Lost Opportunities

How Disparate School Discipline Continues to Drive Differences in the Opportunity to Learn

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Executive Summary

During the 2015–16 school year, according to national estimates released by the U.S. Department of Education in May 2020, there were 11,392,474 days of instruction lost due to out-of-school suspension.[1] That is the equivalent of 62,596 years of instruction lost. The counts of days of lost instruction were collected and reported for nearly every school and district by the U.S. Department of Education. For the very first time, one can see the impact of out-of-school suspensions on days of lost instruction for every student group in every district in the nation.[2] Considering the hardships all students are experiencing during the pandemic, including some degree of suspended education, this shared experience of having no access to the classroom should raise awareness of how missing school diminishes the opportunity to learn. The stark disparities in lost instruction due to suspension described in this report also raise the question of how we can close the achievement gap if we do not close the discipline gap.

The racially disparate harm done by the loss of valuable in-person instruction time when schools closed in March 2020 is even deeper for those students who also lost access to mental health services and other important student support services. The same losses, plus the stigma of punishment, is what suspended students experience when removed from school for breaking a rule, no matter how minor their misconduct.

According to experts, the coronavirus is likely more harmful to children from low-income families, those with disabilities, and children of color. As Kathleen Minke, Executive Director of the National Association of School Psychologists, recently wrote, "There is little doubt that there will be substantial increases in mental- and behavioral-health problems for students and adults when schools reopen.... The effects will not be equally distributed."[3] Coming on the heels of a massive loss of instructional time, and of mental health and special education supports and services, we argue in this report that the data describing the high rates of lost instruction and the inequitable disparate impact of suspensions in these times of extreme stress should compel educators across the nation to do more, once students are allowed to return, to reduce disciplinary exclusion from school. Like our prior reports, the analysis presented here helps to convey how high and disparate levels of exclusionary discipline in terms of days of lost instruction time contribute to large inequities in educational opportunity.

The key findings of most significance in this report are:

- In many districts, secondary students lost over a year of instruction (per 100 enrolled students). The disaggregated district data showing the rates of lost instruction are often shocking to the conscience and are the only data of their kind available. The U.S. Department of Education provided the raw data from nearly every school and district but not the comparable rates of lost instruction created for this report.
- Rates of lost instruction reveal that due to out-of-school suspensions, students at the secondary level lose instruction at rates that are five times higher than those at the elementary level. The distinction between elementary and secondary rates, presented at the national and state levels and for nearly every district in the nation, is unique to this report. It also demonstrates how the traditional form of reporting the data for all grades, k–12, obscures the highest rates and largest disparities.

- National trend lines in rates of student suspension for 2015–16 show reduced reliance by schools on both in- and out-of-school suspensions, and a slight narrowing of the racial discipline gap, yet there are many districts in which student suspension rates are much higher than the national average, and many also show rising rates and widening racial disparities.
- This is the first report to document that students attending alternative schools experience extraordinarily high and profoundly disparate rates of lost instruction.
- There is a widespread failure by districts to report data on school policing despite the requirements of federal law. Specifically, over 60% of the largest school districts (including New York City and Los Angeles) reported zero school-related arrests. The prevalence of zeros suggests that much of the school-policing data from 2015–16 required by the federal Office for Civil Rights (OCR) were incomplete or missing. OCR completed its data collection from the 2017–18 school year in June 2019. As of August 6, 2020, none of the newer data have been publicly reported by the U.S. Department of Education.
- In addition, this report indicates widespread noncompliance with the reporting requirements of the Every Student Succeeds Act of 2015 (ESSA) that explicitly requires public reporting of the collected school-policing data in annual state and district report cards (in accord with the OCR data collection). As of July 2020, not one state had fully met ESSA's state and district report card obligation regarding their 2017–18 school-policing data.

In all districts, including those that show a decline in the student suspension rate, policymakers, advocates, and educators must pay closer attention to the rates of lost instruction for students at the secondary level, the use of suspension in alternative schools, and the use of referrals to law enforcement as a response to student misconduct in school. The data analyzed in this report, all of which was collected by the U.S. Department of Education, reveal deeply disturbing disparities and demonstrate how the frequent use of suspension contributes to inequities in the opportunity to learn.

Part I: The Disparate Impact on Educational Opportunity Is Measured in Days of Lost Instruction Due to Out-of-School Suspensions

Students in U.S. public schools lost over 11 million days of instruction due to out-of-school suspensions in 2015–16. This report breaks that total down at the state and local levels, enabling policymakers to understand the impact of suspensions on every racial group and on students with disabilities. This report is the first to capture the full impact on instructional time from differences in use of out-of-school suspensions at the state and district levels. These rates are calculated by dividing the actual reported total days lost due to out-of-school suspensions from every school and district in the nation by each school's reported enrollment data.

Across all grades, for every 100 students enrolled, there were 23 days of instruction lost due to out-of-school suspensions. However, this holistic view of all students in all grades obscures the reality that in secondary schools, the rate of lost instruction is more than five times higher than the elementary rates: 37 days lost per 100 middle and high school students compared to just 7 days per 100 elementary school students.

Rates of lost instruction for each racial group reveal far larger differences in the opportunity to learn than more traditional rates might suggest:

At the secondary level, the disparities are the most pronounced:

- Black students lost 103 days per 100 students enrolled, which is 82 more days than the 21 days their White peers lost due to out-of-school suspensions.
- Hawaiian/Pacific Islander students had the second highest rate, at 63 days lost per 100 students enrolled.
- Native American students lost 54 days per 100 students enrolled.
- Students with disabilities at the secondary level lost 68 days per 100 students enrolled, which was about twice as much as secondary students without disabilities.

Even more alarming disparities are observed when we look at race with gender:

- Black boys lost 132 days per 100 students enrolled.
- Black girls had the second highest rate, at 77 days per 100 students enrolled, which was seven times the rate of lost instruction experienced by White girls at the secondary level.

These differences suggest that we cannot expect to close the racial achievement gap if we do not close the discipline gap. These overarching concerns rise to an acute level in some locations when we examine the disparate impact on instructional time for every state and district in the nation. Some of the states at the secondary level with the largest racial gaps compared to White students include the following:

- Missouri: Black students lost 162 more days than White students.
- New Hampshire: Latinx students lost 75 more days than White students.
- North Carolina: Native American students lost 102 more days than White students.

Secondary students with disabilities in North Carolina, Tennessee, Virginia, Delaware, and Missouri lost between 119 and 137 days per 100 students enrolled. In every state, students with disabilities lost more instruction than their nondisabled peers.

The state-level data reveal only a small part of the problem. Secondary students in many districts lost instruction at rates that shock the conscience. Each of the following large districts had rates of well more than a year's worth of school, over 182 days per 100 students. Specifically, in each of the following districts, students lost:

- 416 days per 100 students in Grand Rapids, MI;
- 352 days per 100 students in Richmond City, VA;
- 320 days per 100 students in Buffalo City, NY;
- 276 days per 100 students in Youngstown, OH;
- 250 days per 100 students in Little Rock, AR; and
- 230 days per 100 students in Danville, IL.

In these districts, the rates of lost instruction for Black students and students with disabilities were even higher.

This report also reveals that the impact of suspensions on lost instruction varies dramatically from one district to the next. Although we did not report on any individual schools, we did find some of the most disturbing rates and disparities when we looked at alternative schools across the nation: Specifically (after excluding schools that are part of the juvenile justice system) at the secondary level, the following race and gender breakdown describes the rates of lost instruction due to out-of-school suspensions, expressed as days lost per 100 students enrolled[4] in our nation's alternative schools:

- Black boys lost 235 days per 100 students.
- Black girls lost 156 days per 100 students.
- Boys with disabilities lost 170 days per 100 students.
- Girls with disabilities lost 94 days per 100 students.
- White boys lost 109 days per 100 students.
- White girls lost 48 days per 100 students.

Research indicates that observed differences in the frequency of suspensions often reflect differences in leadership, policies, and practices. Often overlooked is the degree to which school districts use alternative disciplinary schools. This report reveals that alternative schools, in the aggregate, have the highest rates of lost instruction and the largest racial disparities. One concern is that school districts that do not replace harsh policies may give the appearance that they are reducing their use of suspensions, but rather than making improvements, they are instead relying on disciplinary removal to alternative schools or finding other ways to remove students, such as referring them to law enforcement while not issuing a suspension.

A review of the most recent data provides a useful snapshot, but a review of the trends in rates over time provides a clearer picture, one that can help educators and policymakers begin to distinguish effective reforms from those that are not well implemented. To report on these trends, this report, in Part II, uses the "risk" for suspension, which we report for nearly every district in the nation. The "risk" for suspension is a conservative measure because it does not reflect the frequency or duration of suspensions. Despite these limits, we use it because 2015–16 was the first year the Civil Rights Data Collection (CRDC) required the collection and reporting of days of lost instruction data, making the risk for suspension the only viable measure available for tracking trends in the use of suspension.

Part II: High Rates and Large Disparities and Trends Over Time

Elementary rates have not declined. Since 2009–10, at the elementary school level, the risk for suspension increased by less than one half of 1 percentage point, nationally. This was true for Black, White, and Latinx students.

Secondary rates have declined, and the racial gap has narrowed slightly, since 2009–10. During this same time period, the Black secondary student risk for suspension has declined 6 percentage points. That is slightly more than it has declined for Latinx students (-5.4) and over twice the decline for White secondary students (-2.5).

Further, the declines were not offset by increases in the use of in-school suspensions.

We also looked at how racial disparities among students with disabilities had changed since 2011–12 and found that despite their relatively higher rates, all groups showed a decline, and both Black and Latinx students with disabilities had narrowed the racial gap with their White peers.

Despite the downward trends in secondary schools nationally, some districts had very large increases in the risk for suspension. Secondary students in the following large districts experienced the greatest overall increase in their risk for out-of-school suspension:

- Richmond City, GA: 17 percentage points
- Trenton, NJ: 15 percentage points
- Ferguson-Florissant, MO: 15 percentage points
- South Bend, IN: 14 percentage points
- Reynoldsburg City, OH: 14 percentage points

In Part II, we highlight those districts where Latinx and Native American students also experienced unusually high suspension rates. Our key findings include:

- The 20 highest-suspending districts for Latinx students came from just 11 states. Pennsylvania and New Jersey each had three of the highest-suspending districts, and California and Colorado each had two.
- The 20 highest-suspending districts for Native American students were located in just six states. Eight were located in Arizona, four in Montana, and three in Minnesota.

Part III: School Policing, Lost Instruction, Referrals to Law Enforcement, and School-Related Arrests

Given that there have been recent changes to federal education policy, including funding and recent encouragement to add school police in the wake of school shootings, this report looks at what we know from the required reporting of school-related arrests and referrals to law enforcement. This report documents a major policy and oversight failure with regard to this critical information. Although these data have been required since 2009–10, many of the nation's largest districts, including Los Angeles, New York City, and Boston, reported no school-related arrests. Given that referrals to law enforcement must, by definition, include all calls to police about student misconduct as well as all school-related arrests, the widespread failure to report the data on arrests means that the referral to law enforcement and school-related arrest data are likely inaccurate and underreported. In Part III, we provide details on which districts are missing data and analyze only those districts that reported some referrals or arrests.

Equally important, in Part III, this report documents widespread noncompliance with federal requirements that every district report its data on referrals to law enforcement and school-related arrests as part of its annual school district report card. In 2015, when Congress passed ESSA, it intended the public to see the data on school policing, as it required that these data be added to every state's and district's annual public report card. These are the same data that must be reported to federal civil rights enforcement agencies as part of the CRDC. Therefore, the widespread failure to report the data on school policing is especially disconcerting in the wake of the resurgence of concerns about how racism affects policing.

Recommendations

Eliminate unnecessary removals

Generally, policymakers at the federal, state, and local levels should eliminate the use of out-of-school suspensions and expulsions for lower-level offenses and should reduce the length of suspensions for other moderate and serious offenses, when practicable. In some cases, like suspensions for truancy, eliminating grounds for suspension requires no replacement.

Switch to more effective policies and practices that serve an educational purpose

In many other cases, policymakers should replace punitive discipline with supportive and inclusive responses that research indicates will likely serve a clear educational purpose. Toward this end, educators should pursue nonpunitive strategies—alternatives that teach responsibility, enhance social and emotional learning, and help students improve their conduct. Policymakers should consider supporting a range of alternatives, including trauma-informed, restorative, and culturally responsive practices that emphasize remedying root causes. A focus on the educational purpose should also encourage those using suspensions to reduce their duration. The success of alternative approaches frequently entails training to help teachers to improve classroom management skills in ways that are aligned with these responses. Administrators must also be provided with the training and support they need to implement discipline reforms with integrity and to improve equity in resources and outcomes.

