.

<sup>26</sup> A district can create categories of offenses and penalties as part of its discipline policy or student code of conduct, as long as the categories themselves do not reflect racial biases or stereotypes and/or are not based on race. Misconduct that is categorized in a manner that does not align with the severity of the offense (*e.g.*, school-based arrest for a school uniform violation) may raise an inference of racial discrimination if students of a particular race are disproportionately disciplined for that offense.

locations of the offenses, *e.g.*, on the bus as compared to in the classroom, resulted in different levels of disruption to learning.

The school's reasons for treating the students differently would be sufficient under these facts and circumstances, unless the Departments found that the proffered reasons were a pretext for discrimination. In this instance, if school officials gave conflicting accounts of why the African-American student received a higher sanction, or if the school's records showed that it rarely distinguished misbehavior on the bus from misbehavior in the classroom in determining sanctions, the Departments could determine that the alleged nondiscriminatory explanation was pretextual.

If the school had not provided a nondiscriminatory reason for imposing a different sanction on the African-American student, or if the purported nondiscriminatory reason were found to be pretextual, the Departments would find that the school had violated Titles IV and VI. In that case, the Departments would seek individual and/or systemic relief.

### *Example 3*

A complainant alleges that Native-American students are treated differently from their non-Native-American peers at a school that contracts with a school safety officer to secure the entrances and exits of the school building, patrol the halls, and maintain safety on the school grounds. The investigation reveals that the school safety officer, when he was posted for security at the main entrance, treated Native-American students differently from other students. The school's rules require that when a student arrives at the entrance less than five minutes late, the student should be allowed to go directly to class, whereas when a student arrives more than five minutes late, the student should be sent to the office before going to class. The school safety officer, however, had a practice of detaining for several minutes some Native-American students (but not any other students) who arrived less than five minutes late, and then sending them to the office. The school safety officer, who was not an employee of the school, offered no justification for the differential treatment and declined to speak with investigators or explain himself to the school.

Because a school is responsible for discrimination by parties with whom it contracts or to whom it otherwise delegates responsibility for aspects of the school's programs or functions, the conduct of the school safety officer would raise an inference of racial discrimination by the school. If the school could not provide a nondiscriminatory reason for the different treatment of Native American students by the school safety officer, or if the reason were found to be pretextual, the Departments would find that the school had violated Titles IV and VI.

#### *Example 4*

A school district established a district-wide alternative high school to which it assigns students with extensive disciplinary records. Although only 12 percent of the district's students are African-American, 90 percent of students assigned involuntarily to the alternative high school are African-American. The evidence shows that when white and African-American students commit similar offenses in their regular high schools, the offenses committed by the white students have not been reflected as often in school records. The evidence also shows that some white students are not assigned to the alternative high school, despite having disciplinary records as extensive (in terms of number of and severity of offenses) as some of the African-American students who have been involuntarily assigned there. Based on these facts and circumstances, if the school district could not provide a legitimate, nondiscriminatory reason for the different treatment or the reason provided were pretextual, the Departments would find that the school district had violated Titles IV and VI.

#### *Example 5*

A school district's discipline code allows for a one-day suspension of all students who commit the offense of "acting in a threatening manner." Statistical data demonstrate that under this provision of the code, a school in the district suspends African-American students disproportionately relative to their enrollment at the school. During the investigation, the Departments find that the discipline code provision lacks a clear definition of the prohibited conduct, and that the school has suspended African-American students under the provision for a broad range of actions, including congregating in groups in the hallways, talking too loudly, or talking back when admonished by the teacher. Further, the evidence indicates that white students engaging in comparable conduct are more likely to be charged with lower-level violations of the discipline code, such as "no hall pass" and "classroom disruption." These offenses do not lead to suspension and are more likely to result in after-school detention.

Based on this evidence, the Departments would probe further and ask the school whether it had a nondiscriminatory reason for the pattern of different treatment, such as additional circumstances or specific, objective factors that led decision makers to consider certain instances of misbehavior more threatening than other instances of similar misbehavior. If a nondiscriminatory reason were not identified (for instance, if the school provided only a statement from a teacher that the teacher felt more threatened by the conduct of the African-American students, without providing a reasonable basis to conclude that the behavior at issue actually was more threatening), or if the purported nondiscriminatory reason were found to be pretextual, the Departments would find the school in violation of Titles IV and VI, and seek individual and/or systemic relief.

Such remedies could consist of one or more of the following: (1) providing clear definitions and examples of threatening actions for which students may be suspended (including specifying the conduct that does not warrant a suspension); (2) requiring the administrator(s) to make specific



findings prior to imposing the sanction of suspension, *e.g.*, determining that the behavior in question falls within the scope of the prohibited conduct, and/or determining that other means of addressing student behavior are not feasible or repeatedly failed to bring about appropriate conduct; (3) providing teachers and administrators with training on how to administer the policy fairly and equitably; and/or (4) providing teachers with training in classroom management techniques and effective behavioral interventions that give them appropriate and culturally responsive tools to interpret and address the underlying behaviors.

#### *Example 6*

A school district adopted an elaborate set of rules governing the sanctions for various disciplinary offenses. For one particular offense, labeled “use of electronic devices,” the maximum sanction is a one-day in-school suspension where the student is separated from his regular classroom but still is provided some educational services. The investigation reveals that school officials, however, regularly impose a greater, unauthorized punishment – out-of-school suspension – for use of electronic devices. The investigation also shows that African-American students are engaging in the use of electronic devices at a higher rate than students of other races. Coupled with the school’s regular imposition of greater, unauthorized punishment for using electronic devices, therefore, African-American students are receiving excessive punishments more frequently than students of other races. In other words, African-American students are substantially more likely than students of other races to receive a punishment in excess of that authorized under the school’s own rules.

There is no evidence that the disproportionate discipline results from racial bias or reflects racial stereotypes. Rather, further investigation shows that this excessive punishment is the result of poor training of school officials on the school rules that apply to use of electronic devices.

Under these circumstances, the Departments could find a violation of Title VI. Although there is no finding of intentional discrimination, the misapplication of the discipline rules by school officials results in an adverse impact (disproportionate exclusion from education services) on African-American students as compared with other students. Because this practice has an adverse racial impact, the school must demonstrate that the practice is necessary to meet an important educational goal. The school cannot do so, however, because there is no justification for school officials to disregard their own rules and impose a punishment not authorized by those rules.

Additional training for school officials, clarification of the rules, and the immediate collection and review of incident data to prevent unauthorized punishments might be required to eliminate the disparate impact going forward. Among the individual remedies that might be required are revision of students’ school records and compensatory educational services to remedy missed class time.



### *Example 7*

A middle school has a “zero tolerance” tardiness policy. Students who are more than five minutes tardy to class are always referred to the principal’s office at a particular school, where they are required to remain for the rest of the class period regardless of their reason for being tardy. The school also imposes an automatic one-day suspension when a student is recorded as being tardy five times in the same semester. Additional tardiness results in longer suspensions and a meeting with a truancy officer.

The evidence shows Asian-American students are disproportionately losing instruction time under the school’s “zero tolerance” tardiness policy, as a result of both office referrals and suspensions for repeated tardiness.

An investigation further reveals that white and Hispanic students are more likely to live within walking distance of the school, while Asian-American students are more likely to live farther away and in an area cut off by an interstate highway that prevents them from walking to school. The majority of Asian-American students are thus required to take public transportation. These students take the first public bus traveling in the direction of their school every morning. Even though they arrive at the bus stop in time to take the first bus available in the morning, they often are not dropped off at school until after school has begun.

As justification for the “zero tolerance” tardiness policy, the school articulates the goals of reducing disruption caused by tardiness, encouraging good attendance, and promoting a climate where school rules are respected, all of which the Departments accept as important educational goals. The Departments would then assess the fit between the stated goals and the means employed by the school – including whether the policy is reasonably likely to reduce tardiness for these students under these circumstances. Assuming there was such a fit, the Departments would then probe further to determine the availability of alternatives that would also achieve the important educational goals while reducing the adverse effect on Asian-American students (*e.g.*, aligning class schedules and bus schedules, or excusing students whose tardiness is the result of bus delays). If the Departments determine that a school’s articulated goal can be met through alternative policies that eliminate or have less of an adverse racial impact, the Departments would find the school in violation of Title VI and require that the school implement those alternatives.

### **B. Information the Departments Consider**

During an investigation, the Departments will examine facts and information related to a school’s discipline approach. The following is a non-exhaustive list of the types of information the Departments have examined when investigating the possibility of discriminatory discipline: written policies (such as student codes of conduct, parent handbooks, and teacher manuals) and unwritten disciplinary practices (such as exercises of discretion by teachers and school administrators); data indicating the number of referrals to administrators charged with

implementing student discipline and/or to law enforcement authorities; discipline incident reports; copies of student discipline records and discipline referral forms; school discipline data disaggregated by subgroup, offense, other relevant factors (such as the time of incident, place of incident, whether more than one student was involved in an incident, the students' prior disciplinary infractions, the person(s) who referred a student for discipline); and interviews with students, parents, administrators, teachers, counselors, school resource officers and other law enforcement officers, relevant contractors, and support staff. The Departments also will review and analyze information provided by schools through the CRDC, if applicable, and other relevant data.

The Departments will look carefully at, among other things, a school's definitions of misconduct to ensure they are clear and nondiscriminatory, the extent to which disciplinary criteria and referrals are made for offenses that are subjectively defined (*e.g.*, disrespect or insubordination), and whether there are safeguards to ensure that discretion is exercised in a nondiscriminatory manner. In addition to establishing a system for monitoring all disciplinary referrals, the school should have a system in place to ensure that staff who have the authority to refer students for discipline are properly trained to administer student discipline in a nondiscriminatory manner. Schools should thus take steps to monitor and evaluate the impact of disciplinary practices to detect patterns that bear further investigation.

### **C. Importance of Appropriate Record Keeping**

The Departments expect schools to cooperate with investigations and, upon request, to provide records that will enable the Departments to ascertain whether the administration of student discipline policies and practices complies with the requirements of Titles IV and VI. If the Departments determine that a school does not collect accurate and complete data to resolve an investigation, and/or the Departments are unable to obtain the necessary information through interviews or other means, the Departments may conclude that the school's record-keeping process presents concerns.

To address these concerns, the Departments may require, for example, that the school begin keeping the necessary information to determine if the school is meeting its Title VI obligations and not discriminating against students in the administration of its discipline policies.<sup>27</sup> A non-

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<sup>27</sup> See 34 C.F.R. § 100.6(b), applying to the Department of Education ("Each recipient shall keep such records and submit to the responsible Department official or his designee timely, complete and accurate compliance reports at such times, and in such form and containing such information, as the responsible Department official or his designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying" with the Title VI regulations.); *id.* § 100.6(c) ("Each recipient shall permit access by the responsible Department official or his designee during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance" with the Title VI regulations). See also 28 C.F.R. § 42.106(b), applying to DOJ ("Each recipient shall keep such records and submit to the responsible Department official or his designee timely, complete, and accurate compliance reports at such times, and in such

exhaustive list of data-related remedies required of schools found to be in noncompliance with Title VI includes the following: developing and implementing uniform standards for the content of discipline files; developing and training all staff on uniform standards for entry, maintenance, updating and retrieval of data accurately documenting the school's discipline process and its implementation, including its racial impact; and keeping data on teacher referrals and discipline, to assess whether particular teachers may be referring large numbers of students by race for discipline (and following up with these teachers, as appropriate, to determine the underlying causes).

#### **D. Remedies**

If the Departments conclude that a school is in violation of Title IV or Title VI in the administration of student discipline, the Departments will attempt to secure the school's voluntary agreement to take specific steps to remedy the identified violation before seeking redress in court or through an administrative hearing. If appropriate under the circumstances, the Departments will involve the entire district, and not just an individual school, in the agreement. The remedy sought would be aligned with the Departments' findings and could include individual relief to students who were subjected to racial discrimination, and also prospective remedies that are necessary to ensure the school's (and district's) future adherence to the requirements of Titles IV and VI. Such remedies may include the following:

- correcting the records of students who were treated differently regarding the infraction and sanction imposed;
- providing compensatory, comparable academic services to students receiving in-school or out-of-school suspensions, expelled, placed in an alternative school, or otherwise removed from academic instruction;
- revising discipline policies to provide clear definitions of infractions to ensure that consequences are fair and consistent;
- developing and implementing strategies for teaching, including the use of appropriate supports and interventions, which encourage and reinforce positive student behaviors and utilize exclusionary discipline as a last resort;

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form and containing such information, as the responsible Department official or his designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying" with the Title VI regulations); *id.* § 106(c) ("each recipient shall permit access by the responsible Department official or his designee during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities, as may be pertinent to ascertain compliance" with the Title VI regulations); *id.* § 106(d). If a school has been previously instructed by the Departments to collect and maintain particular data, the failure to provide such data would be regarded as a violation of these provisions and would cause the Departments to presume the missing data would have supported a finding of a substantive violation.

- providing training for school personnel on revised discipline policies and classroom management techniques;
- providing school-based supports for struggling students whose behavior repeatedly disrupts their education and/or the education of other students;<sup>28</sup>
- designating a school official as a discipline supervisor to ensure that the school implements its discipline policies fairly and equitably;
- conducting and/or reviewing comprehensive needs assessments to ensure they are effective in measuring the perceptions of students and other members of the community in connection with the administration of school discipline, and using the results of these assessments to make responsive changes to policies and practices;
- at least annually, conducting a forum during the school day that provides students, teachers and administrators the opportunity to discuss matters relating to discipline and provide input on the school’s discipline policies;
- developing a training and information program for students and community members that explains the school’s discipline policies and what is expected of students in an age-appropriate, easily understood manner;
- creating a plan for improving teacher-student relationships and on-site mentoring programs; and
- conducting an annual comprehensive review of school resource officer interventions and practices to assess their effectiveness in helping the school meet its goals and objectives for student safety and discipline.

Remedies will necessarily vary with the facts of each case; in all instances, however, the remedies must fully and effectively address the school’s discriminatory actions and ensure future compliance with Titles IV and VI.<sup>29</sup> If the Departments enter into a resolution agreement with a school, they will monitor the school’s compliance with the agreement to ensure the school is meeting the requirements of Titles IV and VI when administering student discipline.

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<sup>28</sup> As previously noted, for students with disabilities, other Federal requirements may apply.

<sup>29</sup> The Departments have entered into settlement agreements and consent decrees to address and prevent racial discrimination in student discipline. These documents provide additional examples of the kinds of remedies that the Departments seek to ensure compliance with Titles IV and VI, and may be found at <http://www.justice.gov/crt/about/edu/documents/classlist.php> and <http://www.ed.gov/ocr/docs/investigations/index.html>.

## CONCLUSION

The Departments are committed to promoting effective and appropriate school discipline policies and practices that create a safe and inclusive environment where all students can learn and succeed. As part of this commitment, we will enforce Federal laws to eliminate unlawful racial discrimination in school discipline. In addition to investigating complaints that have been filed, both Departments are collaboratively and proactively initiating compliance reviews nationwide focused on student discipline. Finally, the Departments will continue to provide technical assistance to schools on the adoption and administration of discipline policies consistent with their obligations under Federal civil rights laws.

Thank you for your efforts to ensure that the nation's students are provided with equal educational opportunities. If you need technical assistance, please contact the OCR regional office serving your State or territory by visiting <http://www.ed.gov/about/offices/list/ocr/index.html> or call OCR's Customer Service Team at 1-800-421-3481. You may contact DOJ's Civil Rights Division, Educational Opportunities Section, at [education@usdoj.gov](mailto:education@usdoj.gov), or 1-877-292-3804.

We look forward to continuing our work together to ensure equal access to education and to promote safe school environments for all of America's students.

Sincerely,

/S/

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Catherine E. Lhamon  
Assistant Secretary  
Office for Civil Rights  
U.S. Department of Education

/S/

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Jocelyn Samuels  
Acting Assistant Attorney General  
Civil Rights Division  
U.S. Department of Justice

## APPENDIX

### Recommendations for School Districts, Administrators, Teachers, and Staff

The U.S. Department of Education and the U.S. Department of Justice (Departments) are committed to working with schools, parents, students, stakeholder organizations, and other interested parties to ensure that students are not subjected to racially discriminatory discipline policies and practices. This appendix supplements the Dear Colleague Letter concerning discrimination on the basis of race, color, or national origin in school discipline issued by the Departments on January 8, 2014. We hope the following list of recommendations, which are based on a review of a broad spectrum of our cases, will assist schools to identify, avoid, and remedy discriminatory discipline based on race, color, or national origin.

These recommendations are intended to be illustrative. They are not intended to be exhaustive or exclusive; do not address recommendations specifically targeted at preventing discriminatory discipline that is based on prohibited grounds other than race, color, or national origin; and may not be applicable to every specific factual setting in a particular school.<sup>1</sup> Additionally, these recommendations do not constitute legal advice, and schools that choose to implement one or more of these recommendations might still be found to be in violation of Federal law(s). For additional information, research, and resources in these three areas relating more generally to improving school climate and discipline policies and practices, see the Guiding Principles Resource Guide released by the U.S. Department of Education on January 8, 2014.

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<sup>1</sup> For specific resources designed to assist schools in developing and implementing effective prevention and intervention strategies that promote positive student behavior and in planning and executing dropout prevention strategies, readers may wish to consult the following practice guides published by the Department of Education: Epstein, M., Atkins, M., Cullinan, D., Kutash, K., and Weaver, R. (2008). *Reducing Behavior Problems in the Elementary School Classroom: A Practice Guide* (NCEE #2008-012). Washington, DC: National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U.S. Department of Education, available at <http://ies.ed.gov/ncee/wwc/publications/practiceguides>; and Dynarski, M., Clarke, L., Cobb, B., Finn J., Rumberger, R., and Smink, J. (2008). *Dropout Prevention: A Practice Guide* (NCEE 2008-4025). Washington, DC: National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U.S. Department of Education, available at <http://ies.ed.gov/ncee/wwc/publications/practiceguides>. You may also wish to consult with regional Equity Assistance Centers that can assist schools in developing and implementing policies and practices to promote equitable educational opportunity on the basis of race, color, national origin, or sex. Please visit <http://www.ed.gov/programs/equitycenters> for more information.

## **I. Climate and Prevention**

### **(A) Safe, inclusive, and positive school climates that provide students with supports such as evidence-based tiered supports and social and emotional learning.**

- ✓ Develop and implement a comprehensive, school- and/or district-wide approach to classroom management and student behavior grounded in evidence-based educational practices that seeks to create a safe, inclusive, and positive educational environment.
- ✓ Ensure that appropriate student behavior is positively reinforced. Such reinforcement could include school-wide tiered supports, including universal, targeted, and intensive supports, to align behavioral interventions to students' behavioral needs.
- ✓ Encourage students to accept responsibility for any misbehavior and acknowledge their responsibility to follow school rules.
- ✓ Assist students in developing social and emotional competencies (*e.g.*, self-management, resilience, self-awareness, responsible decision-making) that help them redirect their energy, avoid conflict, and refocus on learning.
- ✓ Refer students with complex social, emotional, or behavioral needs for psychological testing and services, health services, or other educational services, where needed.
- ✓ Ensure that there are sufficient school-based counselors, social workers, nurses, psychologists, and other mental health and supportive service providers to work with students and implement tiered supports. Involve these providers in addressing disciplinary incidents; preventing future disciplinary concerns; reintegrating students who are returning from suspensions, alternative disciplinary schools, or incarceration; and maintaining a safe, inclusive, and positive educational environment.
- ✓ Involve students and student advocates in maintaining a safe, inclusive, and positive educational environment through programs such as peer mediation and restorative justice, as appropriate.