Review and respond to discipline disparities to promote more equitable outcomes

Equitable approaches should include efforts to diminish the influence of racism and improve the multicultural responsiveness of all adult members of the school community, including regular reflection on the disparities in exclusionary discipline and its impact on the opportunity to learn. Therefore, a comprehensive understanding of the impact of disciplinary exclusion disparities along the lines of race, gender, English learner, and disability status ultimately entails evaluating the disparities in days of lost instruction due to disciplinary removal. The point of such reflection is not only to discourage the use of suspensions, but also to reduce their length when they are used which will help diminish their disparate impact as much as possible.

Policymakers should also consider supporting teacher training designed to improve teacher–student engagement. These and other approaches that improve the quality of relationships between teachers and students have also shown promise for reducing suspensions and their racially disparate impact on educational opportunity. More efforts are needed to understand and eliminate the impact of racial discrimination on disciplinary decisions, including the invocation of law enforcement.

Some of the recommendations above and some that follow may be beyond the scope of the particular descriptive research presented in this report, but all are based on our prior studies, including research featured in our book, *Closing the School Discipline Gap: Equitable Remedies for Excessive Exclusion*; broader knowledge of the research literature; and experience providing assistance to states and districts. Based on our broader understandings, we also encourage Congress to consider the recommendations specified by the Leadership Conference on Civil and

Human Rights' letter to Congress, titled "Civil Rights Principles for Safe, Healthy, and Inclusive School Climates," which was joined by 295 signatories on June 19, 2020, including the Civil Rights Project at UCLA.[5]

In addition, at all levels, policy changes are needed to ensure that when efforts to address excessive and disparate discipline are undertaken, progress is evaluated using the following two principles:

1. Reduce the harm experienced by those groups that are most often suspended by reducing both the use and the duration of suspensions.
2. Prioritize efforts that help prevent misconduct.

Federal law and policy recommendations: More efforts are needed to eliminate the impact of racial discrimination on disciplinary responses. The following recommendations apply to the federal government, including the presidential administration, and reflect areas of concern raised in the current report.

- The administration should reinstate the U.S. Department of Education (DoED) and U.S. Department of Justice's 2016 guidance on school discipline to inform state and local efforts to eliminate the discriminatory use of exclusionary discipline policies.
- Once the guidance is reinstated, these two enforcement agencies should review the data for districts with large disparities in rates of lost instruction, as well as high and disparate rates of referrals to law enforcement, and intervene as appropriate.
- Congress should increase funding to federal civil rights enforcement agencies to increase their capacity to conduct the suggested reviews and interventions.
- DoED should offer technical assistance, alongside increased oversight and accountability, to ensure that states and districts accurately report their discipline data, including required but often underreported data on referrals to law enforcement and school-related arrests.
- Congress should add a private right of action to ensure that, when necessary, individuals can take recourse in a court of law when asserting systemic forms of discrimination, including policies and practices that may fall afoul of the disparate impact regulations pertaining to race, national origin, gender, and disability discrimination.
- DoED needs to continue to collect and report discipline data, including days of lost instruction due to out-of-school suspensions, and referrals to law enforcement and school-related arrests, but do so annually.
- OCR needs to add to the current CRDC a collection of data on the total number of suspensions. For each suspension, the primary reason for the suspension should also be collected, and these data should be publicly reported on OCR's website.
- Congress should provide federal funding to states and districts to encourage training of teachers and administrators to implement more effective alternatives to punitive and exclusionary forms of school discipline, and to ensure that there are sufficient support personnel to address the needs of students with disabilities as well as students with mental health needs, including youth who have experienced trauma.

- DoED should support additional state- and district-level research regarding more effective policies and practices to use instead of disciplinary removals.
- DoED should also provide additional accountability measures to discourage blatant noncompliance with data collection and reporting.
- DoED should also provide technical support to states and districts to ensure that the public at the state and local levels receives accurate and timely data on school climate, disaggregated across more than one protected category (e.g., race with disability as currently required by the CRDC).
- Members of Congress should request that the U.S. Government Accountability Office conduct a review of the extent of noncompliance with ESSA's state and district report card data requirements pertaining to referrals to law enforcement and school-related arrests.

State law and policy recommendations: State policymakers should improve the collection and public reporting of discipline data and create incentives for districts to reduce the use of suspensions, especially for minor offenses. State policymakers should also consider the following actions:

- State boards of education should review and revise the statewide accountability plan and make school discipline one of the additional nonacademic indicators for district accountability. In California, for example, any district that suspends over 6% of the enrolled student body is flagged as needing improvement, and the state then offers technical assistance.
- State departments of education should identify districts in the state that have problematic racial and disability disparities in discipline and, when applicable, provide support to identified districts to conduct root-cause analyses and effective redirection of Individuals With Disabilities Education Act (IDEA) funds toward coordinated early intervention services.
- State attorneys general should incorporate the federal school discipline guidance and increase enforcement of antidiscrimination laws in our public schools, especially with regard to unjust disciplinary removals. Several attorneys general have issued such statements. In Washington state, a combination of legislation, regulation, and state guidance is being implemented to target high and disparate exclusionary discipline, including transfers to alternative schools.
- Both the state departments of education and attorneys general should ensure the collection and public reporting of accurate discipline data in annual state and district report cards, including days of lost instruction due to out-of-school suspensions, referrals to law enforcement, and school-related arrests.
- State attorneys general should review the state's implementation of IDEA requirements to identify racial disproportionality in discipline among students with disabilities to ensure that state departments of education are appropriately implementing the federal regulations.
- State legislators should limit the use of suspensions to ensure that minor misconduct is not met with disciplinary exclusion from school. California, Texas, Ohio, and Connecticut all have passed legislation limiting the use of suspension for minor misconduct.

- State policymakers should eliminate the use of federal, state, and local funds for school police and/or security staff and encourage the elimination of police involvement in addressing routine school discipline. When practicable, funds delineated for police and security should be redirected toward direct supports for students, teachers, and administrators.

Recommendations for local policymakers: Even in the absence of federal or state policy changes, there is a great deal that individual school districts can do, including the following:

- Track the frequency and rates of lost instruction from out-of-school suspensions and use the data to inform local discipline policy.
- Have school boards conduct a public review and discussion of discipline disparities at least twice each year at school board meetings, including the amount of lost instruction due to discipline and the resulting disparities. For districts in which suspensions are frequent and disparities are wide, they should develop an action plan with specific goals for implementation informed by input from the community members most affected.
- Continue to use the DoED's and U.S. Department of Justice's 2016 guidance on school discipline to evaluate and guide how and when to make changes to the code of conduct.
- Require that all suspensions over a certain length be subject to review and approval by the district's central office to ensure that disparate patterns are noticed and that lengthier suspensions are justified in light of the educational purpose.
- Demand that local and state educational agencies report annually disaggregated data on referrals to law enforcement and school-related arrests.
- Audit public school funding and seek the elimination or reduction of funding for school police and security guards. Compare allocations for police and other security with funding for student support personnel. Use the best available research on the impact of school police on school climate to inform decisions regarding security personnel.
- Decriminalize disorderly conduct and other nonviolent and non–drug-related behavior so that school behavior incurs school-based responses.
- Set aside the resources needed for leadership and staff training and for intervention programs that will address the unjustified loss of instruction due to disciplinary removal.
- Use school climate surveys, behavior incident reports, and other monitoring to ensure that school reforms are improving the conditions of learning.
- Seek partnerships with other organizations and dedicate resources to evaluating reform efforts to distinguish the effective remedies from ineffective discipline reform efforts.

Introduction

This report is the first to capture the full impact from differences in use of out-of-school suspensions at the state and district levels. Research documenting the harms from suspension has increased the awareness of educators and policymakers of the harmful consequences children experience when we suspend them from school. The hardships all students are experiencing during the pandemic, including some degree of suspended education, might add to this awareness. Although some may still regard suspending students from school to be a relatively harmless punishment, research indicates that the lost instruction can profoundly impact achievement in the short term.[6]

Long-term harms from suspension: In the long term, studies have shown that even students who have only been suspended once are at much higher risk for repeating a grade, eventually dropping out, and/or becoming involved in the juvenile justice system.[7] This is why the Obama administration called its 2014 school discipline reform initiative "Rethinking School Discipline."[8]

A state, district, or school's discipline policy or practice can make a big difference. At the state level, California's statewide policy changes appear to have helped reduce suspensions for minor forms of misconduct, and the racial divide has narrowed.[9] At the district level, a recent study tracked many years of individual student-level data and administrative reports from Charlotte-Mecklenburg School District in North Carolina, where half of the student body had their schools reassigned in 2002 due to a large and sudden boundary change. The district's reassignment created a natural testing ground for comparing discipline policies. The researchers found that students assigned to a school that had higher suspension rates were 15% to 20% more likely to be arrested and incarcerated as adults.[10]

Perhaps the most well-known study of the long-term harms was conducted using student-level data tracking every middle school student for over 7 years. The majority, 60%, were subjected to some form of disciplinary removal. The researchers also revealed an association between being suspended and a threefold increase in the risk for juvenile justice involvement.[11] The follow-up study clearly established a link between suspension and grade retention. Moreover, by studying three cohorts of Texas middle school students beyond their high school graduations (or dropping out) the researchers established that there were both immediate costs to school districts from students repeating grades as well as longer-term economic costs associated with their increased likelihood of dropping out.[12]

Two more recent national studies reinforced the findings from the Texas research. One particularly strong national study controlled for 60 variables, including socioeconomic status and delinquency, and found that compared to similar peers, students who had been suspended were less likely to graduate high school or college and more likely to have been arrested or on probation.[13] The other recent study, which also used a national data sample, suggests that suspensions are not only correlated with adverse academic outcomes and future delinquent behavior but that an educator's decision to suspend an elementary student out of school is likely a contributing cause to the student's future delinquency.[14]

These serious long-term harms are consistent with economic studies further estimating the lifetime costs caused by suspensions. These estimates were based on research showing that suspensions do predict lower graduation rates, after controlling for other factors that contribute to the risk of dropping out.[15] Specifically, at the national level, suspensions to high school students increased the number of dropouts by more than 67,000, which had social costs due to lost wages, lost tax revenue, increased crime, higher welfare costs, and poorer health estimated at more than $35 billion. Cutting the suspension rate in half for just one graduating cohort of students would save taxpayers $5.5 billion.[16] The U.S. Government Accountability Office cited these studies in its March 2018 report,[17] which not only verified the concerns, but also showed that racial discipline disparities remained large even after adjusting for poverty. When reviewing the data on discipline, we encourage readers to consider the current harm from the loss of instruction, as well as the potential for longer-term benefits if we implement effective alternatives.[18] Even as long-term adverse impacts have become well established, it remains difficult to measure with precision just how much discipline disparities contribute to racial inequities in life outcomes. Moreover, some policymakers may feel more interested in seeking change if more immediate and measurable harms can be articulated.

Immediate harmful impact from out-of-school suspensions: One way the immediate inequities caused by suspensions can be captured is by counting how many days of lost instruction are due to out-of-school suspensions. In 2015–16, for the first time ever, the U.S. Department of Education (DoED) required, as part of its Civil Rights Data Collection (CRDC), that every school and district in the nation report the data on days lost due to out-of-school suspensions.[19] DoED made this data public in 2018. The data provides the public with the most direct measure of the impact of school discipline on educational opportunity.[20] Using the tallies of days of lost instruction collected and reported by DoED, the Center for Civil Rights Remedies (CCRR) co-authored a national brief with the ACLU of Southern California, called *11 Million Days Lost: Race, Discipline, and Safety at U.S. Public Schools*, to provide a snapshot of the newly released k–12 data.[21] That snapshot described the amount of lost instruction for each racial/ethnic group, aggregated across all grades, k–12.

As this report will show, the differences in the days of lost instruction due to suspension are even larger at the secondary level. Moreover, in many states and districts, the closer look provides a clearer understanding of how discipline disparities contribute to racial inequities in the opportunity to learn.

To many, it is obvious and predictable that students who miss school more often will learn less and, therefore, will be more likely to repeat a grade or drop out.[22] One study provides an even clearer example of the near-term impact on achievement from lost instruction. It found that missing 3 or more days of school before taking the National Assessment of Educational Progress (NAEP) in 4th-grade reading was associated with the loss of a full grade level.[23] An equally noteworthy and robust study published by Stanford University researchers in 2019 combined the CRDC suspension data from every school in the nation with achievement data.[24] The Stanford study determined that the racial discipline gap was positively correlated with the racial achievement gap, and this relationship was strongest when the researchers analyzed the difference in outcomes between Black and White students. Another study found that school suspensions account for approximately one fifth of the difference in school performance between Black and White students.[25] One notable meta-analysis revealed a significant inverse relationship between suspensions and achievement (i.e., increases in suspensions are associated with decreases in achievement) as well as a significant positive relationship between suspensions and dropouts.[26] While exploring school discipline

and academic performance in the state, the West Virginia Department of Education found that "students with one or more discipline referrals were 2.4 times more likely to score below proficiency in math than those with no discipline referrals."[27]

However, only recently have concerns about the impact from lost days of instruction, often framed in terms of "chronic absenteeism," begun to influence federal and state education policy. Specifically, nearly every state has sought to limit the degree to which lost instruction impacts the opportunity to learn by adding accountability for lowering rates of chronic absenteeism as part of their statewide systems pursuant to the Every Student Succeeds Act (ESSA).[28] Chronic absenteeism reflects days lost due to all reasons, including health problems, transportation breakdowns, and other factors that the district or school can only hope to influence indirectly. In contrast, the decision to suspend a student from school is among the contributors to chronic absenteeism that school districts can control.[29] Unlike the other contributors to chronic absenteeism, the contribution of suspensions is determined by the actions of educators who decide the basis for their use and their length. Therefore, one of the purposes of this report is to provide educators and policymakers with equity impact details so that they may make well-informed discipline decisions.

Part I of this report revisits that initial snapshot in *11 Million Days Lost: Race, Discipline, and Safety at U.S. Public Schools* and provides a far more comprehensive analysis of data from the same source, revealing deeper and even more disturbing inequities. This report analyzes these data for all student groups for each district and further explores the more extensive impact from being suspended as experienced by children at the secondary level. Specifically, these secondary students experience far larger inequities than most would imagine from seeing the state- or national-level data for grades k–12. In addition, this report shows that students from each racial/ethnic group attending alternative schools lose far higher amounts of instruction due to out-of-school suspensions than students who attend traditional middle and high schools. The large gaps documented here raise the question of whether efforts to close the racial achievement gap can succeed if the racial discipline gap is ignored.

Part II of this report helps to answer two related questions: (1) Are educators suspending students more or less often? and (2) Is the racial discipline gap getting wider or narrower? Unfortunately, changes in these inequities over time cannot be assessed as directly as the questions in Part I until newer data are released because the CRDC did not require the collection and reporting of days of lost instruction prior to the 2015–16 academic year.[30] Therefore, in Part II, this report tracks the changes in student suspension rates, also known as the "risk" for suspension, and how they have changed for each racial group, to indicate whether these disparities have been increasing or decreasing.

It is important that readers note that, as described in a report CCRR previously published on the 2011–12 data, the data show that for large numbers of school districts, at both elementary and secondary levels, suspensions are not used frequently and that in nearly half of all districts, racial/ethnic subgroups do not have a high risk for suspension.[31] However, our prior analyses also indicated that in thousands of other school districts, local policymakers and educators use suspensions with a high frequency. In districts where we have been able to look more closely at the reasons for suspension and can calculate the number of suspensions per 100 students, we typically find suspensions are responses to a wide range of misconduct. Most importantly, a large portion of suspensions are responses to what is considered minor misconduct, such as "disruption" or "disobedience." Specifically, prior reports have documented that suspensions for minor misconduct are a major contributor to large racial/ethnic disparities at the district and state levels.[32] As

numerous other studies have demonstrated, the use of suspension varies dramatically from one district to the next, with high frequency mostly a reflection of school factors that administrators, school boards, and communities can control.[33]

According to research, the schools and districts that use suspension more often are neither safer nor more effective learning environments.[34] Despite a long history of educators in some districts embracing harsh discipline, and a steady increase in its use between 1973 and 2010, no established body of research supports the implementation of harsh discipline policies to create effective learning environments.[35] While in-school suspensions at least have some potential for serving an educational purpose,[36] there is no logical reason to assume that out-of-school suspensions could ever be effective interventions because they are punishments, not substantive interventions. The reason they are used in high frequency in some schools and districts is driven primarily by state and local policies and practice.[37] One study of school principals' beliefs about suspension, across the state of Indiana, indicated that the attitudes of principals toward the use of harsh punishments was not only the strongest predictor of high rates but the strongest predictor of racial disparities as well.[38]

Part III of this report documents a major policy and oversight failure with regard to the reporting of referrals to law enforcement and school-related arrests. Many large districts, including Los Angeles, New York City, and Boston, reported no school-related arrests. This failure to report was not limited to these large districts. When we looked at all the largest districts in the nation, we determined that referral to law enforcement and school-related arrest data were seriously underreported in 2015–16. Our subsequent review found that as of July 20, 2020, not one state had fully complied with ESSA, which mandates that the collected data be included in every state and every district's report card. The lack of accurate and timely publicly reported data regarding school policing diminishes our understanding of school discipline and its impact.

Measuring Suspensions

This report uses two different measures to capture how suspensions impact students.

1. The Rate of Lost Instruction Due to Suspensions

The first is calculated in two steps. First, the total days lost due to out-of-school suspensions for every major racial/ethnic group are divided by each group's respective enrollment. That tells us the days of lost instruction per student. Second, the days lost per student is multiplied by 100 to create the metric called "days of lost instruction per 100 students enrolled." This two-step calculation, referred to generally as the rate of lost instruction, enables precise comparisons to be made because the days of lost instruction per 100 students enrolled reflects differences in enrollment. The racial/ethnic differences (gaps) in rates of lost instruction between any two groups can be calculated easily by simply subtracting the lower rate from the higher rate. Both the counts of the days lost and of the enrollment were part of the required biennial CRDC and were reported by DoED's Office for Civil Rights (OCR). The most recent data available are from the 2015–16 school year, but DoED may soon post data from the 2017–18 school year.[39]

When one looks at differences in the rate of lost instruction,[40] the impact of school discipline on educational opportunity can easily be compared between groups within a district and from one district to the next.[41] Unlike measures such as the "risk" for suspension, the days lost per 100 students enrolled captures the impact from lengthy suspensions as well as from frequent

suspensions lasting only a day or two.[42] In Part I of this report, we use this rate of lost instruction to reveal the inequities experienced by historically disadvantaged racial/ethnic groups of children, especially among those attending districts with the highest rates, while also highlighting days lost per 100 enrolled in the nation's largest districts.

The nationwide data are the first of their kind,[43] which means that one cannot use these new data to track how the impact from disparities in suspension has changed over time.[44] Further, the days lost are based only on out-of-school suspensions. The metric does not reflect the impact of in-school suspensions, expulsions, referrals to law enforcement, or school-related arrests.

2. Percentage of Students Suspended at Least Once (used in Part II of this report)

The second measure this report uses to show the disparate impact that can result when educators suspend students is most often called the "risk" for suspension. Unlike the first measure, the "risk" tells us what percentage of students from a given group's enrollment was suspended at least once. The risk for suspension is derived by dividing the number of students suspended at least once by their enrollment, and then the result is multiplied by 100. This student suspension rate is sometimes referred to as the *unduplicated* student suspension rate because students who are suspended only count one time regardless of how many times they are suspended. Using an unduplicated count eliminates the possibility that just a handful of students suspended either repeatedly or for long periods can skew our sense of the impact on the entire group. This student suspension rate is the most common metric, and it is the one used in CCRR's prior national reports. All of the trends in Part II describe the student suspension rate. Tracking the student suspension rates over time is critically important to our understanding of whether rates are rising or falling. However, the student suspension rate is very conservative. The rate mutes the impact of the harshest environments on learning opportunity because it treats a student suspended 10 times for a total of 50 days of lost instruction as the equivalent of one student suspended one time for just 1 day of lost instruction. By describing the trends in the student suspension rate as well as the rate of lost instruction, this report provides a far more comprehensive assessment of the educational impact of out-of-school suspensions.

Part II begins by describing the student suspension rate as far back as 1973. The trends over time are similarly broken down by elementary and secondary school levels. The OCR created the collection instrument, known today as the CRDC, in 1968, and discipline data on the number of students suspended have been collected biannually ever since.[45]

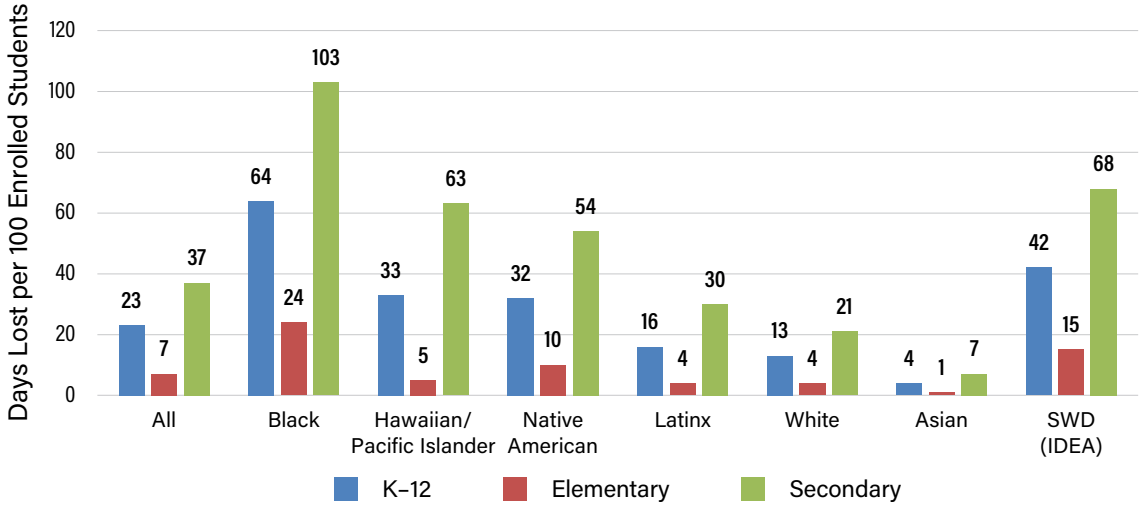
This report contains some long-term trend lines, but it is focused on the most recent trend in the risk for suspension at the secondary level since 2011–12.[46] Readers should note that they can find the raw data, such as the total days of lost instruction for each group of students, the numbers of students enrolled, and the counts of students suspended just once and two or more times for individual schools and districts, on OCR's website, ocrdata.ed.gov. For districts, the website only provides the raw data for all grade levels. This report disaggregates the data to provide a more revealing elementary- and secondary-level analysis at the district, state, and national levels. CCRR accomplished this using the researchers' version of the data and aggregating the individual school-level data into either the elementary or secondary levels. Some schools, such as k–12 schools, could not be appropriately assigned to elementary or secondary, and therefore, their data are only reflected in our k–12 analyses.[47] For more information about the methodology used for both parts of this report, see Appendix A.

Part I: The Disparate Impact on Educational Opportunity Is Measured in Days of Lost Instruction Due to Out-of-School Suspensions

For the first time, for the 2015–16 school year, OCR reported out the cumulative total of days of lost instruction, which added up to over 11 million days of lost instruction due to out-of-school suspensions.[48] Figure 1 describes the impact of suspensions in terms of days lost per 100 students enrolled for each racial/ethnic group. For all students enrolled in any public school, the k–12 rate is approximately 23 days lost per 100 students.[49] The k–12 rate included all school configurations, including k–8 schools and k–12 schools; however, both are excluded from the more specific elementary and secondary school analysis.[50]

From observing the days lost per 100 students enrolled, as shown in Figure 1, one can see that at the secondary level, Black students lost 103 days per 100 enrolled. For White students, the corresponding rate was 21 days lost per 100. In 2015–16 alone, for every 100 students enrolled, Black secondary students lost 82 more days of instruction than their White peers as a result of out-of-school suspensions. At the elementary level, Black students lost 20 days more, and across k–12, the Black-White difference was 51 days. In Appendix C of this report, we provide additional elementary-level data analysis. We have created spreadsheets available at http://www.schooldisciplinedata.org for every district in the nation, which include our analysis of all districts at both the secondary and elementary levels and provide rates for each racial/ethnic group and for students with disabilities (SWD) who are eligible pursuant to the Individuals with Disabilities Education Act.