### **(B) Training and professional development for all school personnel**

- ✓ Provide all school personnel, including teachers, administrators, support personnel, and school resource officers, with ongoing, job-embedded professional development and training in evidence-based techniques on classroom management, conflict resolution, and de-escalation approaches that decrease classroom disruptions and utilize exclusionary disciplinary sanctions as a last resort.



- ✓ Train all school personnel on the school's written discipline policy and how to administer discipline fairly and equitably. Facilitate discussion for all school personnel of the school's discipline policies and the faculty's crucial role in creating a safe, inclusive, and positive educational environment.
- ✓ Provide training to all school personnel on how to apply subjective criteria in making disciplinary decisions.
- ✓ Provide cultural awareness training to all school personnel, including training on working with a racially and ethnically diverse student population and on the harms of employing or failing to counter racial and ethnic stereotypes.
- ✓ Establish procedures to assess the effectiveness of professional development approaches in improving school discipline practice and staff knowledge and skills.
- ✓ Establish procedures for school administrators to identify teachers who may be having difficulty managing classrooms effectively, preventing discipline problems from occurring, or making appropriate disciplinary referrals, and to provide those teachers with assistance and training.
- ✓ Ensure that appropriate instruction is provided to any volunteer on a school's campus regarding the school's approach to classroom management and student behavior.

**(C) Appropriate use of law enforcement**

- ✓ Clearly define and formalize roles and areas of responsibility to govern student and school interaction with school resource officers and other security or law enforcement personnel.
- ✓ Document the roles and responsibilities of school resource officers and security or law enforcement personnel in a written agreement or memorandum of understanding between the school and appropriate law enforcement and/or related agencies.
- ✓ Ensure that school resource officers and other security or law enforcement personnel effectively support school climate and discipline goals by promoting a safe, inclusive, and positive learning environment, and mentoring and otherwise supporting the education of students.
- ✓ Provide opportunities and approaches for school resource officers and other security or law enforcement personnel, school personnel, students, and parents to develop a trusting and positive relationship with one another.
- ✓ Ensure that school personnel understand that they, rather than school resource officers and other security or law enforcement personnel, are responsible for administering routine student discipline.



- ✓ Establish procedures and train school personnel and school volunteers on how to distinguish between disciplinary infractions appropriately handled by school officials versus major threats to school safety or serious school-based criminal conduct that cannot be safely and appropriately handled by the school's internal disciplinary procedures, and how to contact law enforcement when warranted.
- ✓ Regularly meet with school resource officers and other security or law enforcement personnel who work in the school to ensure that they receive training to work effectively and appropriately with elementary and secondary students. Such training may include instruction in bias-free policing, including instruction on implicit bias and cultural competence; child and adolescent development and age appropriate responses; practices demonstrated to improve school climate; restorative justice techniques; mentoring; classroom presentation skills; conflict resolution; privacy issues; and working collaboratively with school administrators.
- ✓ Ensure compliance with the Family Educational Rights and Privacy Act (FERPA) if school resource officers or other security or law enforcement personnel are permitted access to personally identifiable information from students' education records, such as disciplinary records.<sup>2</sup>
- ✓ Collect data and monitor the actions that school resource officers and other security or law enforcement personnel take against students to ensure nondiscrimination.

## **II. Clear, Appropriate, and Consistent Expectations and Consequences**

### **(A) Nondiscriminatory, fair, and age-appropriate discipline policies**

- ✓ Ensure that school discipline policies specifically and positively state high expectations for student behavior, promote respect for others, and make clear that engaging in harassment and violence, among other problem behaviors, is unacceptable.
- ✓ Ensure that discipline policies include a range of measures that students may take to improve their behavior prior to disciplinary action.
- ✓ Develop or revise written discipline policies to clearly define offense categories and base disciplinary penalties on specific and objective criteria whenever possible. If certain offense categories have progressive sanctions, clearly set forth the range of sanctions for each infraction.

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<sup>2</sup> These requirements are contained in 34 C.F.R. § 99.31(a)(1) and the criteria set forth in the school's annual notification of FERPA rights for how to identify school officials who have legitimate educational interests in accessing such records.

- ✓ Ensure that the sanctions outlined by the school’s discipline policies are proportionate to the misconduct.
- ✓ Review standards for disciplinary referrals and revise policies to include clear definitions of offenses and procedures for all school personnel to follow when making referrals.
- ✓ Clearly designate who has the authority to identify discipline violations and/or assign penalties for misconduct.
- ✓ Ensure that the school’s written discipline policy regarding referrals to disciplinary authorities or the imposition of sanctions distinguishes between those students who have violated the school’s discipline policy for the first time and those students who repeatedly commit a particular violation of the discipline policy.
- ✓ Ensure that appropriate due process procedures are in place and applied equally to all students and include a clearly explained opportunity for the student to appeal the school’s disciplinary action.

**(B) Communicating with and engaging school communities**

- ✓ Involve families, students, and school personnel in the development and implementation of discipline policies or codes of conduct and communicate those policies regularly and clearly.
- ✓ Provide the discipline policies and student code of conduct to students in an easily understandable, age-appropriate format that makes clear the sanctions imposed for specific offenses, and periodically advise students of what conduct is expected of them.
- ✓ Put protocols in place for when parents and guardians should be notified of incidents meriting disciplinary sanctions to ensure that they are appropriately informed.<sup>3</sup>
- ✓ Post all discipline-related materials on district and school websites.
- ✓ Provide parents and guardians with copies of all discipline policies, including the discipline code, student code of conduct, appeals process, process for re-enrollment, where appropriate, and other related notices; and ensure that these written materials accurately reflect the key

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<sup>3</sup> To the extent that information about these incidents is included in education records, parents have the right under FERPA and Individuals with Disabilities Education Act (IDEA) to inspect and review them. 20 U.S.C. § 1232g(1)(A); 34 C.F.R. § 99.10; 34 C.F.R. § 300.229; 34 C.F.R. § 300.613. If a student is 18 or over, or in the case of an IDEA-eligible student, if a student has reached the age of majority as determined by State law, then the rights accorded to parents under FERPA and the IDEA will transfer to the student. For students who hold their own educational rights, consideration should be given to whether it is appropriate to notify the parents or the student, or both, of the offense. *See generally* 20 U.S.C. § 1232g (d); 34 C.F.R. §§ 99.3, 99.5(a), 99.31; 20 U.S.C. § 1415(m); 34 C.F.R. § 300.520.

elements of the disciplinary approach, including appeals, alternative dispositions, time lines, and provisions for informal hearings.

- ✓ Translate all discipline policies, including the discipline code and all important documents related to individual disciplinary actions, to ensure effective communication with students, parents, and guardians who are limited English proficient. Provide interpreters or other language assistance as needed by students and parents for all discipline-related meetings, particularly for expulsion hearings.<sup>4</sup>
- ✓ Establish a method for soliciting student, family, and community input regarding the school's disciplinary approach and process, which may include establishing a committee(s) on general discipline policies made up of diverse participants, including, but not limited to students, administrators, teachers, parents, and guardians; and seek input from parents, guardians, and community leaders on discipline issues, including the written discipline policy and process.

**(C) Emphasizing positive interventions over student removal**

- ✓ Ensure that the school's written discipline policy emphasizes constructive interventions over tactics or disciplinary sanctions that remove students from regular academic instruction (e.g., office referral, suspension, expulsion, alternative placement, seclusion).
- ✓ Ensure that the school's written discipline policy explicitly limits the use of out-of-school suspensions, expulsions, and alternative placements to the most severe disciplinary infractions that threaten school safety or to those circumstances where mandated by Federal or State law.
- ✓ Ensure that the school's written discipline policy provides for individual tailored intensive services and supports for students reentering the classroom following a disciplinary sanction.
- ✓ Ensure that the school's written discipline policies provide for alternatives to in-school and out-of-school suspensions and other exclusionary practices (*i.e.*, expulsions).

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<sup>4</sup> Such language assistance may be required by Title VI; schools have the responsibility to provide national origin-minority parents who have limited proficiency in English with meaningful access to information provided to other parents in a language they understand.

### **III. Equity and Continuous Improvement**

#### **(A) Monitoring and self-evaluation**

- ✓ Develop a policy requiring the regular evaluation of each school's discipline policies and practices and other school-wide behavior management approaches to determine if they are affecting students of different racial and ethnic groups equally. Such a policy could include requiring the regular review of discipline reports containing information necessary to assess whether students with different personal characteristics (*e.g.*, race, sex, disability, and English learner status) are disproportionately disciplined, whether certain types of disciplinary offenses are more commonly referred for disciplinary sanctions(s), whether specific teachers or administrators are more likely to refer specific groups of students for disciplinary sanctions, and any other indicators that may reveal disproportionate disciplinary practices.
- ✓ Establish a means for monitoring that penalties imposed are consistent with those specified in the school's discipline code.
- ✓ Conduct a periodic review of a sample of discipline referrals and outcomes to ensure consistency in assignments.

#### **(B) Data collection and responsive action**

- ✓ Collect and use multiple forms of data, including school climate surveys, incident data, and other measures as needed, to track progress in creating and maintaining a safe, inclusive and positive educational environment.<sup>5</sup>
- ✓ Collect complete information surrounding all discipline incidents, including office referrals and discipline incidents that do not result in sanctions. Relevant data elements include information related to the date, time, and location of the discipline incident; the offense type; whether an incident was reported to law enforcement; demographic and other information related to the perpetrator, victim, witness, referrer, and disciplinarian; and the penalty

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<sup>5</sup> In administering a comprehensive needs assessment, school districts must comply with the Protection of Pupil Rights Amendment (PPRA), which requires, among other things, that in the event that a survey administered or distributed to students will contain questions about one or more of eight specified items, such as the student's mental or psychological problems, the school district must: (1) develop and adopt policies to protect student privacy with regard to the survey; (2) notify the parents, at least annually at the beginning of the school year, of the specific or approximate dates that the survey will be scheduled; and, (3) offer an opportunity for parents to opt students out of participation in the survey. *See* 20 U.S.C. § 1232h(c). The rights provided to parents under the PPRA transfer to the student when the student turns 18 years old, or is an emancipated minor (under an applicable State law) at any age. 20 U.S.C. § 1232h(c)(5)(B).

imposed. Ensure that there are administrative staff who understand how to analyze and interpret each school's discipline data to confirm that data are accurately collected, reported, and used.<sup>6</sup>

- ✓ Create and review discipline reports to detect patterns that bear further investigation, assist in prioritizing resources, and evaluate whether a school's discipline and behavior management goals are being reached.
- ✓ If disparities in the administration of student discipline are identified, commit the school to a plan of action to determine what modifications to the school's discipline approach would help it ameliorate the root cause(s) of these disparities.
- ✓ Develop a discipline incident database that provides useful, valid, reliable, and timely discipline incident data.<sup>7</sup>
- ✓ Provide the school board and community stakeholders, consistent with applicable privacy laws and after removing students' identifiable information, with disaggregated discipline information to ensure transparency and facilitate community discussion.
- ✓ Make statistics publicly available on the main discipline indices disaggregated by school and race.
- ✓ Maintain data for a sufficient period of time to yield timely, accurate, and complete statistical calculations.
- ✓ In addition to the Federal civil rights laws, ensure that the school's discipline policies and practices comply with applicable Federal, State, and local laws, such as IDEA and FERPA.

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<sup>6</sup> Any use and disclosure of personally identifiable information on students from school discipline data must be consistent with FERPA.

<sup>7</sup> Assistance in developing such a database is available from the National Forum on Education Statistics' report entitled, "Forum Guide to Crime, Violence, and Discipline Incident Data" (Forum Guide) (May 2011), *available at* [http://nces.ed.gov/forum/pub\\_2011806.asp](http://nces.ed.gov/forum/pub_2011806.asp).

## Appendix C

# Guiding Principles: A Resource Guide for Improving School Climate and Discipline



# Guiding Principles

*A Resource  
Guide for  
Improving  
School Climate  
and Discipline*

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**U.S. Department of  
Education**



# **Guiding Principles**

**A Resource Guide for Improving School Climate and Discipline**

**January 2014**

**U.S. Department of Education**

**U.S. Department of Education**

Arne Duncan

*Secretary*

January 2014

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# FOREWORD

January 8, 2014



Dear Colleague:

Our goal of preparing all students for college, careers, and civic life cannot be met without first creating safe schools where effective teaching and learning can take place. Simply put, no school can be a great school — and ultimately prepare all students for success — if it is not first a safe school.

Creating and maintaining such schools is both challenging and complex. Even though national rates of school violence have decreased overall,<sup>1</sup> too many schools are still struggling to create the nurturing, positive, and safe environments that we know are needed to boost student achievement and success.

No student or adult should feel unsafe or unable to focus in school, yet this is too often a reality. Simply relying on suspensions and expulsions, however, is not the answer to creating a safe and productive school environment. Unfortunately, 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. For example,

- Nationwide, data collected by our Office for Civil Rights show that youths of color and youths with disabilities are disproportionately impacted by suspensions and expulsions. For example, data show that African-American students without disabilities are more than three times as likely as their white peers without disabilities to be expelled or suspended. Although students who receive special education services represent 12 percent of students in the country, they make up 19 percent of students suspended in school, 20 percent of students receiving out-of-school suspension once, 25 percent of students receiving multiple out-of-school suspensions, 19 percent of students expelled, 23 percent of students referred to law enforcement, and 23 percent of students receiving a school-related arrest.<sup>2</sup>

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<sup>1</sup> Robers, S., Kemp, J., and Truman, J. (2013). *Indicators of School Crime and Safety: 2012* (NCES 2013-036/NCJ 241446). National Center for Education Statistics, U.S. Department of Education, and Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice. Washington, DC. Available at <http://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2013036>.

<sup>2</sup> Statistics are drawn from unpublished (as of January 8, 2014) data collected by the Civil Rights Data Collection (CRDC) for the 2011-12 school year. Additional information and publicly available data from the CRDC can be found at <http://ocrdata.ed.gov>.

- In Texas, a groundbreaking longitudinal study of nearly 1 million students found that nearly six in 10 public school students studied were suspended or expelled at least once over a six-year period during their 7th to 12th-grade years; 15 percent of those students were disciplined 11 or more separate times.<sup>3</sup>
- One study found that 95 percent of out-of-school suspensions were for nonviolent, minor disruptions such as tardiness or disrespect.<sup>4</sup>

The widespread overuse of suspensions and expulsions has tremendous costs. Students who are suspended or expelled from school may be unsupervised during daytime hours and cannot benefit from great teaching, positive peer interactions, and adult mentorship offered in class and in school. Suspending students also often fails to help them develop the skills and strategies they need to improve their behavior and avoid future problems. Suspended students are less likely to graduate on time and more likely to be suspended again, repeat a grade, drop out of school, and become involved in the juvenile justice system.

When carried out in connection with zero-tolerance policies, such practices can erode trust between students and school staff, and undermine efforts to create the positive school climates needed to engage students in a well-rounded and rigorous curriculum. In fact, research indicates an association between higher suspension rates and lower schoolwide academic achievement and standardized test scores. Schools and taxpayers also bear the steep direct and indirect costs from the associated grade retention and elevated school dropout rates.

These costs are too high. I encourage America’s educators to proactively redesign discipline policies and practices to more effectively foster supportive and safe school climates. That is why today I am calling on state, district, and school leaders to reexamine school discipline in light of three guiding principles that are grounded in our work with a wide variety of high-achieving and safe schools, emerging research, and consultation with experts in the field.

First, take deliberate steps to create the positive school climates that can help prevent and change inappropriate behaviors. Such steps include training staff, engaging families and community partners, and deploying resources to help students develop the social, emotional, and conflict resolution skills needed to avoid and de-escalate problems. Targeting student supports also helps students address the underlying causes of misbehavior, such as trauma, substance abuse, and mental health issues.

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<sup>3</sup> Fabelo, T., Thompson, M. D., Plotkin, M., Carmichael, D., Marchbanks, M. P. III, and Booth E. A. (2011). *Breaking Schools’ Rules: A Statewide Study of How School Discipline Relates to Students’ Success and Juvenile Justice Involvement*. New York: Council of State Governments Justice Center; Public Policy Research Institute at Texas A&M University. Available at <http://csgjusticecenter.org/youth/breaking-schools-rules-report>.

<sup>4</sup> Boccanfuso, C. and Kuhfeld M. (2011). *Multiple Responses, Promising Results: Evidence-Based, Nonpunitive Alternatives to Zero Tolerance* (Publication #2011-09). Washington, DC: Child Trends, citing Skiba, R. (2000). *Zero Tolerance, Zero Evidence: An Analysis of School Disciplinary Practice*. Bloomington, IN: Education Policy Center Indiana University.



Second, ensure that clear, appropriate, and consistent expectations and consequences are in place to prevent and address misbehavior. By holding students accountable for their actions in developmentally appropriate ways, students learn responsibility, respect, and the bounds of acceptable behavior in our schools and society. This also means relying on suspension and expulsion only as a last resort and for appropriately serious infractions, and equipping staff with alternative strategies to address problem behaviors while keeping all students engaged in instruction to the greatest extent possible.

Finally, schools must understand their civil rights obligations and strive to ensure fairness and equity for all students by continuously evaluating the impact of their discipline policies and practices on all students using data and analysis.

Emerging reforms at the state and district levels reflect these approaches as well. States are revising discipline laws to enhance local discretion, curtail zero-tolerance requirements, and encourage the development of alternative disciplinary approaches such as restorative justice. At the district level, reforms have included adding social and emotional learning to curricula, implementing positive behavioral intervention and support frameworks, building and sustaining community partnerships, replacing suspension rooms with learning centers, and assembling intervention teams to help struggling students and their families.

To help other states and districts build on these examples of promising practices and reforms, I am pleased to announce the release of a resource package that can assist them, as well as schools, in crafting local solutions to enhance school safety and improve school discipline. The package includes the following:

- ***Dear Colleague*** guidance letter, prepared with our partners at the U.S. Department of Justice, describing how schools can meet their obligations under federal law to administer student discipline without discriminating on the basis of race, color, or national origin;
- “***Guiding Principles***” document, which draws from emerging research and best practices to describe three key principles and related action steps that can help guide state- and locally controlled efforts to improve school climate and school discipline;
- ***Directory of Federal School Climate and Discipline Resources***, which indexes the extensive federal technical assistance and other resources on school discipline and climate available to schools and districts;
- The online ***Compendium of School Discipline Laws and Regulations***, which catalogues the laws and regulations related to school discipline in each of the 50 states, the District of Columbia, and Puerto Rico, and compares laws across states and jurisdictions; and
- ***Overview of the Supportive School Discipline Initiative***, which outlines recent federal efforts on these issues.

It is difficult work to create schools that are safe and free of violence, where teachers can concentrate on teaching and, to the greatest extent possible, all students are in class and focused on learning. But it is possible. It is also essential to our nation’s efforts to expand and accelerate

student success and achievement. I hope you find these guidance resources helpful, and I thank you for all that you do every day to educate America's youths.

Sincerely,

/s/

Arne Duncan

# INTRODUCTION

Developing positive school climates and improving school discipline policies and practices are critical steps to raising academic achievement and supporting student success. However, there is no single formula for doing so. Rather, the growing body of research and best practices in the field should inform locally developed approaches to improving school climate and discipline policies and practices.

The U.S. Department of Education (ED) is issuing this resource guide to assist states, school districts, charter school operators, school staff, parents, students, and other stakeholders who are seeking to develop school climate and school discipline policies and practices that are both locally tailored and grounded in recognized promising practices and research.\*

ED's work with a wide range of safe and successful schools, review of research and evaluation, and consultation with the field and federal partners have revealed that a broad range of high-achieving schools typically share a number of common approaches to creating

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\* As non-regulatory guidance, the extent to which states and school districts implement the suggestions in this resource guide is a matter for state and local school officials to decide using their professional judgment, especially in applying this information to specific situations and circumstances. This document does not set forth any new requirements, does not create or confer any rights for or on any person, or require specific actions by any state, locality, school, or school district.