Figure 1: National Overview (2015–16): Impact on Instruction Due to Out-of-School Suspensions by Race and, Separately, for Students With Disabilities for K–12, Elementary, and Secondary Levels



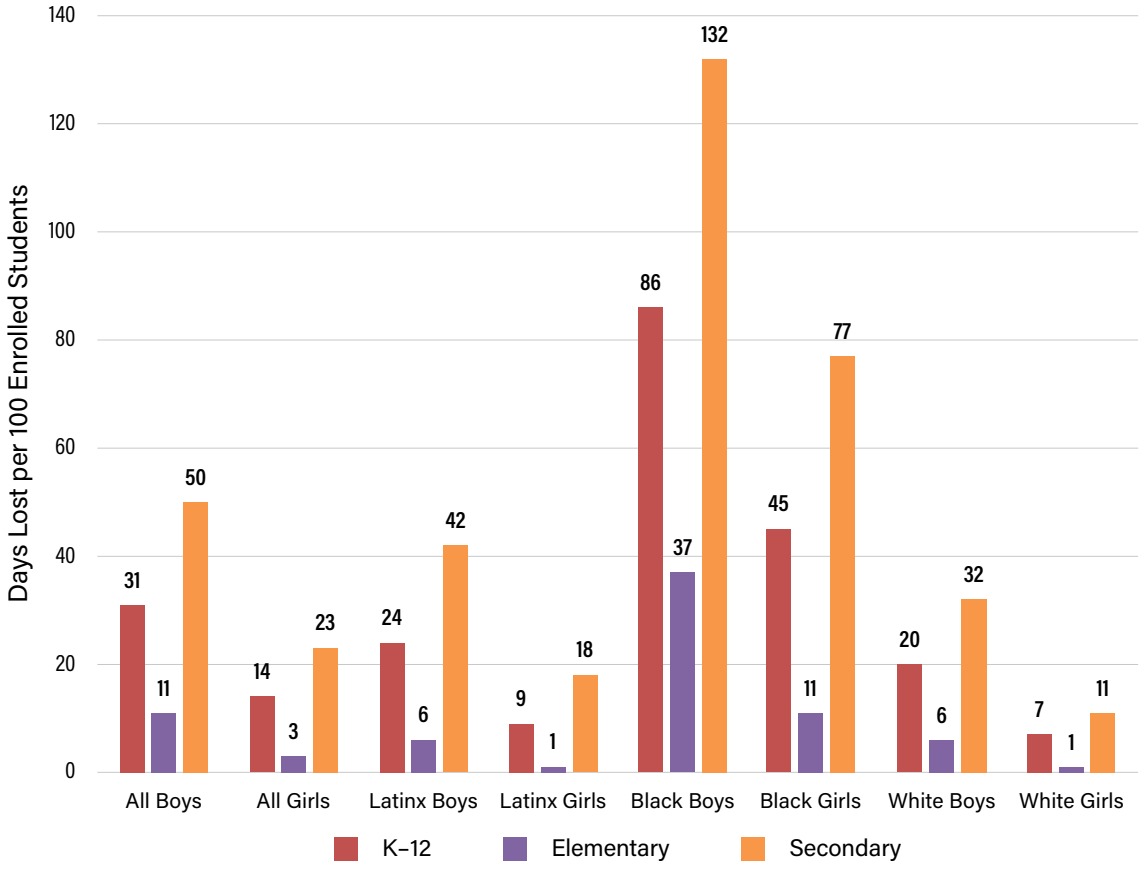
SWD = students with disabilities; IDEA = Individuals With Disabilities Education Act.

Source: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015–16.

Racial Disparities Are More Pronounced When Further Disaggregated by Gender

Race with gender: This report takes a closer look at those racial/ethnic groups that school administrators suspend most often. It is well established that males are more likely to be suspended and thus lose more instruction due to suspension than females.[51] At the national level, however, when we look at the cross-section of race with gender, we see that Black males lose the most instruction but also that Black females lost the next highest amount. Research suggests that there are specific negative race-gender stereotypes and forms of implicit bias, including the tendency to regard Black females as more masculine, that may explain these differences.[52] This report provides the race-gender breakdown of rates of lost instruction as well as student suspension rates for every district in the nation.

Figure 2: Impact of Lost Instruction in K–12, Elementary, and Secondary Levels for Latinx, Black, and White by Gender in the U.S. (2015–16)



Source: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015–16.

State-Level Racial Disparities Are Often Larger Than the National Disparities Suggest

At the state and district levels, there are often much higher rates and larger racial disparities than can be observed at the national level. This is one reason we encourage discussions of discipline disparities to consider the excessive suspension rates and larger disparities by race/ethnicity that children experience in their local contexts.

We begin our analysis with Table 1, in which the states are rank-ordered in accordance with the size of the Black-White gap in secondary schools. This gap is the difference between "Black days lost per 100 enrolled" and "White days lost per 100 enrolled" and is presented in the first column. We feature the Black-White gap because Black students are the racial group that loses the most instruction in 43 states.[53]

Table 1: State Rankings by Racial Gap and Student Days of Lost Instruction per 100 Enrolled at the Secondary Level (2015–16)

State	Black-White Gap	All Students	Latinx	Native American	Asian	Hawaiian or Pacific Islander	Black	White	SWD (IDEA)
MO	162	61	42	59	14	36	198	36	119
KS	134	35	43	41	13	14	153	19	61
NE	133	35	41	57	10	36	154	21	79
OH	127	46	53	36	10	19	153	25	80
MI	127	49	58	60	9	16	156	28	95
WI	124	22	28	30	5	10	134	10	63
TN	123	55	37	43	10	24	149	25	132
NC	121	70	55	135	9	67	154	33	137
VA	118	64	42	50	5	26	156	38	120
DE	110	68	52	37	7	9	140	30	123
AR	109	46	28	38	6	31	133	25	65
OK	105	62	73	55	16	102	153	48	99
NV	104	47	45	49	11	42	133	29	85
WV	92	54	44	31	18	62	142	50	95
GA	90	61	38	39	8	66	115	25	81
KY	88	35	30	42	8	14	113	25	45
IN	87	35	36	24	9	15	111	23	67
SD	87	27	42	88	9	22	104	17	66
NY	81	41	39	55	8	5	105	24	84
SC	80	63	41	68	8	39	115	34	105
PA	79	29	55	34	6	20	95	15	51

State	Black-White Gap	All Students	Latinx	Native American	Asian	Hawaiian or Pacific Islander	Black	White	SWD (IDEA)
WA	79	39	50	76	11	65	109	30	91
IL	78	29	25	32	4	30	93	15	54
AL	74	45	16	33	8	29	94	20	48
MS	74	61	24	42	8	20	97	23	95
AK	72	47	47	67	8	102	109	37	92
NH	72	33	104	66	9	35	101	29	76
CT	68	27	53	41	6	12	80	12	60
MN	64	18	28	60	6	4	73	9	45
AZ	57	40	44	66	10	39	85	28	65
TX	55	25	26	19	3	14	66	10	48
NJ	53	23	36	27	4	8	64	10	45
LA	49	46	34	38	8	22	74	24	67
CO	47	27	35	34	8	25	67	20	58
IA	47	14	19	11	5	25	57	11	34
MD	46	30	22	29	4	19	60	14	59
NM	44	31	33	43	8	16	65	21	49
CA	42	19	19	36	4	21	57	15	39
FL	40	32	23	31	5	26	63	23	50
RI	35	28	43	77	8	17	53	18	50
WY	35	20	29	55	13	13	52	17	42
MA	34	20	41	27	4	9	47	13	38
UT	27	9	20	15	8	15	33	6	19
ME	25	25	27	43	6	11	49	24	58
OR	25	22	27	38	6	29	45	20	44
MT	24	20	26	70	3	14	37	13	40
VT	20	17	9	37	8	4	37	17	39
ND	19	11	10	56	3	6	24	5	24
ID	6	8	11	19	2	10	13	7	19

SWD = students with disabilities; IDEA = Individuals With Disabilities Education Act.

Note: Cells highlighted represent the 10 states with the highest days of lost instruction by student group. The Black-White gaps were calculated using unrounded numbers, and the gaps were then rounded to whole numbers.

Source: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015–16.

Stark state-level Black-White disparities

As a result of out-of-school suspensions, Black secondary students in Missouri lost 162 more days than their White peers. In fact, in 13 states, Black secondary students lost 100 more days of instruction than their White peers as a result of out-of-school suspensions. Only Native American students in North Carolina experienced a racial disparity as large as that experienced by Black students. Wisconsin stands out because it was among the top 10 states in terms of the size of its Black-White gap in lost instruction, with Black students losing 124 more days than their White peers, but none of the other states with large Black-White gaps had overall rates of lost instruction well below the national average.

Although Table 1 rank-orders the states in descending order according to the size of the difference between the rates at which Black and White students are suspended, the gap between any two groups can be easily calculated by subtracting the lower rate from the higher rate. As one can see in Table 1, in New Hampshire, Latinx students lost 103 days per 100, which was the largest loss of instructional time of any of the racial/ethnic groups in the state. In five states—Rhode Island, Wyoming, Montana, North Dakota, and Idaho—the greatest loss was experienced by Native American children. In these states, Black students were the second most affected. In Appendix C, we provide the corresponding state-level breakdown at the elementary level. It is worth noting that four of the states with the highest Black-White gaps at the secondary level were also among the top five largest racial gaps at the elementary level (see Appendix C)

Many student groups had very high rates of lost instruction

Table 1 also shows the days of lost instruction per 100 students for each racial and ethnic group covered by the CRDC and shades the squares if the days lost in that state rank it among the highest 10 states for that specific student group.[54] In the second column, one can see the 10 states with the highest amount of lost instruction overall. Each of these states suspends various student groups at high rates compared to other states. For example, Missouri, North Carolina, Virginia, Oklahoma, and West Virginia were all among the top 10 for most days of lost instruction (per 100) for both Black and White students. Seven of the states with the highest rates overall were among the highest suspending for White students.

Several of the states with lower than average rates of lost instruction have enacted laws or issued regulations creating statewide limitations on the use of out-of-school suspensions. As of 2015, at least 15 states had laws discouraging the use of suspensions, including California, Connecticut, Maryland, and Massachusetts. Ohio and Texas also enacted limits, but in many cases, the laws were not fully implemented the year they were passed; therefore, the data from 2015–16 do not fully reflect reductions in suspensions, if any, that may have been caused by these policy changes.[55]

Students with disabilities lost anywhere between 19 and 137 days of instruction per 100 students

Another revealing aspect of the state-by-state breakdown in Table 2 and the district-level analysis that follows is that there is a great degree of variation both between and within educational agencies in terms of the amount of lost instruction due to out-of-school suspensions. The column farthest to the right in Table 1 includes the days lost for students with disabilities (SWDs) who are eligible for special education pursuant to the requirements of the IDEA. What is most noticeable is that in seven states, secondary-level SWDs lost over 100 days per 100 SWDs enrolled. Despite a very wide range, from a floor of 19 in Idaho to a ceiling of 137 days lost in North Carolina, SWDs had the highest floor of any of the groups represented in the table.

We did not report on the rates of lost instruction by race with disability because the CRDC did not collect the number of days lost for SWDs further disaggregated by race.[56] In a distinct report called *Disabling Punishment,* CCRR used data collected annually by the federal Office of Special Education Programs to estimate that Black students with disabilities lost approximately 77 days more than their White peers with disabilities.[57]

Black students had the widest range of any group, from 13 days of lost instruction per 100 in Idaho to 198 days lost per 100 in Missouri

As a result of suspensions, Black secondary students in Missouri lost well over 1 year of instruction for every 100 students enrolled. Native American students also had a wide range, from 11 days in Iowa to 135 days lost in North Carolina. Most importantly, the dramatic variation in rates of lost instruction indicates that the problematic disparities are far larger problems in some states than others.

On the other hand, these differences suggest that states with much lower rates may have found at least a partial solution in terms of statewide policy that other states should consider.

Districts Where Students Lost a Year of Instruction per 100 Enrolled

In most states, one can see an even wider variation in rates at the district level, where some student groups are losing instruction at rates that are orders of magnitude higher than the national, and/or their state's, average suggests.[58] However, it is also true that many districts have much lower rates and disparities than a review of the state- or national-level data suggests. Although gaining a clear understanding of what causes much higher rates for some groups compared to others is beyond the scope of this report, there is reason to believe that the wide variation lends additional support to well-established understanding that there are factors that districts can control that could reduce rates and diminish disparities. Indeed, research that controls for many of the external variables associated with behavioral problems has repeatedly suggested that the largest contributors to the frequency of school discipline are factors that schools control,[59] including the attitudes of school principals.[60]

Table 2: Rates of Lost Instruction in Days per 100 Enrolled in Large Districts Where Secondary Students Lost at Least 1 Academic Year (2015–16)

State	District	All Students	Latinx	Native American	Asian	Hawaiian or Pacific Islander	Black	White	SWD (IDEA)
MI	Grand Rapids Public Schools	416	237	340	12	80	740	166	610
VA	Richmond City Public Schools	352	206	0	148	240	408	49	744
NY	Buffalo City School District	320	287	455	44	0	502	78	610
OK	Union School District	291	341	275	80	0	631	142	893
OH	Youngstown City School District	276	201	*	0	*	315	137	259
VA	Danville City Public Schools	260	93	*	30	*	340	78	300
OH	Akron City School District	252	178	310	38	70	401	110	302
AR	Little Rock School District	250	109	103	22	*	323	72	229
MO	Raytown C-2 School District	243	148	33	0	50	400	60	377
MI	Battle Creek Public Schools	243	93	160	6	*	340	213	431
MO	Grandview C-4 School District	235	7	200	90	*	338	82	462
OH	Columbus City School District	232	122	218	51	420	306	126	243
IL	Danville CCSD 118 School District	230	154	313	37	*	391	107	377
VA	Norfolk City Public Schools	227	77	77	26	133	327	63	306
VA	Newport City Public Schools	219	93	0	13	60	335	57	389
KS	Kansas City School District	218	110	120	39	150	394	189	468
VA	Stafford County Public Schools	218	239	10	7	8	401	161	156
NY	William Floyd Union Free School District	216	185	325	9	60	602	122	345
NC	Vance County Schools	214	169	40	0	*	278	76	315
NC	Public Schools of Robeson County	210	127	219	75	440	296	93	331

State	District	All Students	Latinx	Native American	Asian	Hawaiian or Pacific Islander	Black	White	SWD (IDEA)
MI	Saginaw School District of the City of Saginaw	202	142	0	0	60	259	64	386
OK	Muskogee School District	199	74	296	0	*	341	187	266
VA	Hampton City Public Schools	199	130	274	50	80	252	104	357
TN	Shelby County Schools	197	63	30	8	20	232	51	836
GA	Richmond County School District	190	68	167	41	195	226	63	152
OK	Oklahoma City Public Schools	188	149	199	27	87	319	119	241
OH	Lorain City Public Schools	187	161	40	300	*	290	117	184
NC	Edgecombe County Public Schools	183	131	120	0	*	245	93	297

Notes: Districts were only considered if they lost 1 academic year or more and had at least 1,000 students enrolled and enrolled at least 200 Latinx, Black, and White students. Asterisks refer to districts not reporting their data due to efforts to avoid revealing information about individual students.

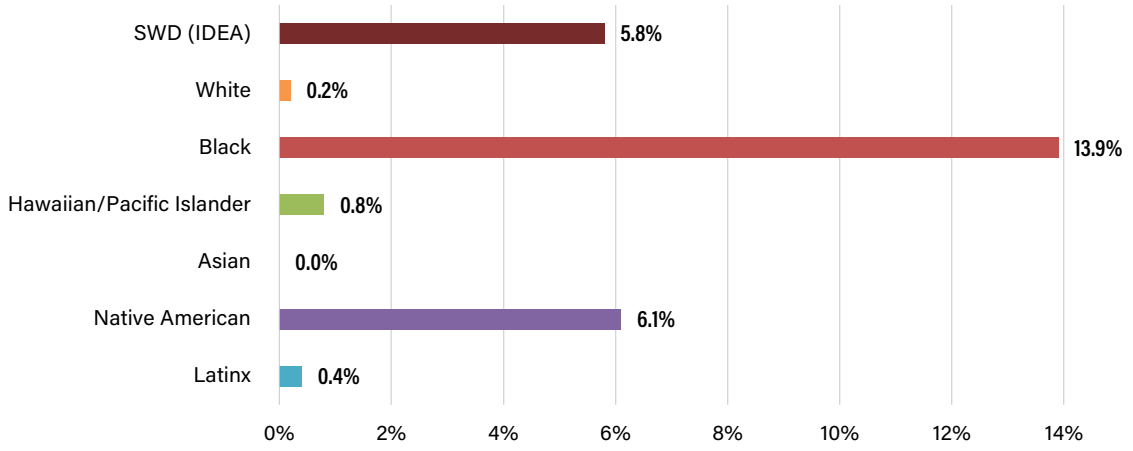
Source: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015–16.

The districts listed in Table 1 had the highest number of *days* of lost instruction for all students. These districts relied on suspension so much that the average number of days lost for all students was at least a year of instruction (182 days) per 100 enrolled. Although it is important to understand why these districts had such high rates, this report does not explore the possible reasons. Data errors are certainly possible, but the superintendent of each school district has certified as accurate all of the data that each district provided to OCR when submitted.[61]

These alarming district-level data demonstrate that national- and state-level analyses, as well as a focus on rates for the aggregate student body, fail to capture the full impact of suspensions on lost instruction experienced by many subgroups at the local level. Unfortunately, providing a more comprehensive analysis of each of the many districts reporting extraordinarily high amounts of lost instruction is beyond the scope of this descriptive report.[62] However, readers can use the spreadsheets published with this report to find the data on the districts they are most interested in.

This report cautions readers not to assume these extremes are anomalies. What appears to be an extreme impact in some isolated districts is actually not that uncommon an experience for Black and Native American students and for students with disabilities. As one can see in Figure 3, this is the disturbing reality for approximately 14% of all Black secondary students and about 6% of all Native American students, as well as for students with disabilities.

Figure 3: Percentage of Students Enrolled in Districts With at Least 1 Academic Year of Lost Instruction per 100 Enrolled for Selected Groups (2015–16)



Source: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015–16.

Figure 3 shows that less than 1 in 100 of Latinx, Hawaiian/Pacific Islander, Asian American, and White secondary students attend school in a district where their racial/ethnic groups lost a year or more of instruction due to out-of-school suspensions.[63] In contrast, approximately 1 in 7 Black secondary students attend school where they lost at least a year per 100 students. In Appendix C, readers will find Table C2 with the raw enrollment numbers. For example, of the more than 3.5 million Black secondary students, 492,755 were enrolled in a district where students were losing at least a year's worth of instruction for every 100 students. In contrast, this was the experience of only approximately 1 in 500 White students and 2 in 500 Latinx students.

It is also noteworthy that the districts with these extremely high rates are not typically our largest urban districts. Many of those, including New York City, Los Angeles, Chicago, and Miami-Dade County in Florida, have invested in discipline reforms and have amounts of lost instruction that are far lower than the national average. Meanwhile, districts with smaller cities within, such as the districts of Knox, TN, Mobile, AL, and Jefferson County, KY, have amounts of lost instruction that dwarf those found in the largest cities. These data beg the question, are the secondary students in Los Angeles, New York City, and Chicago really so different in their behaviors compared to their peers in Knox, Mobile, or Jefferson? What these data differences suggest is that there are likely alternative approaches to harsh discipline and that many of these are already in place in large metropolitan areas.

Table 3: Days of Lost Instruction Due to Out-of-School Suspension per 100 Students for a Selection of Largest Districts at the Secondary Level (2015–16)

State	District	All Students	Latinx	Native American	Asian	Hawaiian or Pacific Islander	Black	White	SWD (IDEA)
TN	Knox County School District	130	103	212	43	133	325	96	165
AL	Mobile County School District	121	50	130	25	243	186	59	53
AZ	Phoenix Union High School District	92	79	70	11	180	186	155	108
KY	Jefferson County School District	89	46	167	17	17	163	44	126
TX	Dallas ISD	82	69	49	16	13	137	40	118
NC	Charlotte-Mecklenburg School District	81	54	81	12	92	154	16	164
NC	Wake County School District	71	78	109	7	162	186	19	207
MD	Baltimore City Public Schools	70	16	71	2	0	78	8	112
PA	Philadelphia City School District	65	55	18	7	20	92	27	88
GA	Fulton County School District	58	43	5	4	31	114	9	88
NY	New York City Public Schools	43	36	42	8	0	95	14	95
TX	Houston ISD	43	33	23	5	4	85	12	91
IL	City of Chicago SD 299	32	18	26	3	11	59	9	46
FL	Palm Beach School District	31	23	28	5	39	66	13	49
VA	Henrico County Public Schools	27	17	56	4	12	55	9	60
MD	Montgomery County Public Schools	12	15	8	3	0	32	2	8
CA	San Diego Unified School District	12	13	6	4	11	36	7	28
CA	San Francisco Unified School District	7	9	3	1	24	46	3	27
CA	Los Angeles Unified School District	2	1	1	0	2	7	1	4
FL	Miami-Dade County School District	2	2	5	1	0	2	2	2

Note: For each column, we highlighted the five districts with the highest rates of lost instruction for the group indicated in the column header.

Source: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015–16.

The variation in the impact of suspension on lost instruction is dramatic. We can see that several of our nation's largest districts are struggling far more than others, yet there are problematic disparities in nearly every district in Table 3. We also know that the discipline reforms in many of these cities are not always regarded as completely successful.[64] Moreover, the data reported are not always accurate, and advocates have expressed concerns that in some schools that look like they have low rates, principals may not have actually reduced their use of suspensions, just their reporting. Although the answers as to why these rates are so high in some districts and much lower in others is beyond the scope of this descriptive report, the data on lost instruction do raise important questions. Data regarding the removal of a student to an alternative school can also confound our understanding when we look at district data because in some states the alternative schools are not district-run, in other states they are, and in some states both state-run and district-run alternative schools can be found. Therefore, the impact on district suspension rates from transfers to alternative schools can vary depending on whether or not students leave the district.

Alternative Schools and Lost Instruction

One area of concern that has received little attention from researchers and policymakers is alternative education. There are concerns about the quality of education offered, the procedures and policies leading to the transfer of students to alternative schools, and the way student misbehavior is handled at such schools. Ideally, alternative schools supply an additional level of support for students who struggle in a traditional school, providing educators who are trained to help them succeed.

This report also reviews discipline disparities in lost instruction in alternative schools. Specifically, this is of high concern given that there is a good deal of rhetoric among self-proclaimed "discipline hawks" who believe disobedient students should be separated from the mainstream but still provided with an education.[65] "Throw out the bad kids so the good kids can learn" has always been a core argument of discipline reform opponents. The explicit call to educate all disruptive youth separately is simply a new twist and one that would mean dramatically increasing the enrollments of alternative schools. Discourse of this nature fuels concern that, in some school districts, alternative schools are being used as a way to push particular students out of school and, as a result, will increase levels of racial and socioeconomic isolation. While transferring a student to another school is less of an obvious disciplinary action than expelling or repeatedly suspending students, discipline data for alternative schools are described here because they dovetail with research suggesting that we should be concerned that many alternative schools are not well designed to support students either behaviorally or academically.[66]

Although the descriptive data in this report do not highlight any particular alternative district or school, the extraordinarily high amounts of lost instruction due to discipline in alternative schools, described below and depicted in Figure 4, raise the concern that some alternative schools are providing little education and are merely serving as a conduit to pushing students out. One possible reason is that, in some cases, alternative schools may serve as an avenue for avoiding accountability for the district's failure to meet the needs of all students. Another reason for highlighting alternative schools here is to establish a baseline. We anticipate that with more police being added to schools, we may soon see an increase in referrals to law enforcement and school-related arrests. If so, this could also increase enrollments in alternative schools, as enrollment in these schools is often used as part of diversion (from jail) and probation programs.

Researchers, however, must deal with two complicating factors. First, the distinction between an alternative school that students attend for disciplinary reasons and those focused on academic or specialized needs is not always clear. Second, some alternative schools are intended to be temporary programs, and attendance is meant to respond to a particular need, such as discipline or because the student is failing academically. In those cases, transfers may be involuntary and temporary. However, in many cases, there may be reasons students would choose to attend an alternative school, and alternative school enrollment is often voluntary. For example, some alternative schools are designed to serve the needs of teen parents, while others may be focused on helping students make the transition to a mainstream school after spending time in the juvenile justice system or in a rehabilitation program.

Many alternative schools serve more than one type of student, while others are primarily designed to support students with disabilities, students who have already dropped out, or students who are struggling with mental health issues. For the purpose of this report, we relied on the definition in the CRDC and combined all the enrollment of all the individual alternative schools in the nation. We did, however, exclude those that were part of the juvenile justice system. Some of these schools were part of alternative school districts, some were districts unto themselves, and others were schools within traditional districts.