For guidance on schools' legal obligations to administer student discipline without discriminating on the basis of race, color, or national origin as required by the federal civil rights laws, readers should consult the "Dear Colleague" guidance letter issued by ED and the U.S. Department of Justice (DOJ) available at <http://www.ed.gov/school-discipline/>.

safe and supportive conditions for learning. These schools take deliberate steps to create positive school climates and prevent student misbehavior; ensure that clear, appropriate, and consistent expectations and consequences are in place to prevent and address misbehavior; and cultivate an expectation of continuous improvement driven by data and analysis to ensure fairness and equity for all students.

Drawing from these common approaches, ED has identified three guiding principles for policymakers, district officials, school leaders, and stakeholders to consider as they work to improve school climate and discipline:

- (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**.

We also identify applicable action steps and relevant research and resources for each guiding principle.<sup>1</sup> In addition, the *Directory of Federal School Climate and Discipline Resources* in Appendix 1 lists all federal technical assistance, research, and other resources related to these issues. The *Compendium of School Discipline Laws and Regulations for each of the 50 states, Washington, D.C., and Puerto Rico* in Appendix 2 provides instructions for how to access an online tool focused on state-level laws and regulations related to school discipline.

Our goal in providing this information is to highlight ways in which states and school districts can promote academic excellence by creating safe and productive learning environments for all students, at all schools,

including traditional public schools, charter schools, and alternative schools. But these principles and action steps are only a starting point for efforts to improve climate and discipline.

The approaches based on these principles can only be implemented through the vision and commitment of policymakers and administrators, the support and partnership of students, families, and communities, and the persistent work of America's dedicated teachers, school leaders, and school staffs. The collective efforts of great leaders and teachers have already shown that schools and communities can create positive school climates and effective discipline practices, even in the face of difficult circumstances. Our hope is that this guide proves to be a useful and informative tool in advancing this difficult, yet vital work in other schools and communities.<sup>2</sup>

## EXECUTIVE SUMMARY

Schools must be both safe and supportive for effective teaching and learning to take place. Three key principles can guide efforts to create such productive learning environments. First, work in a deliberate fashion to develop positive and respectful school climates and prevent student misbehavior before it occurs. Ensure that clear, appropriate, and consistent expectations and consequences are in place to prevent and address misbehavior. And finally, use data and analysis to continuously improve and ensure fairness and equity for all students.

**Principle 1: Climate and Prevention: Schools that foster positive school climates can help to engage all students in learning by preventing problem behaviors and intervening**

**effectively to support struggling and at-risk students.**

The first step in creating positive school climates is to identify climate goals that complement the school's academic goals. In developing these goals, schools may solicit input from staff, families, students, and others, and use a needs assessment to better understand the school's climate. The school should then develop approaches to address identified needs and achieve progress towards its goals.

As one approach, the use of evidence-based strategies such as tiered supports can help schools to better manage student behavior by providing different levels of assistance and interventions based on students' different needs. In addition, strategies such as social emotional learning programs that address non-cognitive skills, including problem-solving, responsibility and resiliency, can also help students develop the skills needed to fully engage and thrive in the learning environment. School-based mental health professionals are central to implementing tiered supports because they help to identify students' needs and provide mental health supports based on those needs. They are also invaluable in helping teachers to deepen their understanding of students' developmental needs and to develop responses to behavioral issues.

Carefully structured partnerships with local agencies, including community-based mental health agencies and child welfare agencies, can also help schools better support students' needs and fill in staffing gaps. Schools may also choose to work with local law enforcement agencies to help maintain safe environments and conduct emergency planning. These partnerships must be structured and implemented carefully to avoid unintended consequences, violations of

students' civil rights, or violations of student privacy laws.

In cases when schools choose to make use of school-based law enforcement officers, including school resource officers, school security officers, or other campus-based security, schools should provide clear definitions of the officers' roles and responsibilities on campus, document those expectations in a written agreement or memorandum of understanding, focus officers' roles primarily on safety, provide proper training, and continuously monitor the program's activities through regular data collection and evaluation.

Finally, to effectively implement a school-wide behavior program and create a safe and positive school climate, schools should provide professional development and training opportunities for all staff, including principals, teachers, school support staff, and, if present on campus, school-based law enforcement officers. This training should include clear guidance on how to engage students, promote positive behavior, and respond appropriately -- and consistently with any staff member's role -- if students misbehave.

**Principle 2: Expectations and Consequences: Schools that have discipline policies or codes of conduct with clear, appropriate, and consistently applied expectations and consequences will help students improve behavior, increase engagement, and boost achievement.**

Creating positive school climates and providing students with varying levels of support do not free students from the responsibility of behaving appropriately or being held accountable if they fail to do so.

Indeed, a critical component of a strong and positive school climate is a school-wide discipline policy that sets high expectations for behavior; provides clear, developmentally appropriate, and proportional consequences for misbehavior; and uses disciplinary incidents to help students learn from their mistakes, improve their behavior, and meet high expectations.

Such policies should also include appropriate protections for students with disabilities and strong due process protections for all students. Finally, in view of the essential link between instructional time and academic achievement, schools should strive to keep students in school and engaged in learning to the greatest extent possible. Thus, schools should remove students from the classroom as a disciplinary consequence only as a last resort and only for appropriately serious infractions. Students who are removed from class should be provided meaningful instruction, and their return to the classroom should be prioritized.

To effectively develop and implement these policies, schools should involve families as partners to the greatest extent possible. For example, families, along with students and staff, should be involved in the development and review of the school's discipline policy, schools should regularly communicate with families, including about specific disciplinary incidents, and schools should ensure transparency about the school's behavior expectations and discipline policies and procedures.

**Principle 3: Equity and Continuous Improvement: Schools that build staff capacity and continuously evaluate the school's discipline policies and practices are more likely to ensure fairness and equity**

## and promote achievement for all students.

Schools and districts should ensure that school discipline is applied fairly and should continually monitor and improve disciplinary policies and practices. As part of a school's ongoing training for staff, schools should equip them with the skills and strategies to reinforce appropriate behaviors and respond to student misconduct fairly and equitably. An equitable and fair response is without regard to a student's personal characteristics, including, race, color, national origin, religion, disability, ethnicity, sex, gender, gender identity, sexual orientation, or status as an English language learner, migrant, or homeless student. To help ensure fairness and equity, schools may choose to explore the use of cultural competence training to enhance staff awareness of their implicit or unconscious biases.

Schools should commit to regular evaluation of the school's discipline policies and practices, and monitor progress toward the school's climate and discipline goals. This process requires schools to first collect and publicly report disaggregated student discipline data, and to solicit feedback from students, staff, families, and community representatives. Schools should involve the full array of community stakeholders in reviewing and analyzing disciplinary data. Doing so can help ensure that the school's discipline policies and practices are being applied fairly, consistently, and appropriately without disproportionately impacting any groups of students. This includes students of color, students with disabilities, or students at risk for dropping out of school, trauma, social exclusion, or behavior incidents.

When data collection and analysis raise concerns about the application of a school's discipline policies and practices, schools

should evaluate the root causes of the problem and create a plan to address the issue, as appropriate.

## *Conclusion.*

Few would disagree that schools should strive to create positive climates that support *all* students, while holding students to specific and positive high expectations. There is also a wide consensus that schools should hold students who misbehave accountable for their actions through appropriate and proportional consequences, while *also* using the disciplinary process itself to help students acquire new behaviors and strategies needed to prevent future instances of misbehavior.

Yet successfully implementing these principles is highly complex work in practice – it requires appropriately trained school leaders, teachers, and staff, and a thoughtful balancing among multiple goals. Thus, while schools should strive to support all students and remove students from the instructional environment only as a last resort, protecting student and teacher safety and the integrity of the learning environment must also remain a paramount priority. But what may appear to be competing priorities – supports and safety – are in fact complementary. It is impossible to create the safe and positive school environments where great teaching flourishes and students are motivated to engage in rigorous curriculum without also creating fair, proportional, and effective discipline policies and practices that prevent and change inappropriate student behavior, and ensuring that those policies are equitably applied. By prioritizing positive climates, prevention, and targeted interventions to support students, schools will be able to not only develop safe and productive learning environments, but also keep all students in school and engaged in instruction to the greatest extent possible.



While difficult, this work is essential to achieving the goal of supporting all students in safe and supportive learning environments that promote academic excellence and student success.

## **GUIDING PRINCIPLE 1: CLIMATE AND PREVENTION**

*Schools that foster positive school climates can help to engage all students in learning by preventing problem behaviors and intervening effectively to support struggling and at-risk students.*

The first step in building safe and supportive schools conducive to academic excellence and student success is to create positive climates. Such climates prevent problem behaviors before they occur and reduce the need for disciplinary interventions that can interfere with student learning.

The term “school climate” describes the extent to which a school community creates and maintains a safe school campus; a supportive academic, disciplinary, and physical environment; and respectful, trusting, and caring relationships throughout the school community.<sup>3</sup>

Research shows that creating a positive school climate can help districts, schools, and teachers meet key goals, including boosting student achievement and closing achievement gaps,<sup>4</sup> increasing high school graduation rates,<sup>5</sup> decreasing teacher turnover and increasing teacher satisfaction,<sup>6</sup> and turning around low-performing schools.<sup>7</sup> Positive school climates also enhance safety in the school and community by increasing

communication among students, families, and faculty,<sup>8</sup> and by reducing violence.<sup>9</sup>

### **Action Steps Checklist**

- ✓ Engage in deliberate efforts to create positive school climates.
- ✓ Prioritize the use of evidence-based prevention strategies, such as tiered supports.
- ✓ Promote social and emotional learning.
- ✓ Provide regular training and supports to all school personnel.
- ✓ Collaborate with local agencies and other stakeholders.
- ✓ Ensure that any school-based law enforcement officers’ roles focus on improving school safety and reducing inappropriate referrals to law enforcement.

## **ACTION STEPS**

### **(1) Engage in deliberate efforts to create positive school climates.**

Given the relationship between school climate and academic achievement, schools should take deliberate steps to create a positive school climate in which every student can learn, fully engage in a rigorous curriculum, and feel safe, nurtured, and welcome.<sup>10</sup>

To begin, and to complement the school’s academic goals, each school community should identify its own goals for a positive school climate, including school discipline. To develop these goals, schools may involve families, students, school personnel, and other community stakeholders. Schools may also



identify areas for improvement by using a comprehensive needs assessment that captures data on student and staff behaviors, experiences, and perceptions.<sup>11</sup>

Schools should consider crafting goals covering the school’s provision of supports for all students, including students of color, students with disabilities, and students who may be at risk for dropping out of school, trauma, social exclusion, or behavior incidents. Those with such risks include, but are not limited to, lesbian, gay, bisexual, and transgender (LGBT) students; homeless and unaccompanied students; corrections-involved students; students in foster care; pregnant and parenting students; migrant students; English language learners; and others. For example, specific goals may include reducing the total numbers of suspensions and expulsions, reducing the number of law enforcement referrals from the school, identifying and connecting at-risk youths to tailored supports, or increasing the availability of quality mental health supports available for students.

As discussed further under Principle 3 below, schools should collect and use multiple forms of data in compliance with applicable privacy laws to track progress toward the goals and propel continuous improvement.<sup>12</sup> Schools should also establish formal structures to support the management and monitoring of this data. Such structures should involve students, teachers, administrators, parents, health professionals, and community representatives and might, for example, take the form of school-based climate teams. Such structures may also include identifying personnel to receive complaints or creating regular outlets for students to voice concerns.

## **(2) Prioritize the use of evidence-based prevention strategies, such as tiered**

### **supports, to promote positive student behavior.**

To support appropriate student behavior, schools should implement prevention-based strategies that identify at-risk students and match tiered supports and interventions – universal, targeted, and intensive – to meet students’ varied behavioral and developmental needs.

“Universal” supports are supports provided to all students, prior to any display of disruptive behavior. Universal supports set expectations for behavior in all areas of the school and throughout the entire school day, including during after-hours school-sponsored events. Universal supports should include efforts to explicitly teach and model expected behaviors and social and emotional competencies. Lessons may be integrated into the regular academic curriculum, as well as into school-wide activities and programs that involve all students and staff in all campus settings.

“Targeted” supports, such as group interventions, mentoring, peer mentoring, and team building, are provided to students displaying occasional signs of mild to moderate misbehavior. Students in need of targeted supports can be identified more easily, and their needs or behavior can be addressed more effectively, when universal, school-wide supports are in place.

“Intensive” supports are individual interventions the school, local agencies, or other stakeholders provide to students who display frequent, moderate, or severe forms of misbehavior, or to students who have experienced trauma or who display other risk factors.

One example of a program that uses tiered supports is Positive Behavioral Intervention

and Supports (PBIS).<sup>13</sup> The PBIS framework has been shown to be effective in reducing the need for disciplinary actions and improving academic, social, emotional, and behavioral outcomes for students.<sup>14</sup>

Trained school-based support personnel – which may include school counselors, school psychologists, behavioral interventionists, school social workers, mental health providers, and school nurses – can be critical to the effective implementation of tiered supports. These professionals can serve as partners to teachers to help identify student needs and provide school-based emotional and mental health support for struggling and vulnerable students. Additionally, as discussed further in Principle 1, Action Step 5, through appropriately designed partnerships with local mental health agencies, a school can fill in potential staffing gaps and expand the range of targeted and intensive interventions that it offers as part of its tiered supports.

### **(3) Promote social and emotional learning to complement academic skills and encourage positive behavior.**

Social and emotional learning refers to the development of non-cognitive student competencies – including self-awareness, self-management, resilience, social agility, and responsible decision-making – which collectively support healthy interpersonal relationships, community participation, and the successful pursuit of individual goals.<sup>15</sup>

An emerging body of research shows that social and emotional competencies can help students concentrate on learning through the exercise of self-control. These skills help students face challenges and understand consequences, strengthening students' motivation and perseverance. Ultimately, building social and emotional skills can

contribute to students' academic success and social development.<sup>16</sup>

Schools should identify key social and emotional competencies that support the school's goals for a positive school climate and academic achievement. By providing students with opportunities to practice, receive constructive feedback, and reapply these skills, social and emotional learning programs encourage students to closely examine their own behaviors and choices, consider the effect of their behavior on themselves and their communities, and think about what they might have done differently. Schools should integrate social and emotional learning into both the broader school-wide and the tiered supports described above in Principle 1, Action Step 2.

### **(4) Provide regular training and supports to all school personnel – including teachers, principals, support staff, and school-based law enforcement officers – on how to engage students and support positive behavior.**

One of the most powerful tools for preventing disruptive student behaviors is the use of sound instructional strategies that motivate and engage students in learning.<sup>17</sup> In addition, when equipped with strategies for responding to inappropriate student behaviors, staff can help promote positive student behavior.<sup>18</sup>

Schools should provide all school-based personnel who interact with students with effective professional development and ongoing support, and match professional learning opportunities with the needs of various school personnel—be they teachers, principals, or specialized support personnel, such as social workers. All personnel need regular, job-embedded training and coaching on their roles and responsibilities in maintaining a positive school climate. In

particular, if school resource officers, school-based police, or any security or law enforcement personnel are present on campus, as described further in Principle 1, Action Step 6, schools should give special consideration to the training and ongoing development of such personnel. Specialized support personnel (such as school social workers) can also support teachers and other staff – in addition to students – by identifying training needs and providing ongoing training, coaching, and professional development to all school staff on issues related to their expertise.

In addition to professional development focused on instructional practice, training should emphasize ways to ensure fair treatment of *all* students. Such training should include strategies for managing student behavior and promoting student development, understanding the student code of conduct and discipline policy, and, if law enforcement officers are present on campus, information concerning the appropriate role of school-based law enforcement officers in the district and schools. Training on more specific strategies may also include the use of tiered supports, de-escalation techniques, conflict resolution, age- and developmentally appropriate responses, and crisis management. Topics may also include broader, related issues, such as civil rights laws, child and adolescent development, disability and special education issues, cultural responsiveness and institutional bias, needs of students with disabilities, and student and family engagement.

Finally, the school’s efforts to continuously improve school climate should include procedures to assess the effectiveness of this professional development in improving climate and to measure growth in staff knowledge and skills. For example, schools may use student surveys and personnel evaluations to make such assessments.

#### **(5) Collaborate with local mental health, child welfare, law enforcement, and juvenile justice agencies and other stakeholders to align resources, prevention strategies, and intervention services.**

Carefully structured partnerships with local agencies can help schools to better support student needs and maintain safe environments. Many communities have successfully established such partnerships in ways that are consistent with privacy laws. These include the *Family Educational Rights and Privacy Act (FERPA)*, which provides privacy protections for student education records maintained by schools; the *Individuals with Disabilities Education Act (IDEA)*, which includes similar confidentiality protections for eligible students with disabilities; the *Health Insurance Portability and Accountability Act of 1996 (HIPAA)*, which protects certain health records,<sup>19</sup> and applicable federal and state civil rights laws.

Appropriately designed partnerships with local mental health agencies can assist schools in identifying students coping with trauma, or mental health or emotional issues. In addition, these partnerships may allow schools to expand the range of targeted and intensive interventions that the school offers as part of its tiered supports (as discussed in Principle 1, Action Step 2). These partnerships can also ensure the smooth delivery of services between school and community-based mental health providers, and fill in staffing gaps for schools facing shortages of school-based mental health professionals. Additionally, partnerships with child welfare agencies can help schools better support students in foster care.

Relationships between schools and law enforcement or juvenile justice agencies can also help schools maintain safe environments.

For example, these relationships can help schools plan for and respond appropriately to emergencies,<sup>20</sup> facilitate reentry and transition of students from juvenile justice placements, and reduce criminalization of students. These relationships must be designed with particular care, however, to avoid unintended consequences, such as inappropriate student referrals to the justice system, violation of applicable civil rights laws, or information exchanges that violate student privacy rights.

Schools and local agencies may decide to use cross-agency teams to identify needs; share information if appropriate and in compliance with applicable privacy laws; pool resources; and provide needed services as early as possible in cooperative, non-duplicative ways. These partnerships may also create opportunities for cross-agency professional development to share diverse perspectives and areas of expertise. For example, local mental health agencies may be able to facilitate access to training on child and adolescent development and de-escalation procedures for school personnel and other local partners.

To formalize these partnerships, partner agencies may want to develop written agreements or memoranda of understanding (MOUs) to clarify roles and areas of responsibility, processes, scope of work, staffing and leadership, and lines of communication. MOUs can also prove essential to ensuring that data-sharing complies with privacy laws. MOUs should be reviewed and updated to reflect the needs of the community and of the signing agencies. Further discussion of the use of MOUs in the context of school resource officers, law enforcement officers, and other school security personnel is included below in Principle 1, Action Step 6.

#### **(6) Ensure that any school-based law enforcement officers' roles focus on improving school safety and reducing inappropriate referrals to law enforcement.**

School-based law enforcement officers, which refers in this guide to school resource officers (SROs),<sup>21</sup> school security officers, or other campus-based security, can be an important part of a comprehensive school safety plan. It is important, however, for schools to recognize that any arrests or referrals to law enforcement can have negative collateral consequences for students, and that students of color and students with disabilities may experience disproportionate contact with law enforcement and the justice system.<sup>22</sup>

For this reason, schools choosing to use school-based law enforcement officers should carefully ensure that these officers' roles are focused on protecting the physical safety of the school or preventing the criminal conduct of persons other than students, while reducing inappropriate student referrals to law enforcement.<sup>23</sup> Schools should also ensure that school-based law enforcement officers do not become involved in routine school disciplinary matters. For the same reasons, schools without campus-based security should avoid involving law enforcement or encouraging the use of law enforcement techniques (such as arrest, citations, ticketing, or court referrals) in routine disciplinary matters. To ensure the proper functioning of any school-based law enforcement program and to avoid negative unintended consequences, schools should provide clear definitions of the officers' roles and responsibilities on campus, written documentation of those roles, proper training, and continuous monitoring of the program's activities through regular data collection and evaluation.

**Role Focused on Safety.** First and foremost, any school or district using school-based law enforcement officers should clearly define the officers' roles and responsibilities at the school as that of important partners in school safety efforts. This role should be focused on school safety, with the responsibility for addressing and preventing serious, real, and immediate threats to the physical safety of the school and its community. By contrast, school administrators and staff should have the role of maintaining order and handling routine disciplinary matters. By focusing officers' roles on the critical issue of safety and avoiding inappropriate officer involvement in routine discipline matters, schools have found that they can reduce students' involvement in the juvenile justice system and improve academic outcomes while improving school safety.<sup>24</sup> For school resource officers, their role on campus typically involves three parts: law enforcer, informal counselor, and educator. In their capacity as counselors and educators, SROs can, and should, support positive school climate goals by developing positive relationships with students and staff, and helping to promote a safe, inclusive, and positive learning environment.

**Written Agreements.** Schools and districts should document the expectations for officers' roles through clear, written policies or MOUs between school administrators and law enforcement personnel. To help clarify the scope of an officer's responsibilities for school safety, schools may find it helpful to specify that law enforcement approaches (such as arrest, citations, ticketing, or court referrals) should be used only as a last resort, and never to address instances of non-violent misbehavior that do not pose a serious and immediate threat to school safety. In addition, schools may find it useful to identify and document examples of the types of conduct or incidents that generally would not meet the definition of an immediate threat to

school safety, such as tardiness, loitering, use of profanity, dress code violations, and disruptive or disrespectful behaviors.

**Training.** To successfully implement these expectations, schools should ensure that school-based law enforcement officers receive rigorous training before the officers begin working on the school campus as well as continuing throughout their work at the school. As noted above in Principle 1, Action Step 4, schools should tailor all professional development and supports to the needs of particular school personnel. In the case of school-based law enforcement officers, training should cover the proper role and responsibilities of officers consistent with the school's written policies or MOU. Officers should be trained on how to distinguish between, and appropriately respond to, disciplinary infractions appropriately handled by school officials on the one hand, and major threats to safety or serious criminal conduct that requires law enforcement involvement on the other.

Training for school-based law enforcement officers should also address such topics as basic childhood and adolescent development, age-appropriate responses, disability issues, and conflict resolution and de-escalation techniques. Other necessary topics are bias-free policing (including implicit or unconscious bias and cultural competence), restorative justice practices,<sup>25</sup> and how to identify and refer for services those students exposed to trauma and violence. Given the specificity of a school context, the training should cover special considerations related to law enforcement activities in a school setting, student privacy rights, and working with specific groups of students, such as those at risk for dropping out of school, trauma, social exclusion, or behavior incidents. In addition, training should review the negative collateral consequences associated with youth involvement in the juvenile and criminal



justice systems, and how to prevent and reduce such involvement through use of alternative strategies, such as referral to local programs, including local mental health programs. Finally, wherever possible such training should be conducted jointly with school administrators and other school staff, including mental health professionals.

**All Schools.** The need to avoid using law enforcement to address school disciplinary issues also applies to schools that do not have law enforcement officers stationed on campus. All schools should use regular training of school staff and clear expectations to ensure that school staff members do not ask law enforcement officers to respond to student behaviors that can be safely and appropriately handled by school staff under internal school disciplinary procedures. This is especially true for non-violent conduct, such as tardiness, loitering, use of profanity, dress code violations, and disruptive or disrespectful behaviors, none of which should lead to law enforcement responses such as arrest or ticketing.

**Data Collection and Continuous Improvement.** Finally, as discussed further below in Principle 3, Action Step 2, schools should closely monitor any school-based law enforcement officer program to ensure that the program is meeting school safety goals and does not create any negative unintended consequences, and to assess the impact of other law enforcement involvement on campus. Such monitoring requires comprehensive data collection on officer activity, including, if appropriate, data on any school-based arrests, citations, searches, and referrals. Disaggregated data on these activities should also be publicly reported consistent with applicable federal, state, and local privacy laws. In addition, schools should develop a complaint process that allows student or community concerns about officer activities to be efficiently raised and addressed. As discussed below, schools

should review, analyze, and act on this data as necessary to eliminate any negative unintended consequences stemming from the use of a school-based law enforcement officer program or involvement of local law enforcement officials on campus.

## **GUIDING PRINCIPLE 2: CLEAR, APPROPRIATE, AND CONSISTENT EXPECTATIONS AND CONSEQUENCES**

*Schools that have discipline policies or codes of conduct with clear, appropriate, and consistently applied expectations and consequences will help students improve behavior, increase engagement, and boost achievement.*

A critical component of a strong and positive school climate is a school-wide discipline policy that sets high expectations for student behavior and provides a clear, appropriate, and consistent set of consequences for misbehavior. School discipline policies should thus align with, and support the implementation of, the school-wide, tiered supports and evidence-based practices identified in Principle 1, Action Step 2 and employ an instructional approach to the discipline process that helps students learn from their mistakes, improve their behavior, and achieve academically.

### Action Steps Checklist

- ✓ Set high expectations for behavior and adopt an instructional approach to discipline.
- ✓ Involve families, students, and school personnel, and communicate regularly and clearly.
- ✓ Ensure that clear, developmentally appropriate, and proportional consequences apply for misbehavior.
- ✓ Create policies that include appropriate procedures for students with disabilities and due process for all students.
- ✓ Remove students from the classroom only as a last resort, ensure that alternative settings provide academic instruction, and return students to class as soon as possible.

## ACTION STEPS

### (1) Set high expectations for behavior and adopt an instructional approach to school discipline.

School discipline policies should establish high and positive expectations for student behavior. These expectations should be communicated to all students as part of the universal supports described in Principle 1. These expectations should promote respect for others in the school community and make clear that engaging in violence, bullying, and harassment, among other problem behaviors, is unacceptable.<sup>26</sup>

At the same time, schools should create discipline policies that recognize that, in order to master the social, emotional, and behavior skills needed to meet high expectations, students need instruction, practice, and supportive correction. Thus, schools should

adopt an instructional approach to discipline that uses interventions or disciplinary consequences to re-teach behavioral expectations and help students develop new behavior skills and positive strategies to avoid conflict, re-direct energy, and re-focus on learning.

For example, while schools should make clear that bullying is unacceptable, schools should also use the disciplinary process not just to hold those who bully accountable, but also to help those students learn from their behaviors, grow, and succeed. In doing so, schools should consider the most effective ways to teach new social and emotional skills to students who bully in order to prevent future bullying. For example, schools may determine that approaches such as restorative justice are more effective ways to build such skills rather than exclusionary discipline sanctions such as suspension or expulsion.

### (2) Involve families, students, and school personnel in the development and implementation of discipline policies or codes of conduct, and communicate those policies regularly and clearly.

Research has demonstrated the powerful effect that engaged families can have on a student's educational outcomes – including improved behavior.<sup>27</sup> For this reason, among others, school discipline policies and practices should engage parents and guardians as partners in the discipline process as much as possible by establishing comprehensive communications between school staff and family members, and by promoting supportive roles for family members in identifying and addressing student behavior challenges.



***Involvement in Policy Development.*** To start, schools should develop and monitor school discipline policies with input and collaboration from school personnel, students, families, and community members. A school may seek student and family input through informal means as well as through formal mechanisms, such as youth leadership councils or discipline advisory committees. For example, schools may meaningfully engage the school community in the school's discipline process by creating an advisory committee on student discipline policies and practices, and inviting an array of community members and staff to participate. As discussed below, as part of a culture of continuous improvement, many schools use these formal and informal mechanisms to solicit feedback on their disciplinary policies, and to ensure that the rules are clearly defined and commonly understood by school staff, parents, and students.

***Regular Communication.*** To further engage parents as partners in the discipline process, schools should affirmatively establish and maintain regular communication with parents about all aspects of the school's activities and each child's learning and development. Such regular communication allows parents and teachers to address potential problems as they arise and before problems can become crises. As part of these regular communications, the school should also provide information about the school's behavior expectations for students, prohibited conduct, and due process rights for students. All current discipline-related materials, including the student handbook, code of conduct, and all related documents, should be available in the school's major languages at the school, on the school's or district's website, and at the district office.

To ensure effective communication and to comply with applicable civil rights obligations,<sup>28</sup> schools should provide translation or interpretation services for

discipline-related documents and meetings to students, parents or guardians who are limited English proficient. Similarly, to comply with applicable civil rights obligations,<sup>29</sup> schools should also consider the communication needs of students and parents or guardians with disabilities when providing documents or holding meetings about discipline.

***Communication in Connection With Disciplinary Incidents.*** Finally, when specific disciplinary incidents arise, the school should have established protocols and due process requirements that specify when the school will notify parents and guardians to ensure their prompt notification and involvement in the disciplinary process.<sup>30</sup>

### **(3) Ensure that clear, developmentally appropriate, and proportional consequences apply for misbehavior.**

To ensure that expectations and consequences are clear, written discipline policies should define offense categories and base disciplinary penalties on specific and objective criteria whenever possible. In addition, all staff, students, and families should have access to the written policies in a user-friendly format that specifies, in a language the reader can understand, the sanctions imposed for specific offenses, and opportunities to provide feedback to ensure common understanding.

Schools should attempt interventions prior to the disciplinary process but create a continuum of developmentally appropriate and proportional consequences for addressing ongoing and escalating student misbehavior after all appropriate interventions have been attempted. Zero-tolerance discipline policies, which generally require a specific consequence for specific action regardless of circumstance,<sup>31</sup> may prevent the flexibility necessary to choose appropriate and proportional consequences.

Developmentally appropriate consequences take into account the developmental differences of students at various stages of childhood and adolescence, as well as the cognitive and emotional maturity of the students served. Proportional consequences generally involve disciplinary responses that match the severity of the consequences to the severity of the behavior violation, with mild consequences being used for minor offenses, and harsher consequences – including, in particular, exclusionary discipline – being used as a last resort and only for the most serious infractions. Developmentally appropriate and proportional consequences generally should *not* include, as discussed above in Principle 1 Action Step 6, the use of law enforcement approaches, such as arrest, citations, ticketing, or court referrals. Further, restraint and seclusion should *never* be used for punishment or discipline.<sup>32</sup>

**(4) Create policies that include appropriate procedures for students with disabilities and due process for all students.**

In developing and implementing school discipline policies, schools also must comply with the federal and state laws that provide special requirements for the discipline of students with disabilities.<sup>33</sup> For example, federal provisions under the *IDEA* address the procedures that must be followed when schools take any disciplinary actions involving students with disabilities or make decisions about whether or not to remove a child with a disability from his or her current school placement and, in the event of such removal, what continuing education services must be provided to the student and where such services will be provided.<sup>34</sup> These provisions apply both to students identified as having a disability under the *IDEA* and to certain

students who may be eligible for services under the *IDEA*.<sup>35</sup>

In addition to ensuring appropriate procedures are provided for students with disabilities as required by the disability laws, school discipline policies should provide strong due process protections to all students before imposing serious disciplinary consequences. Due process protections generally include notification requirements, the right to fair disciplinary hearings prior to suspensions and expulsions, appeal processes, and other safeguards prior to the application of disciplinary sanctions. By providing strong due process protections, schools can help to imbue the disciplinary process with a sense of fairness and legitimacy.

**(5) Remove students from the classroom only as a last resort, ensure that any alternative settings provide students with academic instruction, and return students to their regular class as soon as possible.**

Maintaining the integrity of the learning environment is indisputably of the highest priority for any discipline policy. Yet research shows that attempting to maintain order by unnecessarily relying on suspensions or expulsions for minor misbehaviors may undermine a school's ability to help students improve behavior, fail to improve the safety or productivity of the school's learning environment, and seriously and negatively impact individual and school-wide academic outcomes.<sup>36</sup>

***High Costs of Suspension and Expulsion.***

Research suggests that time spent in rigorous and relevant instruction can impact student achievement.<sup>37</sup> Not surprisingly, then, individual students who are suspended and removed from class are less likely to graduate on time and more likely to repeat a grade,

drop out, or become involved in the juvenile justice system.<sup>38</sup> The negative consequences are not felt just at the individual level. High rates of suspensions in schools have been related to lower school-wide academic achievement and standardized test scores.<sup>39</sup> In addition, schools and communities bear the increased direct and indirect costs associated with grade retention and dropouts.<sup>40</sup>

Recognizing the high costs for students, schools, and communities of overusing suspensions and expulsions (which may result from the use of zero-tolerance discipline policies), many schools and districts have successfully created safe, orderly environments for learning while also crafting discipline policies and practices that minimize student exclusion from the classroom and instruction.<sup>41</sup>

**Alternatives.** Schools seeking to adopt such an approach should begin with the deliberate efforts to create positive school climates and the implementation of proportional, developmentally appropriate consequences as discussed above. Next, schools seeking to reduce the use of exclusionary discipline tactics should ensure that discipline policies emphasize constructive interventions, such as behavioral instruction and tiered supports to keep students in the classroom. Most important, schools should resort to exclusionary discipline – meaning any disciplinary sanction that involves removal from regular instruction (e.g., office referral, suspension, expulsion, or alternative placement) – only in limited circumstances. For example, many schools and districts have created discipline policies that require the use of appropriate interventions prior to the imposition of any type of exclusionary discipline, except in an emergency situation, such as one involving a serious and immediate threat to students, school personnel, or public safety. Further, these policies prohibit the use of exclusionary discipline for more minor

misbehaviors that do not rise to the level of a serious and immediate threat to safety, such as tardiness, loitering, use of profanity, dress code violations, and disruptive or disrespectful behaviors.

**Reserve for Serious Infractions.** To avoid overuse of exclusionary discipline, schools should also explicitly reserve the use of out-of-school suspensions, expulsions, and alternative placements for the most egregious disciplinary infractions that threaten school safety and when mandated by federal or state law. For example, at the federal level, the *Gun-Free Schools Act (GFSA)*<sup>42</sup> requires a mandatory one-year expulsion (which may be modified in writing on a case-by-case basis by a local school chief administering officer<sup>43</sup>) for one specific, prohibited act involving firearms: bringing a firearm to, or possessing a firearm at, a school.<sup>44</sup> Notably, the *GFSA* does not require that states or schools implement wide-ranging zero-tolerance policies or rely on exclusionary discipline for any other types of student misconduct.

**Alternative Placements and Reentry.** In cases where a school finds that an alternative placement is necessary, it should provide students with access to meaningful instruction while outside of class and adequate supports to transition back to class. Schools also must ensure that appropriate procedures are followed for students with disabilities, as discussed under Principle 2, Action Step 4 above. Thus, students who need to be removed from the regular classroom setting for even a short period of time should have access to an alternative program that provides comparable academic instruction to that provided to students in the regular school program. Any expelled students should also receive instruction, and notably, the *GFSA* does not prevent a state or local school district from offering alternative educational services to any students expelled under that law's terms.

Schools should also make returning students to their regular classroom settings a high priority. To facilitate that return, schools should strive to provide individually tailored intensive services and supports for students reentering the classroom from alternative school placements or the juvenile justice system.

## GUIDING PRINCIPLE 3: EQUITY AND CONTINUOUS IMPROVEMENT

*Schools that build staff capacity and continuously evaluate the school's discipline policies and practices are more likely to ensure fairness and equity, and promote achievement for all students.*

Creating positive school climates and developing and implementing school discipline policies that embody positive approaches to discipline are necessary – but not sufficient – to improving school climate and school discipline. Schools should also ensure effective implementation of school climate and discipline policies and practices by building staff capacity, and using data and analysis to drive continuous improvement.

### Action Steps Checklist:

- ✓ Train all school staff to apply school discipline policies and practices in a fair and equitable manner.
- ✓ Use proactive, data-driven, and continuous efforts, including gathering feedback from families, students, teachers, and school personnel to prevent, identify, reduce, and eliminate discriminatory discipline and unintended consequences.

## ACTION STEPS

- (1) **Train all school staff to apply school discipline policies and practices in a fair and equitable manner so as not to disproportionately impact students of color, students with disabilities, or at-risk students.**

Schools are responsible for ensuring that the entire course of the disciplinary process – from behavior management in the classroom, to referral of students outside of the classroom for disciplinary consequences, to the resolution of the discipline incident – is free from discrimination under federal civil rights laws and complies with other applicable laws.<sup>45</sup> Moreover, in implementing school discipline policies, successful schools strive to achieve fairness and equity for all students.

Schools should understand their legal obligations under the federal civil rights laws<sup>46</sup> and train school personnel not to discriminate in the administration of student discipline. To meet their legal obligations and to ensure fairness and equity to all students, educators and other school personnel need to be equipped with knowledge and skills to prevent and address conflicts, meet the behavioral needs of diverse students, and fairly and equitably apply discipline policies and practices. Staff should also be equipped to apply discipline using individualized approaches that, as necessary, take into account factors such as student developmental delays, mental health challenges, and other medical or physical issues.

To build staff capacity, as discussed above under Principle 1, Action Step 4, schools should provide professional development and training to equip educators to support students in improving their behavior and to

respond to student misconduct fairly, equitably, and without regard to a student’s personal characteristics (e.g., race, color, national origin, religion, disability, ethnicity, sex, gender, gender identity, sexual orientation, or status as an English language learner, migrant, or homeless student). Where appropriate, schools may choose to explore using cultural competence training to enhance staff awareness of their implicit or unconscious biases and the harms associated with using or failing to counter racial and ethnic stereotypes.<sup>47</sup>

By building staff capacity to apply discipline policies and practices consistently, fairly, and equitably, schools can reduce student perceptions of bias, encourage students to accept responsibility for their behavior, and help create an environment conducive to academic excellence and student success.

**(2) Use proactive, data-driven, and continuous efforts, including gathering feedback from families, students, teachers, and school personnel to prevent, identify, reduce, and eliminate discriminatory discipline and unintended consequences.**

Regular evaluation of each school’s discipline policies and practices is necessary to determine their effectiveness in helping each school meet high behavioral expectations and support academic achievement without discrimination or unintended consequences.

**Data Collection.** As part of the school’s approach to evaluation, it should regularly collect complete information about all discipline incidents, consistent with applicable privacy laws. This information can supplement data schools may already be

collecting and reporting in connection with ED’s Civil Rights Data Collection (CRDC).<sup>48</sup>

A recordkeeping system should include demographic information for all students involved (disaggregated by race, sex, disability, age, and English learner status), as well as a description of the misconduct, grade level of each student referred for discipline, attempts to address the behavior prior to the referral for discipline, witnesses to the incident, prior history of the student, referring staff member, discipline imposed, and law enforcement involvement, if any. As discussed above in Principle 1, Action Step 6, a school’s data collection should also include data on the activities of any school-based law enforcement personnel.<sup>49</sup>

Schools should also establish a method for regularly soliciting student and family input regarding the school’s disciplinary practices. One way to do so and ensure transparency around the school’s discipline processes is through the establishment of a school discipline team that includes diverse members of the school community. Schools should also conduct comprehensive needs assessments regularly to identify whether the actions they are taking are helping the school reach its climate goals and to identify any new areas of need that may emerge.

**Review and Analysis.** After collecting data, schools should establish procedures for regular and frequent review and analysis of the data to detect patterns that bear further investigation, and evaluate whether a school’s academic, discipline, and behavior management goals are being achieved. As part of this review, schools may choose to examine how discipline referrals and sanctions imposed at the school compare to those at other schools, or randomly review a percentage of the disciplinary actions taken at each school on an ongoing basis to ensure



that actions taken were non-discriminatory and consistent with the school's discipline practices.