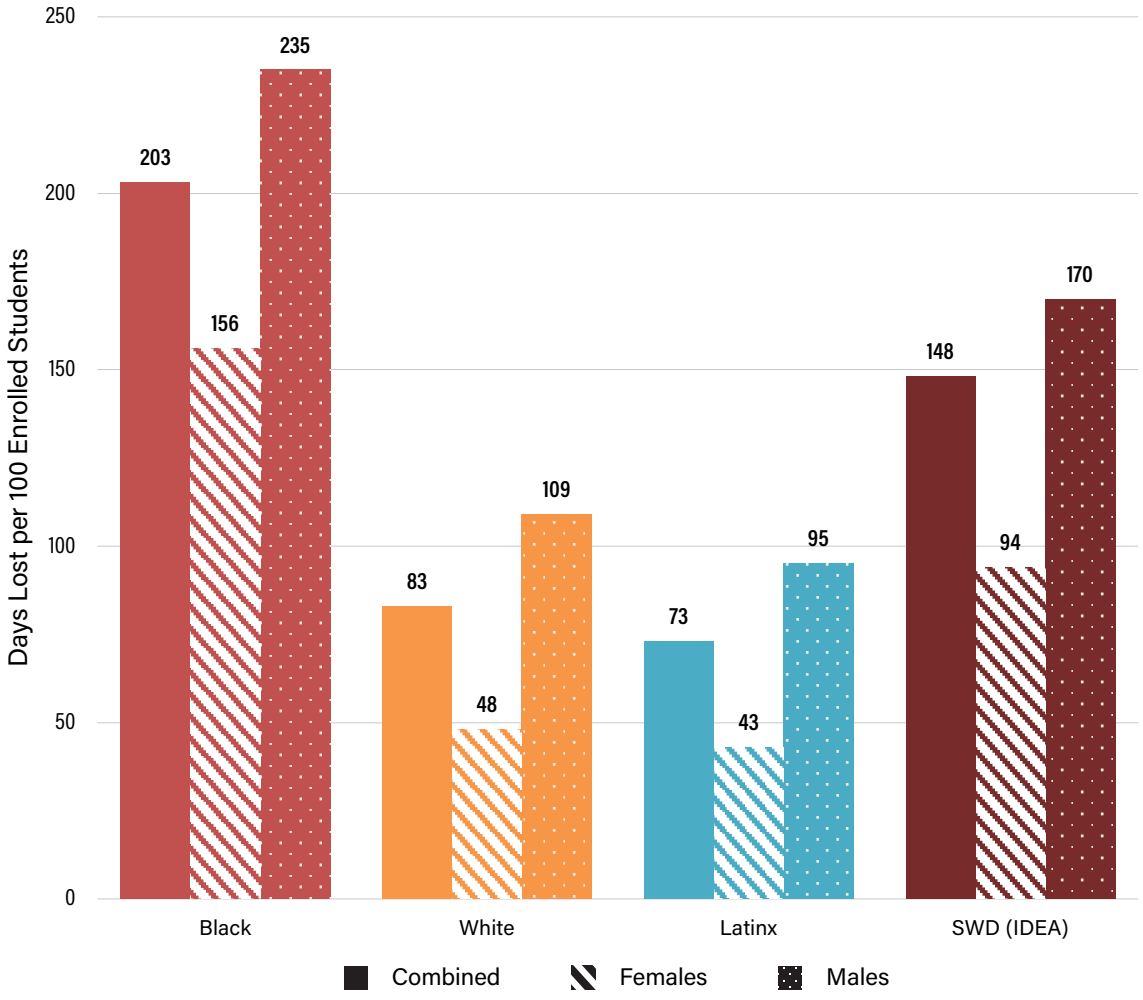
Other important differences should also be noted. Alternative schools that serve students on a temporary basis often have enrollment that fluctuates a great deal during the course of the school year.[67] Further, some of the alternative schools do not use traditional grade levels. Although most alternative schools do not list early elementary grades, we have not attempted to disaggregate our analysis of alternative schools by elementary versus secondary levels.

Moreover, while there is something nontraditional about all alternative schools, there are also increasing numbers of virtual alternative schools. With virtual alternative schools, administrators cannot suspend students out of their schools because students are never physically present. Thus, there are typically no out-of-school suspensions reported for alternative virtual schools. For these reasons, in constructing this report, we use the CRDC from the 2015–16 school-level data set and included all the alternative schools except the virtual alternative schools. Additional "data cleaning" steps are described in Appendix A.

Altogether, 358,585 students were enrolled in approximately 3,295 self-described alternative schools. Of these students, 55,885 (15.6%) had Individual Education Plans (IEPs). There were 208,595 (58%) boys and 149,990 (42%) girls. Among Black students, 89,645 (25%) were enrolled compared to 123,920 (35%) White students and 121,740 Latinx students (34%). Compared to the overall enrollment demographics for the nation's public schools, alternative schools have higher percentages of Black students and students with disabilities enrolled. Further, of the 3,295 alternative schools, only about 340 students are enrolled in grades k–2. Although the CRDC does not provide enrollment counts, numbers of days lost, or students suspended for a given grade level, we can deduce that with only about 10% of these schools enrolling any students in those lower grades, the vast majority of alternative schools do not enroll students in the early elementary grades. For this reason, one might expect alternative schools to have slightly higher rates than we see observed in k–12 rates covering all schools in Figure 1.

However, a quick comparison reveals a much larger difference, namely, that students attending alternative schools in grades k–12 lost almost twice the number of days of instruction as those lost by secondary students (in non-alternatives) overall. The graph that follows depicts the days of lost instruction (per 100) for each subgroup, further disaggregated by gender and, separately, for students with disabilities.

Figure 4: National Review of Impact of Out-of-School Suspensions on Instructional Time for Students Enrolled in Alternative Schools (2015–16)



Source: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015–16.

If these alternative schools were better at meeting the needs of the students than traditional schools, the fact that they disproportionately enroll Black students and those with disabilities would not be troubling. However, students in these schools are losing far greater amounts of instruction than students are on average, and that is true even when we compare the alternative schools for grades k–12 to traditional schools only serving students at the secondary level. For example, Black students lost 103 days per 100 at the secondary level but nearly twice that amount,

203 days per 100, if they attended alternative schools. Similarly, White students at the secondary level lost 21 days per 100, but in alternative schools, they lost 83 days per 100, which is nearly four times higher. Finally, as mentioned, many alternative schools are ostensibly designed to serve students with disabilities, yet the average days lost is 148 days per 100 for these students when enrolled in alternative schools—more than twice the 68 days lost per 100 at the secondary level for students with disabilities.

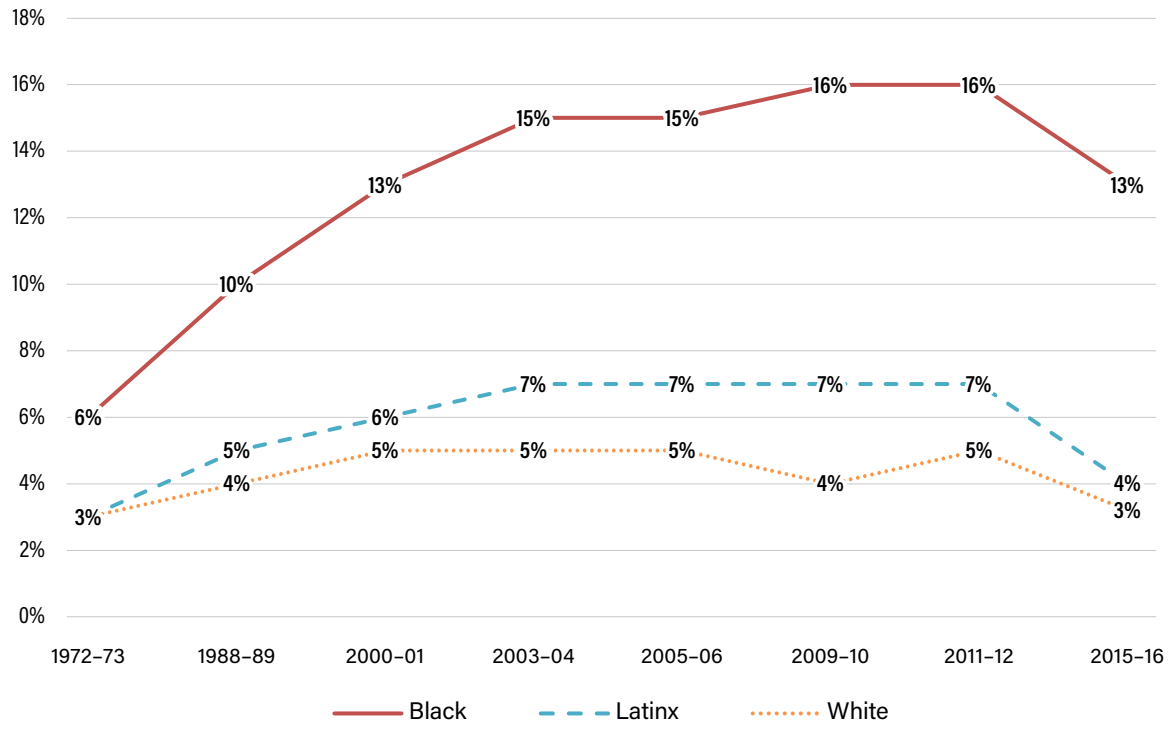
The disability data disparities in both traditional and alternative schools raise several important issues for students with disabilities. First, the tremendous number of days lost raises questions as to whether these schools are providing these students with their right to a free appropriate public education. Second, each day lost might actually be more harmful for students with disabilities, for when they lose a day, they lose more educational support and services than a nondisabled student loses. It may also be far more difficult for students with disabilities to make up all the instructional time they missed.

Similar to findings in our prior national reports, although males often have rates that are much higher than females, Black females enrolled in alternative schools had a higher rate of lost instruction due to suspension than males of any other subgroup. We explore and discuss these cross-sectional differences further with regard to all school districts in Part II of our report.[68]

Part II: High Rates and Large Disparities and Trends Over Time[69]

This part of the report examines trends in student suspension rates for major racial/ethnic groups, as far back as 1973 in some cases. In analyzing trends, the focus is on how much the underlying rates have changed over time. This is because higher rates are associated with greater harm.[70] Therefore, when we look at trends in the racial disparities, we also focus on the absolute size of those differences. The relative disparity that comes from dividing the higher rate by the lower rate does not capture the magnitude of the disparity to the same extent that the absolute difference does. Similar to discussions of improving reading proficiency or graduation rates and closing the achievement gaps in those outcomes, we choose to look at trends in terms of whether, for each group, harms or benefits are increasing or decreasing. For cases in which children are harmed, the size of the actual difference in exposure to the harm matters. For example, in Figure 5 one can see how the risk levels for each group change, and by plotting the trend lines together, the absolute size of the racial difference (racial gap) is plain to the eye.

Figure 5: Trends in Out-of-School Student Suspension Rates by Race/Ethnicity in K–12[71]



Source: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 1972–73, 1988–89, 2000–01, 2003–04, 2005–06, 2009–10, 2011–12, and 2015–16.

National trends

Overall, and for each subgroup depicted in Figure 5, rates decreased between 2009–10 and 2015–16. It is also easy to see that the Black-White racial gap narrowed over the 5-year period, from a 12-point divide in 2009–10 to a 10-point divide in 2015–16, but it was still more than three times wider than the 3-point divide that existed in the 1970s. The Latinx-White divide, which began in the 1980s and expanded to a gap of 3 percentage points in 2009–10, had narrowed by 2015–16 to a one percentage point difference. There are many possible reasons for the downward trend. One plausible explanation is that there is a growing awareness among educators and policymakers of the aforementioned research showing there is a negative academic and economic impact from suspending students.[72] However, a full exploration of the reasons for the trends is beyond the scope of this descriptive analysis. These trend data provide important information for advocates and educators to consider. However, readers should keep in mind that a full 4 school years have passed since these data were collected. The data from 2017–18 have been collected from every district and are expected to be reported sometime in 2020, so it will be important to see whether the trends observed thus far continue in the same direction.

Trends in in-school suspension

Empirical data also show that the risk for in-school suspensions has also declined since 2009–10. Because students with at least one in-school suspension can also receive an out-of-school suspension in the same year, the two categories of in-school suspensions and out-of-school suspensions cannot be added together to produce an overall suspension rate.[73] The CRDC does not collect or report the counts of suspensions in either category.

This report analyzed the in-school suspension risk for the same groups in Figure 6 for both the in-school and out-of-school suspension rates for 2009–10, 2011–12, and 2015–16 and found that both in-school and out-of-school suspension rates have been decreasing for Black, White, and Latinx students, as has the racial gap. In other words, at the national level, the decreasing risk for out-of-school suspension was not offset by a corresponding increase in the risk for in-school suspension. Readers can find additional analysis and a corresponding graph of the in-school and out-of-school suspension trends in Appendix D. Some might argue that an in-school suspension does not necessarily entail a full day of lost academic instruction. Given the greater clarity regarding out-of-school suspension, the bulk of CCRR's reporting here, as in the past, examines disparities in the risk for out-of-school suspension.