Schools should also analyze the data to assess the impact their discipline policies and practices are having on students, especially students of color, students with disabilities, and students at risk for dropping out of school, trauma, social exclusion, or behavior incidents, to identify any unintended disparities and consequences. In addition, schools should assess whether students with particular personal characteristics (e.g., race, sex, disability, or English learner status) are disproportionately disciplined, whether certain types of disciplinary offenses are more commonly referred for disciplinary sanction(s), whether specific teachers or administrators are more likely to refer specific groups of students for disciplinary sanctions, as well as any other indicators that may reveal disproportionate disciplinary practices.

**Root Cause Analysis.** Using the discipline data and analysis, schools should engage the community (including, but not limited to, students, families, and community members) in a process of determining the root cause or causes of any identified disparities or

unintended consequences. As part of this process, schools should publicly report the disaggregated discipline data that has been collected, consistent with applicable privacy laws and after removing students' personally identifiable information,<sup>50</sup> in an easily understandable and accessible manner. Schools should also ensure that the data is accessible to persons with limited English proficiency or disabilities.

**Plan for Action.** Using data, analysis, and community feedback, a school should commit to developing a plan of action to determine what modifications of the school's discipline approach or added interventions and supports, if any, would help to ameliorate the root cause or causes of the identified disparities or negative unintended consequences.

By establishing a process for the regular collection, analysis, and solicitation of feedback on student discipline, and, where appropriate, committing to revise the school's discipline approach, schools can help ensure fairness, equity, and continuous improvement in meeting the school's academic and behavioral goals.

# SOURCES FOR FURTHER READING AND MORE INFORMATION\*

## GUIDING PRINCIPLE 1: CLIMATE AND PREVENTION

- Brand, S., Felner, R. D., Seitsinger, A., Burns, A., Bolton, N. (2008). “A Large Scale Study of the Assessment of the Social Environment of Middle and Secondary Schools: The Validity and Utility of Teachers' Ratings of School Climate, Cultural Pluralism, and Safety Problems for Understanding School Effects and School Improvement.” *Journal of School Psychology, 46*, 507–535. Available at <http://dx.doi.org/10.1016/j.jsp.2007.12.001>.
- Durlak, J., Weissberg, R., Dymnicki, A., Taylor, R., Schellinger, K. (2011). “The Impact of Enhancing Students' Social and Emotional Learning: A Meta-analysis of School-based Universal Interventions.” *Child Development, 82*(1), 405–432.
- Gottfredson, G. D., Gottfredson, D. C., Payne, A. A., & Gottfredson, N. C. (2005). “School Climate Predictors of School Disorder: Results From a National Study of Delinquency Prevention in Schools.” *Journal of Research in Crime and Delinquency, 42*, 412–444.
- Steinberg, M. P., Allensworth, E., & Johnson, D. W. (2011). *Student and Teacher Safety in Chicago Public Schools: The Roles of Community Context and School Social Organization*. Chicago: Consortium on Chicago School Research.
- Bradshaw, C.P., Mitchell, M.M., & Leaf, P. (2010). “Examining the Effects of Schoolwide Positive Behavioral Interventions and Supports on Student Outcomes Results From a Randomized Controlled Effectiveness Trial in Elementary Schools.” *Journal of Positive Behavior Interventions, 12*(3), 133–48.
- Zins, J. E., & Elias, M. J. (2007). “Social and Emotional Learning: Promoting the Development of All Students.” *I, 17*(2-3), 233–255.

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\* These resources and reading materials represent just a few examples of the numerous education reference materials currently available to the public on the topics of school climate and discipline. These materials are being shared here because they may contain information relevant to state and local education leaders, school staff, parents, and students who are interested in learning more about issues related to improving school climate and school discipline policies and practices. The opinions expressed in any of these materials do not necessarily reflect the positions or policies of ED, and the inclusion of references to these reading materials in this resource guide should not be construed or interpreted as an endorsement of any kind by ED.

## GUIDING PRINCIPLE 2: CLEAR, APPROPRIATE, AND CONSISTENT EXPECTATIONS AND CONSEQUENCES

- American Academy of Pediatrics Committee on School Health. (2013). “Out-of-School Suspension and Expulsion.” *Pediatrics*, 131(3), 1000–07.
- American Psychological Association Zero Tolerance Task Force. (2006). “Are Zero Tolerance Policies Effective in Schools: An Evidentiary Review and Recommendations.” *American Psychologist*, 63(9), 852-862.
- Bear, G. (2010). *School Discipline and Self-discipline: A Practical Guide to Promoting Prosocial Student Behavior*. New York: The Guildford Press.
- Boccanfuso, C. and Kuhfield, M. (2011). *Multiple Responses, Promising Results: Evidence-based Non-punitive Alternatives to Zero Tolerance*. Washington, DC: Child Trends.
- Epstein, M., Atkins, M., Cullinan, D., Kutash, K., and Weaver, R. (2008). *Reducing Behavior Problems in the Elementary School Classroom: A Practice Guide* (NCEE #2008-012). Washington, DC: National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U.S. Department of Education. Retrieved from <http://ies.ed.gov/ncee/wwc/PracticeGuide.aspx?sid=4>.
- Fabelo, T., Thompson, M.D., Plotkin, M., Carmichael, D., Marchbanks, M.P., & Booth, E.A. (2011). *Breaking Schools’ Rules: A Statewide Study of How School Discipline Relates to Students’ Success and Juvenile Justice Involvement*. New York: Council of State Governments Justice Center. Retrieved from [http://csgjusticecenter.org/wp-content/uploads/2012/08/Breaking\\_Schools\\_Rules\\_Report\\_Final.pdf](http://csgjusticecenter.org/wp-content/uploads/2012/08/Breaking_Schools_Rules_Report_Final.pdf).
- Read, N. & Lampron, S. (2012). *Supporting Student Achievement*. Washington, DC: The National Evaluation and Technical Assistance Center.

## GUIDING PRINCIPLE 3: EQUITY AND CONTINUOUS IMPROVEMENT

- Gottlieb, J. & Polirstok, S. “Program to Reduce Behavioral Infractions and Referrals to Special Education.” *Children & Schools*, 27(1), 53–57.
- National Forum on Education Statistics. (2011). *Forum Guide to Crime, Violence, and Discipline Incident Data* (NFES 2011–806). Washington, DC: U.S. Department of Education, National Center for Education Statistics.

## FEDERAL GUIDANCE AND RESOURCES REFERENCED IN THIS GUIDE

- U.S. Department of Education. (2014). Family Policy Compliance Office homepage at [www.ed.gov/fpco/](http://www.ed.gov/fpco/).
- U.S. Department of Education. (2013). *Guide for Developing High-quality School Emergency Operations Plans*. Retrieved from [http://rems.ed.gov/docs/REMS\\_K-12\\_Guide\\_508.pdf](http://rems.ed.gov/docs/REMS_K-12_Guide_508.pdf).



- U.S. Department of Education. (2014). Office of Special Education Programs Positive Behavioral and Interventions Support website at <http://www.pbis.org>.
- U.S. Department of Education. (2013). Office of Special Education and Rehabilitation Services. “Dear Colleague” letter on bullying. Retrieved from <http://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/bullyingdcl-8-20-13.pdf> and enclosure “Effective Evidence-based Practices for Preventing and Addressing Bullying” at <http://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/bullyingdcl-enclosure-8-20-13.pdf/>.
- U.S. Department of Education. (2010). Office for Civil Rights. “Dear Colleague” guidance letter on harassment and antidiscrimination laws. Retrieved from <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf/>.
- U.S. Department of Education and U.S. Department of Health and Human Services. (2008). *Joint Guidance on the Application of the Family Educational Rights and Privacy Act (FERPA) and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) to Student Health Records*. Retrieved from <http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveridentities/hipaaferpajointguide.pdf/>.
- U.S. Department of Justice. (Forthcoming). Integrated school resource officer safety model and training curriculum.
- *Directory of Federal School Climate and Discipline Resources* available at <http://www.ed.gov/school-discipline/>.
- *Compendium of School Discipline Laws and Regulations* available at <http://www.ed.gov/school-discipline/>.
- U.S. Department of Education and U.S. Department of Justice. Dear Colleague Letter: Nondiscriminatory Administration of School Discipline (Jan. 8, 2014). Retrieved from [www.ed.gov/school-discipline](http://www.ed.gov/school-discipline).
- U.S. Department of Education. (2012). *Restraint and seclusion: Resource document*. Retrieved from <http://www2.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf>
- U.S. Department of Education. (2004). *Guidance Concerning State and Local Responsibilities Under the Gun-Free Schools Act*. Retrieved from <http://www2.ed.gov/about/offices/list/osdfs/gfsa.html/>.
- Safe and Supportive Schools. (n.d.). Safe and Supportive Schools Model. Retrieved from <http://safesupportiveschools.ed.gov/index.php?id=33>.

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ENDNOTES

<sup>1</sup> This resource guide intentionally avoids extensive citations to the research for the sake of readability, but readers interested in further information related to any topics discussed in this guide may consult the “Sources for Further Reading and Information” on page 19. Readers interested in accessing tools and resources related to these topics should also consult the other parts of this resource package, including the attached *Directory of Federal School Climate and Discipline Resources*, also available at <http://www.ed.gov/school-discipline/>, which contains a listing of federal resources (including research, webinars, survey instruments, and federal guidance) related to school climate and school discipline which are tagged to the principles and action steps outlined here. In addition, readers interested in learning about the laws and policies surrounding school discipline practices at the state level may consult the attached *Compendium of School Discipline Laws and Regulations*, also available at <http://www.ed.gov/school-discipline/>, which contains information on school discipline laws and regulations for each of the 50 states, Washington, D.C., and Puerto Rico.

<sup>2</sup> We are interested in making the materials in this resource package as informative and useful as possible. If you are interested in commenting on this guide, the *Directory of Federal School Climate and Discipline Resources*, the *Compendium of School Discipline Laws and Regulations*, or the *Overview of the Supportive School Discipline Initiative*, please e-mail your comments to [SchoolDiscipline@ed.gov](mailto:SchoolDiscipline@ed.gov) or write to us at U.S. Department of Education, Office of Safe and Healthy Students, Attn: School Discipline Guidance, 400 Maryland Ave. SW, Washington, DC 20202.

<sup>3</sup> See generally Safe and Supportive Schools. (n.d.). Safe and Supportive Schools Model. Retrieved from <http://safesupportiveschools.ed.gov/index.php?id=33/>.

<sup>4</sup> MacNeil, A. J., Prater, D. L., & Busch, S. (2009). “The Effects of School Culture and Climate on Student Achievement.” *International Journal of Leadership in Education*, 12(1), 73–84; see also Lee, V. E., Smith, J.B., Perry, T.E., & Smylie, M.A., (1999). *Social Support, Academic Press, and Student Achievement: A View From the Middle Grades in Chicago*. Chicago, IL: Consortium on Chicago School Research.

<sup>5</sup> Christle, C. A., Jolivet, K., & Nelson, C. M. (2007). “School Characteristics Related to High School Dropout Rates.” *Remedial and Special Education*, 28(6), 325–339.

<sup>6</sup> Weiss, E.A. (1999). “Perceived Workplace Conditions and First-Year Teachers’ Moral, Career Choice Commitment, and Planned Retention: a Secondary Analysis.” *Teaching and Teacher Education*, 15(8), 861–879.

<sup>7</sup> Becker, B., & Luthar, S. (2002). “Social-Emotional Factors Affecting Achievement Outcomes Among Disadvantaged Students: Closing the Achievement Gap.” *Educational Psychologist*, 37(4), 197-214. See also Bryk, A. S. (2010). “Organizing Schools for Improvement.” *Phi Delta Kappan*, 91(7), 23-30.

<sup>8</sup> Steinberg, M. P., Allensworth, E., & Johnson, D. W. (2011). *Student and Teacher Safety in Chicago Public Schools: The Roles of Community Context and School Social Organization*. Chicago: Consortium on Chicago School Research.

<sup>9</sup> Ibid.

<sup>10</sup> MacNeil, A. J., Prater, D. L., & Busch, S. (2009). Op.cit.

<sup>11</sup> In administering a comprehensive needs assessment, school districts must comply with the *Protection of Pupil Rights Amendment (PPRA)*, which requires, among other things, that in the event that a survey administered or distributed to students will contain questions about one or more of eight specified items, such as the student’s mental or psychological problems, the school district must: (1) develop and adopt policies to protect student privacy with regard to the survey; (2) notify parents, at least annually at the beginning of the school year, of the specific or approximate dates that the survey will be scheduled; and, (3) offer an opportunity for parents to opt students out of participation in the survey. (See 20 U.S.C. § 1232h(c).) The rights provided to parents under the *PPRA* transfer to the student when the student turns 18 years old, or is an emancipated minor (under an applicable state law) at any age. (20 U.S.C. § 1232h(c)(5)(B).)

<sup>12</sup> For example, schools must comply with the *Family Educational Rights and Privacy Act (FERPA)* (20 U.S.C. § 1232g) and the *PPRA* (20 U.S.C. § 1232h(c)).

<sup>13</sup> Positive Behavioral Interventions and Supports (PBIS) is a generic term referencing a broad behavioral framework anchored by critical components, but with the flexibility to allow for customization by schools and districts based on local needs and resources. PBIS frameworks are used to improve the integration and implementation of

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behavioral practices, data-driven decision-making systems, professional development opportunities, school leadership, state and district policies, and evidence-based instructional strategies. Ultimately, a PBIS framework helps to improve behavioral and academic outcomes by improving school climate, preventing problem behaviors, increasing learning time, promoting positive social skills, and delivering effective behavioral interventions and supports. For additional information about PBIS, readers may wish to consult the PBIS website hosted by ED’s Office of Special Education Programs at <http://www.pbis.org>.

<sup>14</sup> Bradshaw, C.P., Mitchell, M.M., & Leaf, P. (2010). “Examining the Effects of Schoolwide Positive Behavioral Interventions and Supports on Student Outcomes Results From a Randomized Controlled Effectiveness Trial in Elementary Schools.” *Journal of Positive Behavior Interventions*, 12(3), 133–48. A list of current studies pertaining to schoolwide positive behavior support is available on the PBIS website at <http://www.pbis.org/researchLiterature.htm>.

<sup>15</sup> Collaborative for Academic, Social, and Emotional Learning. (2013). *Why It Matters: What Is SEL?: What Is Social and Emotional Learning?*, available at <http://casel.org/why-it-matters/what-is-sel/>; see also Zins, J. E., & Elias, M. J. (2007). “Social and Emotional Learning: Promoting the Development of All Students.” *Journal of Educational and Psychological Consultation*, 17(2–3), 233–255.

<sup>16</sup> Durlak, J., Weissberg, R., Dymnicki, A., Taylor, R., Schellinger, K. (2011). *The Impact of Enhancing Students’ Social and Emotional Learning: A Meta-Analysis of School-Based Universal Interventions*. *Child Development*, 82(1), 405–432.

<sup>17</sup> Stichter, J. P., Lewis, T. J., Whittaker, T. A., Richter, M., Johnson, N. W., & Trussell, R. P. (2009). “Assessing Teacher Use of Opportunities to Respond and Effective Classroom Management Strategies Comparisons Among High- and Low-Risk Elementary Schools.” *Journal of Positive Behavior Interventions*, 11(2), 68–81.

<sup>18</sup> Payton, J., Weissberg, R.P., Durlak, J.A., Dymnicki, A.B., Taylor, R.D., Schellinger, K.B., & Pachan, M. (2008). *The Positive Impact of Social and Emotional Learning for Kindergarten to Eighth-Grade Students: Findings From Three Scientific Reviews*. Chicago, IL: Collaborative for Academic, Social, and Emotional Learning.

<sup>19</sup> FERPA is a federal law that protects the privacy of student education records. (See generally 20 U.S.C. § 1232g.) More information on FERPA can be found at [www.ed.gov/fpco](http://www.ed.gov/fpco). The relevant confidentiality protections for eligible students with disabilities under Part B of the IDEA can be found at 20 U.S.C. §1417(c) and 34 C.F.R. §§300.610–300.626. HIPAA and its implementing regulations protect the privacy and security of individually identifiable health information held by health plans, health care clearinghouses, and most health care providers. While schools and school districts may maintain student health records, these records would not, in most cases, be protected by HIPAA, but instead would be considered education records protected by FERPA. Mental health records maintained by community mental health providers may be protected by HIPAA. For more information about FERPA, HIPAA, and student health records, please consult the joint guidance released by ED and the U.S. Department of Health and Human Services (HHS), *Joint Guidance on the Application of the Family Educational Rights and Privacy Act (FERPA) and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) to Student Health Records* (2008), available at <http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveridentities/hipaaferpajointguide.pdf/>.

<sup>20</sup> ED, along with HHS, the U.S. Department of Homeland Security, and DOJ, recently released guidance for schools on emergency planning. See U.S. Department of Education, Office of Elementary and Secondary Education, Office of Safe and Healthy Students, *Guide for Developing High-Quality School Emergency Operations Plans*, Washington, DC, 2013, available at [http://rems.ed.gov/docs/REMS\\_K-12\\_Guide\\_508.pdf](http://rems.ed.gov/docs/REMS_K-12_Guide_508.pdf).

<sup>21</sup> A commonly accepted definition of a “school resource officer” is a career law enforcement officer, with sworn authority, who is deployed in community-oriented policing and assigned by the employing police department or agency to work in collaboration with schools and community-based organizations. The term “school resource officer” (or SRO) is frequently used interchangeably to refer to school security officers and other campus-based security officers. In this guide, the term “school-based law enforcement officers” refers to SROs, school security officers, and any other campus-based security officers.

<sup>22</sup> Boccanfuso, C. and Kuhfeld, M. (2011). *Multiple Responses, Promising Results: Evidence-Based, Nonpunitive Alternatives to Zero Tolerance* (Publication #2011-09). Washington, DC: Child Trends.

<sup>23</sup> DOJ’s Office for Community Oriented Policing (COPS) is currently developing the *Integrated School Resource Officer Safety Model and Training Curriculum*, which will provide guidelines, tools, resources, and promising practices from around the country (from jurisdictions of varying size) on the SRO’s role in school safety and security efforts. These

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tools will expand the knowledge base for SROs and those who select, hire, train, and manage SROs, setting a national standard for the role of SROs in school safety. The model and training curriculum will increase the ability of law enforcement agencies, educators, school administrators, and necessary stakeholders (including mental health and other service providers, parents, and students) to work together under integrated and individually tailored school safety and security plans. The COPS Office anticipates that the curriculum will be available in 2014.

<sup>24</sup> “Ending the School to Prison Pipeline,” Hearing before the Senate Subcommittee on the Constitution, Civil Rights, and Human Rights, 112th Cong. (2012) (testimony of the Hon. Steven C. Teske), available at <http://www.judiciary.senate.gov/pdf/12-12-12TeskeTestimony.pdf/>.

<sup>25</sup> “Restorative justice practices” refers to non-punitive disciplinary responses that focus on repairing harm done to relationships and people, developing solutions by engaging all persons affected by a harm, and accountability. A variety of restorative practices can be used in schools, ranging from brief on-the-spot responses to student behavior in the classroom to community conferencing involving multiple parties, such as students, parents, and teachers. The goals of restorative justice intervention in schools are to address the harm committed and enhance responsibility and accountability, build relationships and community, and teach students empathy and problem solving skills that can help prevent the occurrence of inappropriate behavior in the future. Additional information about the use of restorative justice practices in schools is available in the Supportive School Discipline webinar presented by ED, DOJ, and HHS, “Stemming the School-to-Prison Pipeline: Applying Restorative Justice Principles to School Discipline Practices” (2013), available at <http://safesupportivelearning.ed.gov/events/stemming-school-prison-pipeline-applying-restorative-justice-principles-school-discipline-0>.

<sup>26</sup> ED has provided information about school district responsibilities under the *IDEA* to address bullying of students with disabilities, as well as information about district obligations to respond to harassment prohibited under federal antidiscrimination laws. To access this information, please consult ED’s “Dear Colleague” guidance letter on bullying and the *IDEA* (2013), available at <http://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/bullyingdcl-8-20-13.pdf> and at <http://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/bullyingdcl-enclosure-8-20-13.pdf>; as well as ED’s “Dear Colleague” guidance letter on harassment and antidiscrimination laws (2010), available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>.

<sup>27</sup> Epstein, M., Atkins, M., Cullinan, D., Kutash, K., and Weaver, R. (2008). *Reducing Behavior Problems in the Elementary School Classroom: A Practice Guide* (NCEE #2008-012). Washington, DC: National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U.S. Department of Education. Retrieved from <http://ies.ed.gov/ncee/wwc/publications/practiceguides>; see also Steinberg, M. P., Allensworth, E., & Johnson, D. W. (2011). *Student and Teacher Safety in Chicago Public Schools: The Roles of Community Context and School Social Organization*. Chicago: Consortium on Chicago School Research.

<sup>28</sup> Title VI of the *Civil Rights Act of 1964*, as amended, which prohibits discrimination on the basis of race, color, or national origin (42 U.S.C. §§ 2000d et seq.), requires schools to provide language assistance to national origin-minority parents who have limited English proficiency in order to allow the parent meaningful access to information in a language the parent can understand.

<sup>29</sup> See generally Section 504 of the *Rehabilitation Act of 1973* (29 U.S.C. § 794), which prohibits discrimination on the basis of disability by recipients of federal financial assistance, and Title II of the *Americans with Disabilities Act of 1990* (42 U.S.C. §§ 12131 et seq.), which prohibits discrimination on the basis of disability by state and local governmental entities, including school districts.

<sup>30</sup> Note that under *FERPA*, once a student reaches the age of 18 or attends a postsecondary institution at any age, the rights accorded to parents transfer to the student (who is then referred to as an “eligible student”). (20 U.S.C. § 1232g(d) and 34 CFR 99.5(a)(1).) For the parents and guardians of “eligible students,” schools may still provide notification of disciplinary incidents under *FERPA* if the disclosure meets an exception to one of *FERPA*’s general consent requirements, such as if the parent claims the student as a dependent on the parent’s tax return with the Internal Revenue Service. (See 20 U.S.C. 1232g(b)(1)(H) and 34 CFR 99.31(a)(8).) If a student with a disability reaches the age of majority as determined by state law, rights accorded to parents under the *Individuals with Disabilities Education Act (IDEA)* will transfer to the student, to the extent permitted under the *IDEA* and state law (20 U.S.C. . § 1415(m).) For students who hold their own educational rights, schools should consider whether it is appropriate to notify the parents or the student, or both, of the disciplinary incident. (See generally 20 U.S.C. § 1232g (d); 34 C.F.R. §§ 99.3, 99.5(a), 99.31; 20 U.S.C. § 1415(m); 34 C.F.R. § 300.520.)

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<sup>31</sup> A commonly accepted definition of a “zero tolerance policy” is one that “mandates the application of predetermined consequences, most often severe and punitive in nature, that are intended to be applied regardless of the gravity of behavior, mitigating circumstances, or situational context.” American Psychological Association Zero Tolerance Task Force. (2006). “Are Zero Tolerance Policies Effective in Schools: An Evidentiary Review and Recommendations.” *American Psychologist*, 63(9), 856 (“APA Task Force”).

<sup>32</sup> ED has provided a resource document on the use of seclusion and restraint in schools that makes clear that restraint and seclusion should be avoided to the greatest extent possible, and never used as a means of punishment or discipline. The resource document further makes clear that restraint or seclusion should not be used except in situations where a child’s behavior poses imminent danger of serious physical harm to self or others. For additional information, please consult ED’s guidance, *Restraint and Seclusion: Resource Document* (2012) available at <http://www2.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf>.

<sup>33</sup> At the federal level, see Section 504 of the *Rehabilitation Act of 1973*, as amended (29 U.S.C. § 794); Title II of the *Americans with Disabilities Act of 1990* (42 U.S.C. §§ 12101 et seq.); and the *IDEA* Section 615(k). State-level laws may also apply.

<sup>34</sup> See generally 34 C.F.R. §§300.530-300.536. Specifically, the Federal Regulations for Part B of the *IDEA* permits school authorities to remove a child with a disability who violates a code of student conduct from the child’s current placement to an appropriate interim alternative educational setting, to another setting, or for suspensions of not more than 10 consecutive days. (See 34 C.F.R. §300.530(b).) If the child is properly removed from his or her current school placement for more than 10 days in the same school year, then the child must continue to receive services to enable him or her to continue to participate in the general education curriculum and make progress toward his or her individualized education program (IEP) goals, but in another setting. (See 34 C.F.R. §300.530(d).) Also, within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the local educational agency, the parent, and relevant members of the child’s IEP Team must determine if the conduct was a manifestation of the child’s disability. (See 34 C.F.R. §300.530(e).) If the behavior that caused the removal was a manifestation of the child’s disability, the IEP Team must determine whether the child should receive a functional behavioral assessment, if appropriate, and behavioral intervention services, or modifications to existing services, to address the behavior. Unless an exception applies, the child is returned to his or her current placement. (See 34 C.F.R. §§300.530(e)-(f).) Students with disabilities whose misconduct is determined not to be a manifestation of their disability may be disciplined in the same manner and for the same duration as nondisabled students, subject to the continuation of educational services. (See 34 C.F.R. §300.530(c).)

<sup>35</sup> *IDEA*’s discipline-related provisions apply both to students covered by *IDEA* and to students who have not been identified as having a disability under the *IDEA*, but where the school or district had knowledge that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred. (See 34 C.F.R. §300.534.)

<sup>36</sup> American Academy of Pediatrics Committee on School Health. (2013). “Out-of-School Suspension and Expulsion.” *Pediatrics*, 131(3), 1000–07. Retrieved from <http://pediatrics.aappublications.org/content/131/3/e1000.full.pdf>.

<sup>37</sup> Dynarski, M., Clarke, L., Cobb, B., Finn, J., Rumberger, R., and Smink, J. (2008). *Dropout Prevention: A Practice Guide* (NCEE 2008–4025). Washington, DC: National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U.S. Department of Education. Retrieved from <http://ies.ed.gov/ncee/wwc/>.

<sup>38</sup> APA Task Force.

<sup>39</sup> Boccanfuso, C. and Kuhfeld. M. (2011). Op. cit.

<sup>40</sup> Dynarski, M., Clarke, L., Cobb, B., Finn, J., Rumberger, R., and Smink, J. (2008). *Dropout Prevention: A Practice Guide* (NCEE 2008–4025). Washington, DC: National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U.S. Department of Education. Retrieved from <http://ies.ed.gov/ncee/wwc/>.

<sup>41</sup> American Academy of Pediatrics Committee on School Health. (2013). Op.cit.

<sup>42</sup> Pursuant to the *GFSA*, each state receiving funds under the *Elementary and Secondary Education Act* of 1965 (*ESEA*) must have in place a law that requires local school districts to expel, for at least one year, any student who brings a firearm to, or possesses a firearm at, a school, unless the local school district’s chief administering officer modifies that sanction in writing, on a case-by-case basis. (See *ESEA* § 4141(b)(1) (20 U.S.C. § 7151(b)(1).) For



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additional guidance about state and local responsibilities under the *GFSA*, please see ED’s *Guidance Concerning State and Local Responsibilities Under the Gun-Free Schools Act*, U.S. Department of Education, January 2004, available at <http://www2.ed.gov/about/offices/list/osdfs/gfsa.html> (“2004 GFSA Guidance”).

<sup>43</sup> The term “chief administering officer” is undefined in the *GFSA*. ED has advised local school districts to locally determine which school official (i.e., superintendent) or entity (i.e., school board) meets the definition of “chief administering officer” based upon the local school context. (See 2004 *GFSA* Guidance at 6.)

<sup>44</sup> For purposes of state reporting under the *GFSA*, the *GFSA* defines “school” as “any setting that is under the control and supervision of the local educational agency for the purposes of student activities approved and authorized by the local educational agency.” (See ESEA § 4141(f) (20 U.S.C. § 7151(f).) For purposes of the *GFSA*’s expulsion provisions, ED has similarly interpreted “school” to mean “any setting that is under the control and supervision” of the local educational agency. (See 2004 GFSA Guidance at 10.)

<sup>45</sup> For example, Title IV of the *Civil Rights Act of 1964*, as amended, which prohibits discrimination on the basis of race, color, sex, religion, or national origin (42 U.S.C. §§ 2000c *et seq.*); Title VI of the *Civil Rights Act of 1964* as amended, which prohibits discrimination on the bases of race, color, or national origin (42 U.S.C. §§ 2000d *et seq.*); Title IX of the *Education Amendments of 1972* as amended, which prohibits sex discrimination (20 U.S.C. § 1681 *et seq.*); Section 1703(f) of the *Equal Educational Opportunities Act of 1974* (20 U.S.C. § 1703(f)), which requires state educational agencies and school districts to take action to overcome language barriers that impede English language learner students from participating equally in school districts’ educational programs; and Section 504 of the *Rehabilitation Act of 1973* as amended (29 U.S.C. 794) and Title II of the *Americans with Disabilities Act* (42 U.S.C. §§ 12101 *et seq.*), which prohibit discrimination on the basis of disability. In addition to federal civil rights laws, schools should ensure that the school’s discipline policies and practices comply with other applicable federal, state, and local laws. For example, as discussed above, at the federal level, the *IDEA* contains specific provisions regarding the discipline of students with disabilities who are or may be eligible for services under the *IDEA*, (see, e.g., 20 U.S.C. §1415(k); 34 C.F.R. § 300.530(e)-(g)), while *FERPA* protects the privacy of student education records (20 U.S.C. § 1232g).

<sup>46</sup> In January 2014, ED and DOJ released a joint “Dear Colleague” guidance letter to assist schools in meeting their legal obligations under Titles IV and VI of the *Civil Rights Act of 1964* to administer student discipline without discriminating on the basis of race, color, or national origin, available at <http://www.ed.gov/school-discipline/>. That guidance focuses on how to identify, avoid, and remedy discriminatory discipline, and is intended to assist schools in providing all students with equal educational opportunities. As the “Dear Colleague” guidance letter explained, the administration of student discipline can result in unlawful discrimination based on race, color, or national origin in two ways: first, if a student is subjected to different treatment based on his or her race, color, or national origin; and, second, if a neutral policy that does not itself mention race and is administered in an evenhanded manner has a disparate impact, in other words, a disproportionate and unjustified effect on students of a particular race.

<sup>47</sup> See Skiba, R.J., Michael, R.S., & Narda, A.C. (2000). *The Color of Discipline: Sources of Racial and Gender Disproportionality in School Punishment*. Lincoln, NE: Indiana Education Policy Center. [Adobe Digital Editions Version]. Retrieved from <http://www.indiana.edu/~safeschl/cod.pdf/>. See also Gregory, A., Skiba, R.J., & Noguera, P.A. (2010). “The Achievement Gap and the Discipline Gap: Two Sides of the Same Coin?” *Educational Researcher*, 39(1), 59-68.

<sup>48</sup> The CRDC collects data from a sample of school districts on key education and civil rights issues in our nation’s public schools, including student enrollment, disciplinary actions, and educational programs and services, disaggregated by race/ethnicity, sex, limited English proficiency and disability. The CRDC is a valuable source of information about access to educational opportunities in our nation’s public schools that is used by the Department’s Office for Civil Rights (OCR) and other Department offices, as well as policymakers, researchers, and many others in the education community. More information about the CRDC is available at <http://ocrdata.ed.gov/>.

<sup>49</sup> Assistance in developing a discipline incident database that provides useful, valid, reliable, and timely incident data is available from the National Forum on Education Statistics in the report *Forum Guide to Crime, Violence, and Discipline Incident Data*, available at [http://neces.ed.gov/forum/pub\\_2011806.asp/](http://neces.ed.gov/forum/pub_2011806.asp/).

<sup>50</sup> In order to release de-identified data from students’ disciplinary records under *FERPA*, schools must not only remove students’ personally identifiable information (such as names) from the records, but also take into account other reasonably available information and the totality of data that has been or is being released, and make a reasonable

## Appendix D

# The School Discipline Consensus Project

# EXECUTIVE SUMMARY

**The School Discipline Consensus Report:**  
Strategies from the Field to Keep Students Engaged  
in School and Out of the Juvenile Justice System





# EXECUTIVE SUMMARY

## **The School Discipline Consensus Report:**

Strategies from the Field to Keep Students Engaged  
in School and Out of the Juvenile Justice System

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# EXECUTIVE SUMMARY

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**R**ESearch AND DATA ON SCHOOL DISCIPLINE practices are clear: millions of students are being removed from their classrooms each year, mostly in middle and high schools, and overwhelmingly for minor misconduct.<sup>1</sup> When suspended, these students are at a significantly higher risk of falling behind academically, dropping out of school, and coming into contact with the juvenile justice system.<sup>2</sup> A disproportionately large percentage of disciplined students are youth of color,<sup>3</sup> students with disabilities,<sup>4</sup> and youth who identify as lesbian, gay, bisexual, or transgender (LGBT).<sup>5</sup>

There is no question that when students commit serious offenses or pose a threat to school safety they may need to be removed from the campus or arrested. Such incidents, however, are relatively rare, and school typically remains the safest place a young person can be during the day.<sup>6</sup> In schools with high rates of suspension for minor offenses, however, students and teachers often feel they are not safe or supported in their learning environment.

Trailblazing student and parent groups, advocacy organizations, researchers, professional associations, and school districts have raised the visibility of exclusionary discipline practices across the nation. In response, individual schools, districts, and state education systems have implemented research-based approaches to address student misbehavior that hold youth accountable, address victims' needs, and effectively improve both student conduct and adult responses. These approaches also help keep students engaged in classrooms and out of courtrooms.

The federal government has also put a spotlight on these issues. As part of the Supportive School Discipline Initiative, the U.S. Departments of Education and Justice issued joint guidance in January 2014 to assist public elementary and secondary schools in meeting their obligations under federal law to administer student discipline without discriminating on the basis of race, color, or national origin.\*

*The School Discipline Consensus Report* builds on this foundation and breaks new ground by integrating some of the best thinking and innovative strategies from the fields of education, health, law enforcement, and juvenile justice. Leaders in these diverse systems agree that local and state governments must not only help schools reduce the number of students suspended, expelled, and arrested, but must also provide conditions for learning wherein all

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\* That guidance was accompanied by three documents—*Guiding Principles*, the *Directory of Federal School Climate and Discipline Resources*, and the *Compendium of School Discipline Laws and Regulations*—to help guide state- and locally controlled efforts to improve school climate and school discipline. See U.S. Department of Education and U.S. Department of Justice School Discipline Guidance at [ed.gov/policy/gen/guid/school-discipline/index.html](http://ed.gov/policy/gen/guid/school-discipline/index.html).

students feel safe, welcome, and supported. The central thesis of this comprehensive report is that achieving these objectives requires the combination of a positive school climate, tiered levels of behavioral interventions, and a partnership between education, police, and court officials that is dedicated to preventing youth arrests or referrals to the juvenile justice system for minor school-based offenses.

### Three aspects of the report distinguish it from earlier work:

- ***It is comprehensive.*** The comprehensiveness of this report is unprecedented. It presents nearly two dozen policy statements to guide multidisciplinary approaches to meet the needs of both youth and educators while addressing student misbehavior, and 60 recommendations that explain how to implement these policies. The ideas offered throughout the report come from the field and demonstrate an appreciation of these interconnected goals: improving school climate; identifying and meeting students' behavioral health and related needs; tailoring school-police partnerships to mutual goals; and minimizing students' engagement with the juvenile justice system.
- ***It is consensus-based.*** This report reflects a consensus forged by the many professional groups with a stake in how school discipline policy is implemented. More than 100 advisors representing school administrators, teachers, behavioral health professionals, police, court leaders, probation officials, juvenile correctional administrators, parents, and youth from across the country helped to develop the recommendations and proposed collaborative processes. Approximately 600 additional practitioners, researchers, policymakers, and agents of change were consulted over the three-year project that culminated in this report.
- ***It is practical.*** The report's guidance is grounded in real-world approaches identified through extensive outreach to practitioners and policymakers serving youth. It is based on the latest research, takes into account the context in which policies and practices are developed, and provides examples of how communities are putting into effect proposed changes.

## DISPARITIES IN DISCIPLINE RATES

Improving school discipline policy requires addressing the disparate impact that the current approach has on particular student populations:

- ▶ Black, Hispanic, and American Indian students are suspended at much higher rates than their White peers—sometimes at double the rate.<sup>7</sup>
- ▶ Twenty percent of secondary school students with disabilities were suspended in a single school year, compared to fewer than ten percent of their peers without disabilities.<sup>8</sup>
- ▶ LGBT youth are up to three times more likely to experience harsh disciplinary treatment than their heterosexual counterparts.<sup>9</sup>

Even as various jurisdictions celebrate declines in overall suspension rates, they have noted that the disparity in some cases has widened and carried forward to expulsions and arrests.<sup>10</sup>

Report recommendations do not include—or even collectively constitute—a “silver bullet” for addressing issues of bias or disproportionate impact. Nor does this report propose a sweeping mandate to address the complex underlying issues that drive disparities. At the same time, many recommendations come back to addressing the issues of race and disproportionate impact on students of color and other groups. Recognizing that students and parents alike will lack confidence in a school discipline system that is perceived to be biased or unfair, school and district officials need to hold at their respective levels difficult discussions about the disparate impact of school discipline on particular groups of students, to ensure that recommendations are carried out equitably. Quality data collection and transparent reporting to help monitor progress must support these efforts.

The policy statements and supporting recommendations in this report are organized into four main chapters: Conditions for Learning, Targeted Behavioral Interventions, School-Police Partnerships, and Courts and Juvenile Justice. Additional chapters on information-sharing and data-collection issues follow.

## Conditions for Learning

### Overview of the Issue

The extent to which students are safe, connected, engaged, and supported in their classrooms and schools—collectively known as the “conditions for learning”—is critical to their academic and personal success. Schools that create welcoming and secure learning environments reduce the likelihood that students will misbehave, and improve educators’ ability to manage student behavior.

## Background

Everyone agrees that schools should provide an environment where students and staff feel physically and emotionally safe, connected, fairly treated, and valued. Research has demonstrated that academic achievement and positive behaviors increase when these conditions for learning are in place.<sup>11</sup> Unfortunately, promoting a positive school climate often takes a back seat to educators' and administrators' efforts to address mandates to improve test scores and graduation rates, even though strong conditions for learning have been shown to help improve academic achievement. Where school leaders have not made school climate a priority, disciplinary approaches often rely heavily on the removal of students from school.

It is important to distinguish between efforts to improve school climate for students and educators that can come across as perfunctory—such as hanging student artwork on the walls, announcing teacher appreciation days, or convening monthly student assemblies—and the strategies that have been shown to improve attendance and student success, engagement, and behavior. Although educators, administrators, and the school community universally value a positive school climate, they do not always share an understanding of what it takes to achieve it.

Schools often lack the means to accurately assess their own climates, and to involve the school community in developing a vision and corrective plan. School administrators and staff need training and professional development opportunities, job-embedded supports, and feedback on their performance to carry out these plans. District codes of conduct should also reinforce steps to sustain a positive school climate, and be routinely assessed and revised to ensure progress.

## Chapter Highlights and Questions Addressed

***School leaders should work with staff, students, families, and other stakeholders to accurately assess a school's climate, develop a shared vision for what it should be, and design a plan to address areas in need of improvement.***

- What type of data should a school use to assess its existing climate and identify areas for improvement?
- How do schools ensure that student, staff, and other stakeholders' perspectives are fully considered?
- How can it be determined whether specific groups of students are disengaged or marginalized at school?
- How should the vision for improving conditions for learning be developed and communicated among educators, parents, students, and other school community members to make certain it is embraced?
- How can school climate improvement efforts that refocus responses to student misconduct from primarily reactive approaches to prevention be integrated with a school's other planning work, including academic achievement and safety plans?