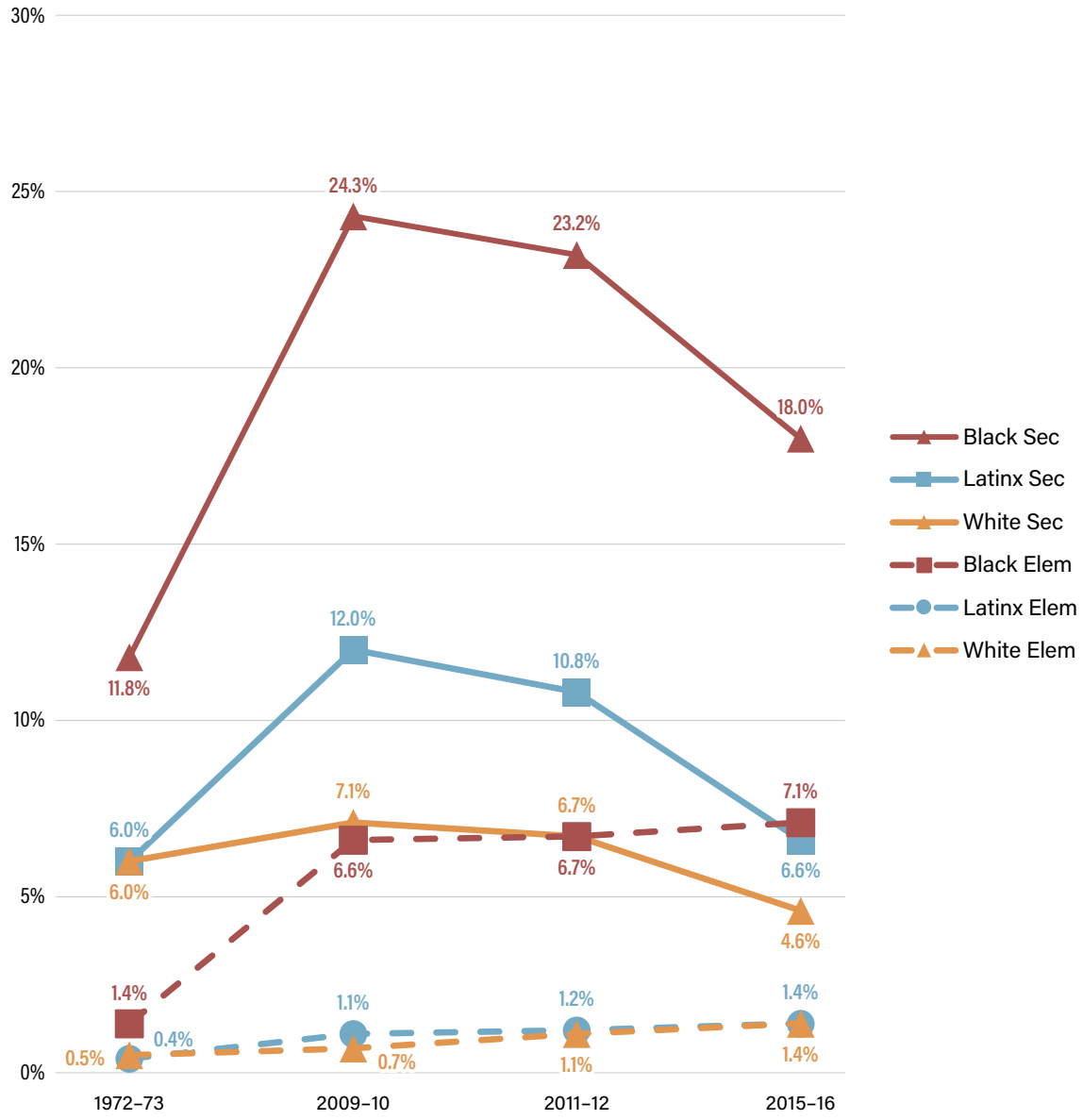
Combining Secondary and Elementary Rates Masks the High Rates at the Secondary Level

The state and national data are most often reported as rates of suspension for all grades, k–12, combined. But just as the days of lost instruction are much higher at the secondary level, the risk for out-of-school suspension is also dramatically higher at the secondary level. The k–12 rates of student suspension tend to mask the profound differences and the impact of changes in policy and practice. That said, the data from k–8 schools and schools that represent all grades are not included in either the elementary or secondary analyses. Therefore, the k–12 trends are useful because they include all schools. Although it is noticeable that elementary rates rose very slightly during a period

of overarching decline, the elementary rate increases of less than 1 percentage point are better described as remaining stable. At the secondary level, as suspension rates have declined generally, both the Black-White and Latinx-White racial gaps have narrowed.

The remainder of Part II will focus on secondary-level suspension rates. Secondary students are also much more likely to be referred to police or arrested for school-related incidents, but as this report describes, those data are seriously underreported in many large districts.

Figure 6: Out-of-School Suspension Rates Over Time by Race/ Ethnicity: Elementary and Secondary Levels



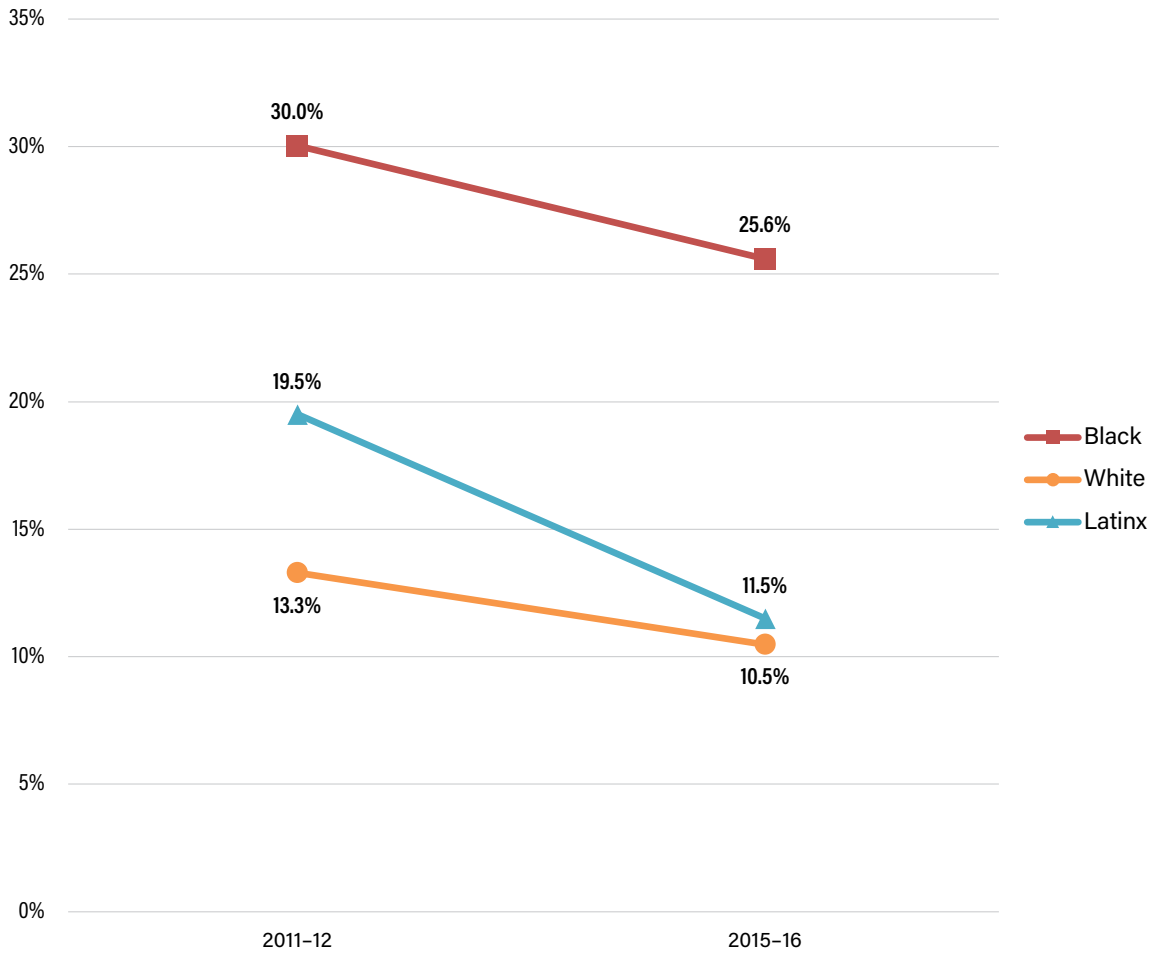
Source: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 1972–73, 2009–10, 2011–12, and 2015–16.

Ideally, educators strive for all groups to have low suspension rates and high levels of academic proficiency and high graduation rates. Based on the aforementioned research indicating that suspensions harm educational outcomes, our primary concern is whether the group most harmed is making progress due to decreasing rates. Ideally, in absolute terms, the group suspended at the highest rate will experience the largest decline, as this means that the differences between that group and those with lower rates will narrow over time. For this reason, we do not describe the disparities in purely relative terms. Relative measures like the relative risk ratio do not reflect whether the underlying rates are rising or falling. For example, we would not suggest that progress was being made if Black suspension rates remained high and unchanged while White suspension rates increased, even if the relative racial disparity got smaller as a result.[74]

Moreover, purely relative measures can also make it seem like disparities are getting worse even when measures of progress that better reflect the magnitude and change in level of the harm are showing lower suspension rates and narrowed disparities.[75] For these reasons, throughout this report, we describe the racial disparities in absolute rather than purely relative terms. (A more detailed explanation with examples can be found in Appendix B describing the methods.)

The good news is that at the secondary level, the group with the highest student suspension rate experienced the greatest reduction. As we can see in Figure 7, at the secondary level, we observe a similar pattern except that Latinx students with disabilities experienced the greatest reduction. With White students as the comparison point, the racial gap between Black and White students, overall, and among those with disabilities, narrowed from 2011–12 to 2015–16.

Figure 7: Recent Trend in Secondary School Students' Risk for Out-of-School Suspension by Race With Disability (IDEA) (2011–12 to 2015–16)



Source: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2011–12 and 2015–16.

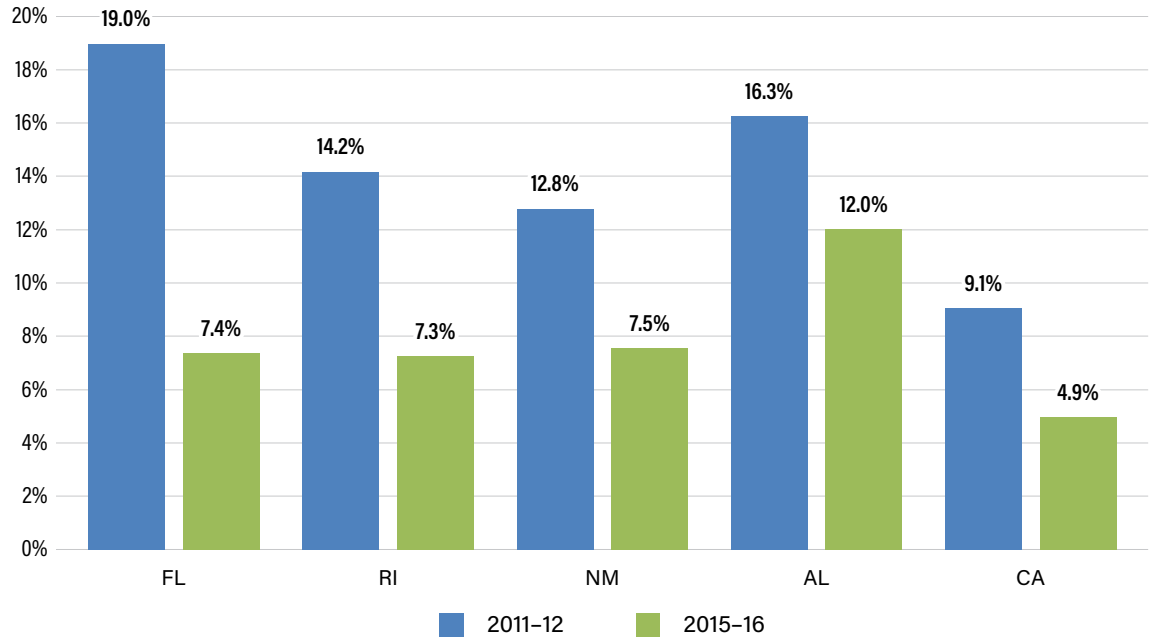
One important concern is that students with disabilities not only tend to receive greater academic supports than their nondisabled peers but also often rely on schools for additional supports and services, including mental health, occupational therapy, and physical therapy. For example, according to an ACLU report, "Students are 21 times more likely to visit school-based health centers for mental health than community mental health centers."[76] Therefore, even when suspensions are for behaviors not caused by the disability, the burden of even a 1-day suspension may be much greater when it removes a student with disabilities with mental health needs from school.

By law, school administrators should not suspend students with disabilities for behavior that they know, or should know, was caused by their disability. Excluding a student from school because he or she has a disability is unlawful discrimination.[77] Therefore, denying a free appropriate public education because of a behavior caused by that disability is the equivalent of exclusion because of that disability.[78] The IDEA provides a procedural protection against this form of discrimination by requiring a "manifestation determination hearing" before a school

suspends a student for more than 10 days (this can be cumulatively or from one suspension). If the hearing finds that the behavior in question was caused by the disability, then the school cannot suspend the student for even 1 additional day for the same behavior. However, it would still violate at least the spirit of the law if the school district knew all along that the behavior was caused by the student's disability, yet suspended the student anyway.[79] In fact, the U.S. Department of Education's Office for Special Education and Rehabilitative Services (OSERS), in August 2016, issued a "letter of significant guidance" reminding educators across the country that even suspensions of less than 10 days could constitute a denial of their obligation to provide a free and appropriate public education, especially if these shorter suspensions reflected a failure to provide, or effectively implement, behavioral improvement plans.[80] As with the even larger differences in days of lost instruction, the higher student suspension rates for students with disabilities raise questions about whether schools and districts are meeting the legal and moral obligations of fundamental fairness to provide an equitable opportunity to learn to students with disabilities.