***The school district code of conduct should promote positive adult and student behaviors, and it should include a graduated system of responses to student misconduct that holds youth responsible for their actions but makes clear that removal from school is a last resort.***

- What options should be available to consistently apply developmentally appropriate consequences for student misconduct; redress the harm done; and provide the necessary supports to change students' problem behaviors and engage them in learning?
- How are students, their parents/guardians, and adults in the school engaged in discussions about how to improve the school code of conduct, and what steps can be taken to ensure they are invested in realizing the code's goals?

***Students removed from the classroom for disciplinary reasons should continue to receive quality instruction.***

- What on-campus options exist to respond to students' misconduct by addressing behavioral needs and permitting a cooling-off period?
- What measures can be taken to minimize any lost instructional time and help students removed from class keep pace with their assignments?

***School administrators and educators should have professional development opportunities to gain the knowledge and skills needed to create positive conditions for learning.***

- How are effective classroom management approaches integrated into the school, including how to de-escalate conflicts with students and use culturally appropriate interventions?
- How do educator preparation programs address in both coursework and clinical experiences classroom management skills and student-teacher relationship building?
- How do induction programs for new teachers incorporate training on these issues?
- What measures should be included in teacher and principal evaluations to reflect the expectation that they will help foster the conditions necessary for students to learn?

## **Targeted Behavioral Interventions**

### **Overview of the Issue**

Some students are repeatedly involved in their schools' discipline systems, sometimes as a result of unmet behavioral health, academic, or other needs. Behavioral interventions must be available to target the needs of students for whom a positive school climate and the right conditions for learning are not sufficient to keep them in class, to prevent their repeated involvement in the school discipline system, and to help them achieve long-term success.



## Background

Millions of children have experienced a personal trauma (such as the loss of a parent) and/or exposure to violence at home or in the community, either as victims or witnesses. In addition, one in ten children has a mental illness severe enough to impair how he or she functions in school.<sup>12</sup> Schools must be sensitive to the needs of these youth and recognize that some students with unmet behavioral health needs and youth with disabilities, particularly those with emotional disturbances, are more likely to experience high suspension rates and lower academic achievement.<sup>13</sup>

As local, state, and federal leaders have increasingly focused on helping more youth stay in schools where they can succeed, a growing number of school districts are adopting “early-warning systems” (EWSs) to identify secondary school students who are chronically absent, failing particular courses, experiencing disciplinary actions, or engaging in risky behavior. Although the use of these systems is still in the beginning stages in many jurisdictions, and is primarily meant to improve graduation rates, the systems can be used to help identify youth in need of behavioral interventions (whether related to mental health issues or other underlying causes).

Whether or not schools employ EWSs, school staff often struggle to meet the needs of students they identify who would benefit from additional targeted supports and services. A school-based team, which ideally includes a counselor or other behavioral health specialist, can help determine the right set of responses when a student appears at high risk of involvement or reengagement with the discipline or juvenile justice system.

Many districts have campuses with school-based teams, although the teams typically focus primarily on academic progress and improving instruction. Schools also usually have teams or individuals who are responsible for developing individualized education programs (IEPs) for students with disabilities and complying with provisions in the Individuals with Disabilities Education Act (IDEA). Many schools, however, lack student support teams to identify and provide interventions that can help students achieve academic success and avoid disciplinary actions.

Establishing a student support team, or expanding the role of a preexisting team, to include addressing school discipline issues does not ensure that team’s success. Support team members must be provided with quality training and access to a broad array of services for students. Because schools will often lack the internal capacity to meet students’ needs, support teams should also be able to draw on a system-of-care through partnerships with various community-based organizations that can help fill gaps in services.

Even with targeted interventions and services, there are some students who will have to be removed from school for disciplinary reasons or who would benefit from being in a different learning environment altogether. There is general agreement that there should be alternative education pathways for all students who are not succeeding in traditional academic settings. There is also recognition that in many places alternative programs lack the rigor, transparency,

and quality of instruction and behavioral supports that are found in traditional schools to assist these students and prepare them for college and career.

Responding effectively to students' behavioral health and related needs to help them succeed at school and minimize involvement with the discipline or juvenile justice system requires a comprehensive approach. Ideally, schools would have a data system to match and guide interventions for students; trained staff to help oversee these services or access to community-based service providers; quality alternative education pathways; and the ability to track students' progress. In light of the limited capacity of most schools and communities, designing and implementing such a system may require long-term planning for even the most advanced school districts.

## **Chapter Highlights and Questions Addressed**

***Districts, schools, and educators should use data-driven processes to identify and support individual students who need targeted behavioral interventions, and to guide decisions about how best to allocate limited staff and resources.***

- How should schools—and school districts—employ EWSs to identify students who might otherwise experience repeated involvement with the school discipline or juvenile justice system?
- How can school and district leaders and state officials also use EWS data to prioritize staff training, the allocation of resources for particular strategies, or the placement of behavioral health support staff in particular classrooms and schools with high rates of exclusionary disciplinary actions?

***School leaders should understand the prevalence of students' behavioral health and related needs in each school and district, each school's capacity to address those needs, and the community resources available to supplement school services.***

- How can data from behavioral health surveys, student IEPs, and school discipline systems be used to assess the type of services and supports needed to meet the behavioral health needs of students in a particular school or school district?
- How can gaps in services be identified through a behavioral health assessment, and how can schools and districts address those gaps to provide a comprehensive range of services?

***Each school should have a student support team (or teams) to oversee services for youth with behavioral health and related needs.***

- How do student support teams work individually and in collaboration with other school-based teams to help youth with behavioral health and related needs?
- How can student support teams use EWSs and systems that monitor the implementation of interventions to track students' progress and determine the effectiveness of services?
- How can schools develop a system-of-care approach that involves community partners to expand the range of services and interventions for students with behavioral needs?

***Students removed from campus for disciplinary reasons and students not succeeding in traditional settings should be provided with a quality alternative education placement where there is continuity of instruction and needed services.***

- When students are removed from school for disciplinary reasons for short periods of time, how are they engaged in off-campus instruction and provided the necessary social, emotional, and behavioral supports?
- What improvements should be made to alternative education programs so that students removed from school for disciplinary reasons, as well as students not successful in traditional education settings, receive quality instruction from qualified educators and necessary behavioral health supports?
- What mechanisms must be in place to ensure that students in alternative education programs can, when appropriate, successfully transition back to a traditional education setting?

## **School-Police Partnerships**

### **Overview of the Issue**

Although schools are generally safe places, the well-being of students and staff remains of paramount concern in every school across the nation. Elected officials, school leaders, and community stakeholders frequently look to local law enforcement to address this concern. At the same time, there has been increased scrutiny in recent years of the role of officers who serve schools, particularly how they address minor offenses committed by students, and how the presence of officers and their activities on the school campus impact the extent to which students and adults feel safe, secure, and welcome. For the relationship between a school and local law enforcement agency to be successful, police, students, parents, and school staff and leaders must employ a collaborative process to design, implement, and monitor the interface between officers and the school community.

### **Background**

During more than six decades, police and school officials in many districts have formed strong partnerships in which officers have assumed a broad range of duties.<sup>14</sup> How these relationships are structured varies significantly from one school district (and sometimes one school campus) to the next. In some cases, there are specially trained school-based officers who perform enforcement, educational, mentoring, and other activities.<sup>15</sup> In other jurisdictions, off-campus patrol officers provide a variety of crime prevention services and enforcement responses to the school. The involvement of officers is often meant to complement other strategies for safe schools and efforts to encourage positive student and adult behaviors.

Even when there is an everyday law enforcement presence in the school, there are various approaches to overseeing such officers. They may be supervised by the municipal or county law enforcement agency that employs them—or by a police agency under the direct authority of a school district.

Just as concerns have grown about the number of students suspended or expelled from school, so too have concerns increased about the ticketing and arresting of students for minor offenses. In addition, added security measures and a greater police presence in some schools (as often happens following a violent school event anywhere in the country) have sometimes had the unintended consequence of causing some staff, students, and their families to feel the campus is less welcoming or less conducive to learning.<sup>16</sup>

Not every school in the nation will request, need, or be able to fund school-based officers. When the decision is made at the local level to assign officers to schools, careful thought must be given to what role the officers will play, and then police and school leaders will need to ensure that the officers are properly selected, trained, supervised, and evaluated.

The research on the impact of officers in schools is mixed and often lacks rigor. Police professionals generally agree, however, that when there is an effective school-police partnership, students will have more positive views of law enforcement, will make better decisions about risky behaviors, will be more often connected to the services they need, and arrests for minor offenses will be minimized.

## **Chapter Highlights and Questions Addressed**

***School-police partnerships should be determined locally, through a collaborative, data-driven process that engages students, parents, and other stakeholders.***

- What processes should be followed to determine the best school-police partnership model for meeting the distinct needs of a school or district and the students and families it serves?
- When a school or school district is considering whether to place an officer on a particular campus, or to use a different response model, what information and data should be used to inform this decision?
- What data should be used to measure whether the school-police partnership in use is meeting its intended objectives?

***Police should not be engaged in routine classroom management, and whenever possible should use alternatives to arrest for students' minor offenses that can be appropriately addressed through the school's discipline system.***

- How do schools, police, and the school community determine the appropriate role for officers who are assigned to schools?
- How is information that clarifies school-based officers' roles and responsibilities communicated to school and police agency staff, and other stakeholders?
- How can school leaders ensure that staff is following policies about when to involve officers in addressing student misconduct?
- How can police ensure that officers are adhering to policies and guidance on responding to minor offenses?

***School-based officers working with students should be properly selected, trained, supervised, and evaluated. Off-campus officers should be given guidance on how to respond to students and how to access alternatives to arrest.***

- What criteria and process should be used to recruit officers who have the desired qualities and experiences for working with youth in school settings?
- What training should be provided for school-based officers beyond that required of all peace officers in the state?
- What supervision and oversight of school-based officers will ensure that they are effectively supported, and will monitor their progress on shared partnership goals?

***School systems and law enforcement agencies should create detailed, written memorandums of understanding when placing officers on campuses and for other school-police partnerships.***

- What legal issues do school-based officers and other police personnel serving schools need to address?
- What information-sharing principles, as well as safeguards for staff compliance with privacy mandates, should be outlined in a school-police partnership agreement?
- How are other aspects of the school-police partnership formalized, and how are police and school personnel educated about its provisions?

## **Courts and Juvenile Justice**

### **Overview of the Issue**

Although there are youth who engage in serious delinquent behavior for which referral to the juvenile justice system is appropriate, youth who commit minor offenses at school should typically not be referred to the courts. The long-term consequences for youth who make contact with the juvenile justice system include a greater likelihood of dropping out of school and future involvement with both the juvenile and adult criminal justice systems.<sup>17</sup> When youth are under juvenile corrections' supervision, they must have uninterrupted access to high-quality learning environments; provision of supports and services that meet these students' academic and special needs; and the facilitation of their seamless return to the classroom in their communities.

### **Background**

The number of youth in correctional facilities or in court-ordered community placements has declined dramatically over the past decade in many jurisdictions, with juvenile crime rates at record lows.<sup>18</sup> Even in counties and states where there have been overall reductions in juvenile crime, however, leaders are working to decrease referrals to courts further—especially for minor and status offenses.\* As part of these efforts, judicial leaders across the nation are increasingly

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\* Status offenses are acts that are only considered criminal if committed by a juvenile (e.g., running away, truancy, curfew law violations, ungovernability or incorrigibility, and underage drinking violations).

working with schools, law enforcement, and other stakeholders to keep away from their dockets cases that can be resolved through schools' discipline systems and diversion programs.<sup>19</sup>

Although juvenile justice officials in most jurisdictions strongly believe that the number of school-based referrals to the juvenile justice system can be significantly reduced, few jurisdictions can produce an accurate tally of referred cases. Without reliable data, it is more difficult to make a compelling justification for action and to establish the potential for improvement.

Even without such data, however, evidence of successful diversion programs is emerging across the country. The structure of each state's juvenile justice system is distinct, but each has multiple points at which the police, court staff, probation officers, prosecutors, defense attorneys, and service providers can collaborate to steer students referred to the courts for minor offenses to community-based programs that stress accountability and behavioral change. These juvenile justice professionals can make better decisions for each youth when they are provided with the results of a risk and needs assessment along with information from the school and other agencies serving the student to determine what services, supports, and/or community supervision are the best match. Determining under what circumstances such information should be shared and used requires extensive conversations and written agreements among various stakeholders in the juvenile justice and education systems to ensure compliance with all privacy mandates and to uphold shared principles for the use of student and staff information.

When youth are placed in secure settings, including pre-adjudication detention and longer-term residential facilities, the quality of education services varies widely and often lacks the standards and oversight found in traditional schools.<sup>20</sup> This puts these students at greater risk on their return to school for academic problems that can lead to disengagement and the kind of misbehavior that in turn puts them at risk for another arrest.<sup>21</sup> The lack of coordinated transition plans for students leaving juvenile confinement makes them vulnerable to loss of academic credit, placement problems, and enrollment barriers upon reentry to school that can also contribute to recidivism.

## Chapter Highlights and Questions Addressed

***The frequency with which students are directed to the juvenile justice system for minor offenses at school or school-sponsored events should be routinely monitored, and guidelines and policies should minimize such referrals.***

- Does data exist—and if not, how can it be assembled and analyzed—to determine the number and characteristics of students referred from schools to the juvenile justice system, as well as the types of offenses committed?
- What types of policies and guidelines should be explored to reverse trends in schools and districts where students are referred to the juvenile justice system at disproportionately high rates for minor offenses?

***Whenever appropriate, students who are arrested and/or charged with minor school-based offenses should be diverted from further involvement with the juvenile justice system.***

- How and in what cases can information maintained by the school be properly shared to guide courts' diversion and disposition decisions?
- When should assessment tools that are designed to determine a youth's risk of re-offending and treatment or service needs be used to inform whether and how a student moves through the court process?
- How can community-based programs and services be better utilized and expanded to meet youths' needs and minimize the need for judicial supervision while addressing the needs of any victims?

***Whether in short- or long-term confinement, youth should have access to high-quality educational programming that puts them on a path toward graduation and postsecondary opportunities. Each student returning to school should have a transition plan that facilitates credit transfers and continuation of services.***

- How can schools within juvenile correctional facilities attract, train, and retain high-quality educators?
- How can authorities in a correctional setting create engaging learning environments that address students' academic and special needs?
- Are state standards regarding the quality of education in public schools being effectively applied to juvenile correctional settings?
- What criteria should guide decisions regarding where a reentering youth should enroll in school?
- What can transition coordinators and/or educators do to develop an integrated service and academic plan that facilitates reentering youths' immediate enrollment, credit transfers, and successful class placements?

## **Getting Started**

Because the recommendations in this report are comprehensive, the breadth of issues can quickly overwhelm any reader looking for a starting point to improve the approach to school discipline by a community, district, or state.

Implementing all the recommendations in the report at once is an impossible assignment. Users of the report may therefore wonder which policies or recommendations to prioritize, but the truth is there is no right or wrong place to start.

Recognizing that no two states are alike, every school district is different, and each school has a distinct culture and characteristics, there is no one-size-fits-all approach. If there is one takeaway



point in *The School Discipline Consensus Report* that readers must embrace, it is that successful implementation of any recommendation in the report requires the involvement of students and parents, and of individuals serving and supervising students across multiple systems.

A working group of committed individuals—whether at the school, district, or state level—should be created or expanded to include diverse perspectives and broad expertise. This group will likely have many thoughts about where the greatest opportunities and needs exist in their jurisdiction, and, consequently, what policy areas and recommendations should be prioritized. Regardless of where the working group decides to focus its attention, there must be a plan to collect and analyze relevant data to provide a baseline establishing where things stand. This information also provides a benchmark against which progress can be measured.

As the working group looks to assemble data, members should keep in mind four steps, which are explained more fully in the Data Collection and Information Sharing chapters of the report:

- 1. Determine how many students are removed from their classrooms for disciplinary reasons and identify the additional data needed to analyze these numbers thoroughly and effectively.***

Individual schools, districts, and statewide school systems should be able to report how many students have been suspended or expelled, but this information alone is not sufficient to develop a nuanced understanding of discipline trends. To support the kind of analysis needed to develop a strategic plan, the working group will need to ask for additional data and its routine collection if not readily accessible. For example, a school may track the total number of suspensions, but not report how many of these represent multiple suspensions by the same student.

The data should be, but often is not, sufficient to support an analysis to distinguish between in-school and out-of-school suspension, the duration of each suspension, and the type of misconduct that prompted the suspension or expulsion. Suspension and expulsion data collected at the school, district, or state level must be disaggregated, at minimum, by race, disability, age, gender, and type of offense.

- 2. Examine data beyond suspensions and expulsions to inform strategies for improving school climate, behavioral interventions, and partnerships between police and the school community, and for minimizing student arrests and referrals to the juvenile justice system.***

Equipped with existing information about school discipline actions, a working group will need to turn its attention to additional questions about data related to school safety and the learning environment. The group will need to know, for example, what data is available that measures school climate; assesses behavioral health needs; tracks school-based arrests and reported crimes; and monitors other student referrals to the juvenile justice system in a particular school or school system.

Establishing an objective assessment of current conditions and practices in each of these areas is essential. For example, if the working group is interested in increasing security measures at a school, it should first consider school climate survey results of how students and staff gauge their feelings of safety at school and whether security measures make them feel less welcome or more secure. Additional data such as the numbers of students arrested and/or ticketed and the numbers of calls for police service must also be monitored to ascertain what, if any, impact has been made by changes in security measures.

As the working group considers school climate, behavioral health issues, school partnerships with police, and the role of the juvenile justice system, it will become apparent that multiple data collection efforts need to be launched. There are several measures that can help make these efforts more manageable: the working group can identify a coordinator to facilitate data collection; work with school-based teams or individuals already engaged in data analysis and improvement planning; and ensure that surveys on school climate, behavioral health needs, safety, and other topics are efficiently administered. The assembled data can then help guide the working group's efforts to improve policies and practices.

### ***3. Develop information-sharing agreements that reflect a clear understanding of privacy mandates and shared principles.***

The efforts described above may involve collecting and analyzing students' education, health, juvenile justice, and other systems' information. A thicket of local, state, and federal laws and regulations protect students' privacy by controlling the release and use of that information. A working group that is assembling information from individuals and agencies serving their students will need to establish a clear understanding of what can be shared, with whom, and for what purposes.

There are still often misconceptions about what data and information can be shared within and among schools and external partners. Too often, a lack of understanding of these legal provisions leads to unnecessary barriers to sharing useful information. Although it is appropriate and necessary to protect the confidentiality of students' information, it is possible to design agreements that spell out appropriate disclosure procedures and help address perceived barriers to information sharing. These agreements may also include guiding principles such as using information in ways that reduce the stigmatization or labeling of students, advance the best interests of identified students, promote school safety, and ensure that data is secured and used only for appropriate purposes.

### ***4. Define success and agree on how to measure it.***

If a working group is truly diverse in its composition, the full membership will likely develop a shared commitment to an action plan only when they are convinced that they are working toward an approach that benefits all students in the classroom. To that end, it is important

that the working group's objective not be limited to reducing the frequency with which students are removed from the classroom for disciplinary reasons. No one wants to see misconduct and disorder increase in the classroom just to lower the school's suspension rate.

For every proposed measure of success, it is important to recognize the potential for simply trading one problem for another. Researchers are testing approaches that may ultimately help working groups better understand the dynamics among multiple measures, such as how improvements in school climate indicators are related to improvements in academic achievement or reductions in disciplinary actions.<sup>22</sup> These approaches may provide a good starting point for working group members as they determine which outcome measures to track that define overall success. Such an approach binds stakeholders to a common set of goals and promotes the integration of efforts that otherwise might have limited effect or even work at cross-purposes.

## Conclusion

The broad, bipartisan support from experts and stakeholders in the education, health, law enforcement, and juvenile justice systems involved in the development of *The School Discipline Consensus Report* makes clear that improving school discipline systems should be a priority for local, state, and federal leaders alike.

This report is a roadmap—and essential reading—for anyone who wants to make young people feel welcome, nurtured, and safe in school; anyone who is working to close the achievement gap between White students and students of color; anyone who is focused on improving high school graduation rates; and anyone whose goal is to reduce the number of youth locked up in juvenile correctional facilities for minor offenses.

The need to achieve multiple goals is reflected in the multidisciplinary nature of the report's recommendations and underscores why such a diverse national group was needed to chart changes to school discipline policies and practices. The report is designed to be a guide for officials in education, health, law enforcement, and juvenile justice, and their partners in schools and communities across the nation who are committed to using truly collaborative approaches to provide safe, engaging learning environments for all students. Together, these critical stakeholders can engage in the strategic efforts necessary to take school safety and student success efforts to new heights, ultimately keeping more students in classrooms and out of courtrooms.

To view the full report, visit [csgjusticecenter.org/youth/school-discipline-consensus-report](https://csgjusticecenter.org/youth/school-discipline-consensus-report).

## ENDNOTES

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### EXECUTIVE SUMMARY

<sup>1</sup> U.S. Department of Education data revealed that the national number of suspensions rose from about 1.7 million (3.7 percent of all students) in 1974 to more than 3.3 million (6.8 percent of all students) in 2006. (These numbers do not include in-school suspensions. The data represents 61 percent of public schools and 43 percent of districts.) Researchers from the UCLA Civil Rights Project estimate that well over two million middle and high school students were suspended during the 2009–10 academic year, according to their analysis of U.S. Department of Education data for districts. Suspensions increase in middle school and high school years. Skiba, R.J. and Losen, D., *Suspended Education: Urban Middle Schools in Crisis* (Los Angeles: Civil Rights Project at UCLA, 2010); Skiba, R.J. and Rausch, M.K., “Zero Tolerance, Suspension and Expulsion: Questions of Equity and Effectiveness,” in *Handbook of Classroom Management: Research, Practice, and Contemporary Issues*, eds. C.M. Everston and C.S. Weinstein (Mahwah, NJ: Routledge, 2006); Losen, D. and Martinez, T., *Out of School and Off Track: The Overuse of Suspensions in American Middle and High Schools* (Los Angeles: Civil Rights Project at UCLA, 2013). An analysis of 2011–12 data is forthcoming at this writing.

<sup>2</sup> Fabelo, T. et al., *Breaking Schools' Rules: A Statewide Study of How School Discipline Relates to Students' Success and Juvenile Justice Involvement* (New York: Council of State Governments Justice Center, 2011); Mosehauer, K. et al., *Reclaiming Students: The Educational and Economic Costs of Exclusionary Discipline in Washington State* (Seattle: Washington Appleseed and TeamChild, 2012); Lee, T. et al., “High Suspension Schools and Dropout Rates for Black and White Students,” *Education and Treatment of Children* 34, no. 2 (2011): 167–192; Suh, S., Suh, J., and Houston, I., “Predictors of Categorical At-Risk High School Dropouts,” *Journal of Counseling and Development* 85, no. 2 (2007): 196–203. See also Stearns, E. and Glennie, E.J., “When and Why Dropouts Leave High School,” *Youth Society* 38, no. 1 (2006): 29–57; Kang-Brown, J. et al., *A Generation Later: What We've Learned About Zero Tolerance in Schools* (New York: Vera Institute of Justice, 2013); Aizer, A. and Doyle Jr., J.J., *Juvenile Incarceration, Human Capital and Future Crime: Evidence from Randomly-Assigned Judges* (NBER Working Paper No. 19102) (Cambridge, MA: National Bureau of Economic Research, 2013); Carmichael, D., Whitten, G., and Voloudakis, M., *Study of Minority Over-Representation in the Texas Juvenile Justice System: Final Report* (College Station, TX: Public Policy Research Institute, Texas A&M University, 2005).

<sup>3</sup> Losen and Martinez, *Out of School and Off Track*; U.S. Department of Education Office for Civil Rights, *Civil Rights Data Collection Data Snapshot: School Discipline* (Washington, DC: U.S. Department of Education Office for Civil Rights, 2014); American Psychological Association Zero Tolerance Task Force, “Are Zero Tolerance Policies Effective in the Schools?: An Evidentiary Review and Recommendations,” *American Psychologist* 63, no. 9 (2008): 854; N. Shah, “Discipline Policies Shift With Views on What Works,” *Education Week*, January 4, 2013, [edweek.org/ew/articles/2013/01/10/16policies.h32.html?intc=EW-QC13-LFTNAV](http://edweek.org/ew/articles/2013/01/10/16policies.h32.html?intc=EW-QC13-LFTNAV); Rausch, M.K. and Skiba, R., *Disproportionality in School Discipline Among Minority Students in Indiana: Description and Analysis* (Children Left Behind Policy Briefs, Supplementary Analysis 2-A) (Bloomington, IN: Center for Evaluation and Education Policy, 2004); Skiba, R.J. et al., “Race Is Not Neutral: A National Investigation of African American and Latino Disproportionality in School Discipline,” *School Psychology Review* 40, no. 1 (2011): 85–107; Raffaele-Mendez, L.M. and Knoff, H.M., “Who Gets Suspended from School and Why: A Demographic Analysis of Schools and Disciplinary Infractions in a Large School District,” *Education and Treatment of Children* 26, no. 1 (2003): 30–51; Skiba, R.J. et al., “The Color of Discipline: Sources of Racial and Gender Disproportionality in School Punishment,” *The Urban Review* 34, no. 4 (2002): 317–342; Arcia, E., “Variability in Schools' Suspension Rates of Black Students,” *The Journal of Negro Education* 76, no. 4 (2007): 597–608; Advancement Project and Civil Rights Project, Harvard University, *Opportunities Suspended: The Devastating Consequences of Zero Tolerance and School Discipline* (Washington, DC: Advancement Project, 2000); Sprague, J.R. et al., “Preventing Disciplinary Exclusions of Students from American Indian/Alaska Native Backgrounds” (paper presented at the National Leadership Summit on School–Justice Partnerships: Keeping Kids In School and Out of Court, New York, NY, March 11–13, 2012).

<sup>4</sup> Losen and Martinez, *Out of School and Off Track*; Poteat, V.P. and Russell, S.T., “Understanding Homophobic Behavior and Its Implications for Policy and Practice,” *Theory Into Practice* 52, no. 4 (2013): 264–271; U.S. Department of

Education Office for Civil Rights, *The Transformed Civil Rights Data Collection (CRDC)* (Washington, DC: U.S. Department of Education Office for Civil Rights, 2012), available at [ed.gov/about/offices/list/ocr/docs/crdc-2012-data-summary.pdf](http://ed.gov/about/offices/list/ocr/docs/crdc-2012-data-summary.pdf). An analysis of 2011–12 data is forthcoming at this writing.

<sup>5</sup> Himmelstein, K.E.W. and Brückner, H., “Criminal-Justice and School Sanctions Against Nonheterosexual Youth: A National Longitudinal Study,” *Pediatrics* 127, no. 1 (2010): 49–57; Poteat and Russell, “Understanding Homophobic Behavior and Its Implications for Policy and Practice,” 264–271.

<sup>6</sup> Mayer, M.J. and Furlong, M.J., “How Safe Are Our Schools?” *Educational Researcher* 39, no. 1 (2010): 16–26; Robers, S. et al., *Indicators of School Crime and Safety: 2011* (Washington, DC: National Center for Education Statistics, 2012); Canady, M., James, B., and Nease, J., *To Protect and Educate: The School Resource Officer and the Prevention of Violence in Schools* (Hoover, AL: National Association of School Resource Officers, 2012), 24–26.

<sup>7</sup> Supra note 3.

<sup>8</sup> U.S. Department of Education Office for Civil Rights, *The Transformed Civil Rights Data Collection*. An analysis of 2011–12 data is forthcoming at this writing.

<sup>9</sup> Himmelstein and Brückner, “Criminal-Justice and School Sanctions Against Nonheterosexual Youth.”

<sup>10</sup> Padres & Jóvenes Unidos, *The Colorado School Discipline Report Card: The State of 179 Districts* (Denver: Padres & Jóvenes Unidos, 2014).

<sup>11</sup> Thapa, A. et al., *School Climate Research Summary: August 2012* (New York: National School Climate Center, 2012); MacNiel, A.J., Prater, D.L., and Busch, S., “The Effects of School Culture and Climate on Student Achievement,” *International Journal of Leadership in Education* 12, no. 1 (2009): 73–84; Niehaus, K., Rudasill, K.M., and Rakes, C.R., “A Longitudinal Study of School Connectedness and Academic Outcomes Across Sixth Grade,” *Journal of School Psychology* 50, no. 4 (2012): 443–460; Goodenow, C. and Grady, K.E., “The Relationship of School Belonging and Friends’ Values to Academic Motivation Among Urban Adolescent Students,” *Journal of Experimental Education* 62, no. 1 (1993): 60–71; Shirley, E.L.M. and Cornell, D.G., “The Contribution of Student Perceptions of School Climate to Understanding the Disproportionate Punishment of African American Students in a Middle School,” *School Psychology International* 33, no. 2 (2012): 115–134; Wang, M.T. et al., “A Tobit Regression Analysis of the Covariation between Middle School Students’ Perceived School Climate and Behavioral Problems,” *Journal of Research on Adolescence* 20, no. 2 (2010): 274–286.

<sup>12</sup> New Freedom Commission on Mental Health, *Achieving the Promise: Transforming Mental Health Care in America* (Rockville, MD: Substance Abuse and Mental Health Services Administration, 2003).

<sup>13</sup> Wagner, M. et al., *Changes Over Time in the Early Postschool Outcomes of Youth with Disabilities: A Report of Findings from the National Longitudinal Transition Study (NTLS) and the National Longitudinal Transition Study-2 (NTLS2)* (Menlo Park, CA: SRI International, 2005), 2.1–2.6; Fabelo et al., *Breaking Schools’ Rules*; Osher, D. and Hanley, T. V., “Implications of the National Agenda to Improve Results for Children and Youth with or At Risk of Serious Emotional Disturbance,” *Special Services in the Schools* 10, no. 2 (1996): 7–36.

<sup>14</sup> Weiler, S.C. and Cray, M., “Police at School: A Brief History and Current Status of School Resource Officers,” *The Clearing House: A Journal of Education Strategies, Issues and Ideas* 84, no. 4 (2011): 160–163.

<sup>15</sup> See, e.g., 42 U.S.C. § 3796dd-8 (2013); 20 U.S.C. § 7161; Canady, James, and Nease, *To Protect and Educate*; Travis, L.F. and Coon, J.K., *The Role of Law Enforcement in Public School Safety: A National Survey* (Washington, DC: National Institute of Justice, 2005).

<sup>16</sup> See, e.g., Browne, J.A., *Derailed: The Schoolhouse to Jailhouse Track* (Washington, DC: Advancement Project, 2003); Advancement Project, *Test, Punish, and Push Out: How “Zero Tolerance” and High-Stakes Testing Funnel Youth Into the School-to-Prison Pipeline* (Washington, DC: Advancement Project, 2010); Advancement Project, Alliance for Educational Justice, and Gay-Straight Alliance Network, *Two Wrongs Don’t Make A Right: Why Zero Tolerance is Not the Solution to Bullying* (Washington, DC: Advancement Project, 2012); Fowler, D. et al., *Texas’ School to Prison Pipeline: Ticketing, Arrest, & Use of Force at Schools: How the Myth of the “Blackboard Jungle” Reshaped School*

*Disciplinary Policy* (Austin: Texas Appleseed, 2010); Dahlberg, R.L., *Arrested Futures: The Criminalization of School Discipline in Massachusetts' Three Largest School Districts* (New York: American Civil Liberties Union, 2012); Brown, B., "Understanding and Assessing School Police Officers: A Conceptual and Methodological Comment," *Journal of Criminal Justice* 34, no. 6 (2006): 591–604; Theriot, M.T., "School Resource Officers and the Criminalization of Student Behavior," *Journal of Criminal Justice* 37, no. 3 (2009): 280–287.

<sup>17</sup> Aizer and Doyle Jr., *Juvenile Incarceration, Human Capital and Future Crime*; Hirschfield, P., "Impact of Juvenile Justice Involvement on Educational Outcomes" (PhD diss., Northwestern University, 2004), available at [ncjrs.gov/App/Publications/abstract.aspx?ID=206047](http://ncjrs.gov/App/Publications/abstract.aspx?ID=206047); Sweeten, G., "Who Will Graduate? Disruption of High School Education by Arrest and Court Involvement," *Justice Quarterly* 23, no. 4 (2006): 462–480.

<sup>18</sup> Between 1997 and 2011, the total number of youth detained or committed nationally dropped by 41 percent. See "Easy Access to the Census of Juveniles in Residential Placements (EZACJRP)," [ojjdp.gov/ojstatbb/ezacjrp](http://ojjdp.gov/ojstatbb/ezacjrp).

<sup>19</sup> See the National Council of Juvenile and Family Court Judges' (NCJFCJ's) project to engage juvenile court judges on issues related to school discipline and juvenile justice involvement at [ncjfcj.org/ncjfcj-launch-new-project-keep-kids-school-and-out-court](http://ncjfcj.org/ncjfcj-launch-new-project-keep-kids-school-and-out-court). The project, Judicially Led Responses to Eliminate Pathways to the Juvenile Justice System (School Pathways Project), is a three-year effort (October 2012–September 2015) and is supported by OJJDP, The Atlantic Philanthropies, Open Society Foundations, and Public Welfare Foundation.

<sup>20</sup> Domenici, D. and Forman, Jr., J., "What It Takes to Transform a School Inside a Juvenile Facility: The Story of the Maya Angelou Academy," in *Justice for Kids: Keeping Kids Out of the Juvenile Justice System*, ed. N. Dowd (New York: NYU Press, 2011).

<sup>21</sup> The Sentencing Project, *Youth Reentry* (Washington, DC: Sentencing Project, 2012), available at [sentencingproject.org/doc/publications/jj\\_youthreentryfactsheet.pdf](http://sentencingproject.org/doc/publications/jj_youthreentryfactsheet.pdf); Richardson, T., DiPaola, T., and Gable, R.K., "Former Juvenile Offenders Re-Enrolling Into Mainstream Public Schools," *NERA Conference Proceedings* (2012); Sweeten, G., Bushway, S.D., and Paternoster, R., "Does Dropping Out of School Mean Dropping Into Delinquency?" *Criminology* 47, no. 1 (2009): 47–91.

<sup>22</sup> See, e.g., "One-Page Research Summaries" of key findings from *Virginia Secondary School Climate Study* at [curry.virginia.edu/research/projects/virginia-secondary-school-climate-study](http://curry.virginia.edu/research/projects/virginia-secondary-school-climate-study). The findings examine how schools with high levels of structure and support, as measured by Virginia's *Authoritative School Climate Survey*, have reduced bullying, student aggression toward teachers, and disciplinary infractions, and increased achievement on standardized tests.

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determination to ensure that a reasonable person in the school community would not be able to identify the student with reasonable certainty from the data being released. (*See* 34 CFR 99.3, 34 CFR 99.31(b).)



Appendix E

Louisiana Discipline Counts by Primary  
Reason (2013-14)

## 2013-14 Discipline Counts by Primary Reason

The Louisiana Department of Education has modified and/or suppressed data reported to protect the privacy of students in compliance with the Family Educational Rights and Privacy Act (FERPA) codified at 20 U.S.C. 1232g. The strategies used to protect privacy vary and may include rounding or other techniques but do not substantially affect the general usefulness of the data. Because of the privacy protections, numerical and percentage totals may not add precisely to the sum of the row or column to which the total refers.

Primary Reason Description	In School Suspension Total	Out of School Suspension Total	In school Expulsion Total	Out of School Expulsion Total
WILLFUL DISOBEDIENCE	23034	13535	326	41
TREATS AUTHORITY WITH DISRESPECT	13324	10651	326	26
UNFOUNDED CHARGE AGAINST AUTHORITY	198	350	26	<10
USES PROFANE AND/OR OBSCENE LANGUAGE	7898	5652	126	<10
EXHIBITS IMMORAL OR VICIOUS PRACTICES	2378	2994	136	13
EXHIBITS INJURIOUS CONDUCT	6814	5854	138	11
USES/POSSESSES DANGEROUS SUBSTANCES	220	1228	750	90
USES/POSSESSES TOBACCO AND/OR LIGHTER	1114	1446	43	<10
USES/POSSESSES ALCOHOLIC BEVERAGES	74	222	40	<10
DISTURBS THE SCHOOL AND VIOLATES RULES	14635	9324	552	48
CUTS/DEFACES/INJURES/VANDALIZES SCHOOL	560	560	16	<10
PROFANE, OBSCENE LANGUAGE OR NOTES	597	415	<10	<10
POSSESSES WEAPON(S) PROHIB BY FED LAW	39	92	49	12
FIREARMS NOT PROHIB OR KNIVES >=2 1/2 IN	129	490	165	16
THROWS MISSILES LIABLE TO INJURE OTHERS	546	439	<10	<10
INSTIGATES/PARTICIPATES IN FIGHTS	10868	21427	749	97
VIOLATES TRAFFIC AND SAFETY REGULATIONS	151	111	<10	<10
LEAVES SCHL PREMISES WITHOUT PERMISSION	9666	5163	97	<10
IS HABITUALLY TARDY AND/OR ABSENT	6571	1080	<10	<10
TAKES OTHER'S PROPERTY W/OUT PERMISSION	1737	1828	100	<10
COMMITTS ANY OTHER SERIOUS OFFENSE	3818	3575	388	32
ASSAULT AND BATTERY	252	815	268	19
RAPE AND SEXUAL BATTERY	<10	<10	<10	<10
KIDNAPPING	<10	<10	<10	<10
ARSON	<10	25	11	<10
CRIMINAL DAMAGE TO PROPERTY	16	47	<10	<10
BURGLARY	15	25	13	<10
MISSAPPROPRIATION W VIOLENCE TO PERSON	16	63	<10	<10
ILLEGAL CARRYING & DISCHARGE OF WEAPONS	<10	15	<10	<10
POSSESSES BLADE LESS THAN 2 1/2 INCHES	77	210	36	<10
SERIOUS BODILY INJURY	15	51	17	<10
USE OF MEDICATION IN AN AUTHORIZED MANNER	64	70	21	<10
BULLYING	428	602	36	<10
CYBERBULLYING	47	73	<10	<10
FALSE ALARM/BOMB THREAT	12	61	15	<10
FORGERY	259	103	<10	<10
GAMBLING	73	80	<10	<10
PUBLIC INDECENCY	101	91	14	<10
OBSCENE BEHAVIOR	205	302	38	<10
UNAUTHORIZED USE OF TECHNOLOGY	4247	2148	28	<10
IMPROPER DRESS	1669	201	<10	<10
ACADEMIC DISHONESTY	413	208	<10	<10
TRESPASSING VIOLATION	136	114	<10	<10
FAILURE TO SERVE ASSIGNED CONSEQUENCE	4765	2735	12	<10
MISUSING INTERNET	255	200	<10	<10
SEXUAL HARASSMENT	146	319	30	<10
FALSE REPORTS	14	14	<10	<10

\* NOTE: Students may have more than one primary reason per suspension/expulsion