In the report *Are We Closing the School Discipline Gap?*, CCRR reported on the trends in discipline rates between 2009–10 and 2011–12 and described them at the national, state, and district levels in the same manner as in Part II of this report. In Figure 8, we highlight the states that made the biggest reductions for all students from 2011–12 to 2015–16. Appendix D shows the states with the largest changes, including the changes in rates for each racial/ethnic group.

Figure 8: Top 5 States Where Suspension Risk Declined the Most for All Students at the Secondary Level (2011–12 to 2015–16)



Source: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2011–12 and 2015–16.

As one can see, there have been large declines in the overall student suspension rates in several states. For all students, Florida appears to have made the most progress, cutting its rates by nearly 12 percentage points, and the rate in 2015–16 was less than half of what it was. Further, in several states, including Florida, Alabama, and Rhode Island, the overall decrease includes an even larger decrease in the rates for Black students. Although not included in Figure 8, Wisconsin decreased Black suspension rates from 33.8% to 24.7% yet remained among the top 10 highest-suspending states for Black students.

In some states, like California, we know there has been a combination of statewide limitations and large district reforms that have contributed to these decreases.[81] In Rhode Island, a statewide initiative has been created, but it was not in place during the 2015–16 school year.[82] Likewise, several states have limited out-of-school suspensions at the state level in recent years, but most states do not have explicit limitations in place.[83]

Perhaps what is most remarkable is the degree to which suspension rates have declined for all students in some states. Florida's decline of 11.6 percentage points is especially remarkable, as for many years it was among the highest-suspending states in the nation.[84] In addition, in two of our prior national- and state-level reports, we excluded Florida when we confirmed major errors in its reporting.[85] Florida's decline in suspension rates might be attributable to errors in its data collection or reporting. Our review did not reveal any major errors, but the unusually large decline, absent a statewide effort, warrants caution. On the other hand, at least two large districts in Florida, Broward and Miami-Dade Counties, have engaged in substantial efforts to reduce the use of suspension, including a total ban on out-of-school suspensions in Miami-Dade. The district may have engaged in efforts prior to the ban, but the ban itself did not take place until the 2016–17 school year.[86] CCRR is not aware of similar efforts in New Mexico or Alabama, but a comprehensive review of possible contributions of state- or district-level policy changes is beyond the scope of this report.

Although not depicted, we analyzed each state's overall changes as well as the changes for each racial and ethnic group. In Appendix D, readers can find a set of tables, D3 and D4, documenting the 10 states with the largest student suspension rate increases and decreases. The good news is that there were no states that have increased their suspension rates overall. The bad news is that despite this general trajectory, there are states that have increased suspension rates for Black students. The states that showed the largest increase in Black student suspension rates at the secondary level, all above 2 percentage point increases, are Nevada (7.8 points), Arkansas (2.6 points), North Dakota (2.5 points), and Kansas (2.2 points).

These states buck the general trend of decreasing suspension rates, at least with regard to Black students. Nevada's increase was much larger than found in any of the other states showing an increase. It would be worth reviewing whether there were statewide changes or discipline policy changes in Las Vegas, the district with the highest enrollment of Black students. In fact, it is possible that for all the states described thus far with relatively low percentages of Black students, the increase is attributable to a change in policy or practice in just one or two districts. Only three others had increases for Black students—Vermont, Montana, and South Carolina—but in each of those states, the increase was less than 2 percentage points.

District Trends Show Some Very Large Reductions in the Risk for Suspension but Also Dramatic Increases

As important as state policy and practice are, the real work reforming school discipline takes place in schools and classrooms. The district analyses that follow feature the five districts that the data suggest are making the most progress in Table 4.

Table 4: Top 5 Districts: Largest Decline in Out-of-School Suspension Risk at the Secondary Level From 2011–12 to 2015–16

State	District	Rate	All Students	Latinx	Native American	Asian	Black	White	SWD (IDEA)
FL	Dade County School District	2011–12 Rate	16.5	12.3	9.4	3.9	30.9	8.5	41.4
		2015–16 Rate	0.6	0.6	0	0	0.9	0.5	0.5
		Change	**-15.9**	**-11.8**	**-9.4**	**-3.9**	**-30**	**-8**	**-40.9**
FL	Okaloosa School District	2011–12 Rate	16.6	29.5	46.2	9	26.1	13.6	37.7
		2015–16 Rate	1.2	0.8	0	0	2.3	1.1	3.4
		Change	**-15.4**	**-28.7**	**-46.2**	**-9**	**-23.8**	**-12.5**	**-34.3**
IL	Community High School District 218	2011–12 Rate	16.7	11.5	16.7	8.1	30.2	10	29.2
		2015–16 Rate	1.9	1.2	0	0	3.9	0.8	4.1
		Change	**-14.8**	**-10.3**	**-16.7**	**-8.1**	**-26.3**	**-9.2**	**-25.1**
TX	Texas Can Academies School District	2011–12 Rate	16.8	16.9	*	0	18.1	0	5.3
		2015–16 Rate	2.1	1.7	*	0	3.8	1.52	2.8
		Change	**-14.7**	**-15.2**	**2.3**	**0**	**-14.3**	**1.5**	**-2.4**
KS	Haysville School District	2011–12 Rate	13.8	13.1	14.8	9.1	40	14.7	28.
		2015–16 Rate	1.2	1.3	0	0	0	1.4	3.3
		Change	**-12.5**	**-11.8**	**-14.8**	**-9.1**	**-40**	**-13.30**	**-25.1**

Note: Change calculated using unrounded numbers. All rates are percentages, but the differences are percentage points. Asterisks refer to no data or a subgroup that had less than 10 students.

Source: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2011–12 and 2015–16.

Table 5 shows the five districts that are bucking the state and national downward trend and increasing suspension rates. In the five districts showing the largest declines (Table 4), the biggest improvements were for the subgroups with the highest suspension rates. In Table 5, we see that the opposite tends to be the pattern with regard to districts showing an increase.

Table 5: Top 5 Districts: Largest Increase in Out-of-School Suspension Risk at the Secondary Level From 2011–12 to 2015–16

State	District	Rate	All Students	Latinx	Native American	Asian	Hawaiian or Pacific Islander	Black	White	SWD (IDEA)
GA	Richmond County School District	2011–12 Rate	12.4	6.8	0	0	3.3	13.8	9.4	19.4
		2015–16 Rate	29.6	13.5	33.3	9.1	31.3	34.6	12.8	33.2
		Change	**17.1**	**6.7**	**33.3**	**9.1**	**27.9**	**20.9**	**3.4**	**13.8**
NJ	Trenton Public School District	2011–12 Rate	3.3	4.2	*	0	*	3.0	0	0.4
		2015–16 Rate	18.7	8.4	*	0	0	27.7	8.3	25.3
		Change	**15.5**	**4.1**	*	**0**	*	**24.7**	**8.3**	**24.8**
MO	Ferguson-Florissant R-II School District	2011–12 Rate	25.9	20	*	14.3	*	29.4	10.1	38.8
		2015–16 Rate	41.2	26.1	*	0	0	45.5	17.6	46.9
		Change	**15.3**	**6.1**	*	**-14.3**	*	**16.1**	**7.5**	**8.1**
OH	Reynoldsburg City School District	2011–12 Rate	10.7	13.3	0	0	*	15.9	6.7	24.2
		2015–16 Rate	25.0	9.1	0	3.8	*	38.4	15.3	54.9
		Change	**14.3**	**-4.2**	**0**	**3.8**	*	**22.5**	**8.6**	**30.7**
IN	South Bend Community Corp. School District	2011–12 Rate	9.8	7.2	0	0	*	17.1	4.4	2.3
		2015–16 Rate	24.0	15.1	28.6	3.4	0	42.1	11.0	37.7
		Change	**14.2**	**7.8**	**28.6**	**3.4**	*	**25.0**	**6.6**	**35.4**

Notes: Districts considered included a minimum of 3,000 students, 100 Black students, 100 students with disabilities, and suspension risks above or equal to the national average. The numbers above show the percentage points (absolute difference) of the 2015–16 suspension risk subtracted by the 2011–12 suspension risk. Asterisks refer to no data or a subgroup that had less than 10 students.

Source: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2011–12 and 2015–16.

The increases and decreases observed in certain districts suggest either a policy change or, in some cases, a data error. It will be important to revisit these listed districts once the overdue 2017–18 data are released to the public by the U.S. Department of Education (DoED).

This report defined the districts showing the largest declines and those with the largest increases in terms of the change experienced by all students enrolled. We provide the breakdown, including the trends, by race/ethnicity and, separately, for students with disabilities for several reasons. Most importantly, we want the public and public policymakers to be aware of the degree to which out-of-school suspensions are used and just how strong the racialized impact of suspensions can be on educational opportunity. In the following section, we highlight historically discriminated against student groups. Throughout this report we have emphasized the impact on Black students and students with disabilities. However, in this last section, we focus on the districts where Latinx and Native American students are experiencing extraordinarily high rates of disciplinary removal.

Districts With Highest Suspension Rates for Specific Subgroups

The districts listed in Table 5 suspend students at rates that far exceed national and state averages. Readers can use the spreadsheets made available with this report to sort for the highest-suspending districts for any subgroup (some additional subgroup analyses are in Appendix C). Here, we highlight districts that suspend Latinx students and, separately, Native American students at high rates. For Latinx students, these districts had at least 1,000 students and at least 500 from the subgroup at the secondary level.

Table 6: Changes in Districts With Highest Suspension Rates for Latinx Students (2011–12 and 2015–16)

State	District	Total Enrollment 2015–16	Latinx Enrollment 2015–16	Latinx OSS Risk 2011–12	Latinx OSS Risk 2015–16	Change (Percentage Points)
NJ	Camden City Public Schools	2,475	1,045	21.1%	39.7%	+18.6
CA	Panama-Buena Vista Union School District	3,835	2,080	23.4%	35.1%	+11.7
MA	Southbridge School District	1,035	550	14.1%	33.6%	+19.5
PA	Erie City School District	4,625	550	34.0%	32.7%	-1.3
AZ	Flowing Wells Unified District	2,660	795	15.0%	30.8%	+15.8
PA	Reading School District	7,950	6,550	36.2%	30.0%	-6.2
NY	Schenectady City School District	3,410	560	31.0%	29.5%	-1.6
NH	Manchester School District	7,465	1,355	13.1%	28.0%	+15.0
CT	Waterbury School District	8,155	4,175	25.1%	26.9%	+1.8
NJ	Atlantic City Public Schools	1,955	710	31.8%	26.1%	-5.7
NY	Amsterdam City School District	1,930	770	18.0%	26.0%	+8.0
CA	Corcoran Joint Unified	1,580	1,395	33.7%	25.4%	-8.2
MI	Cesar Chavez Academy	1,305	1,180	8.1%	25.4%	+17.3
NJ	North Bergen School District	2,510	2,090	16.8%	23.9%	+7.1
VA	Richmond City Public Schools	10,100	1,065	14.0%	23.0%	+9.0
NJ	Bayonne School District	2,580	930	32.1%	22.6%	-9.5
CO	Adams County School District 14	3,615	3,015	16.3%	22.6%	+6.2
IN	Merrillville Community School District	4,255	745	21.6%	22.1%	+0.5
CO	Harrison School District No. 2 in the County of El Paso	5,025	2,425	23.6%	21.6%	-1.9
PA	Wilkes-Barre Area School District	3,065	790	25.0%	21.5%	-3.5

OSS = out-of-school suspension.

Source: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015–16.

The 20 highest-suspending districts for Latinx students came from just 11 states. Pennsylvania and New Jersey each had three of the highest-suspending districts, and California and Colorado each had two. We filtered for districts with at least 500 Latinx students and at least 1,000 students, and approximately 1,680 districts met this baseline criteria in 48 different states.

Despite the high rates, some districts have made noticeable reductions since 2011–12, while others have considerably increased their suspension rates. For example, both the Bayonne, NJ, district and Adams County School District 14 in Colorado had the same Latinx risk for suspension of 22.6% in 2015–16. However, the New Jersey district had decreased Latinx rates by nearly 10 percentage points, while the rates in the Colorado district had gained over 6 points during the same time span. In a third district, the Merrillville Community School District in Indiana, Latinx students were suspended at a similarly high rate of 22.1%, but their rate remained nearly unchanged since 2011–12. Although not shown in Table 6, all three districts suspended Latinx students with disabilities at rates that are among the highest in the country.

It is quite possible that each district represents a very different set of policy and practice concerns. In one district, teachers and officials may be making strides to address these concerns; in another, the district may have made a policy change for the worse; and another may not even recognize there is a problem. The descriptive data presented is intended to help raise these questions, which only a much closer analysis can hope to answer. Of course, there may be a multitude of reasons that suspension rates are particularly high for Latinx students in these districts. Although not part of Table 6, in-school suspension rates are also important to review. Waterbury, CT, for example, is among the districts with the nation's highest Latinx out-of-school suspension rates and also ranks among the highest for in-school suspension rates. The same is true for the North Bergen and the Passaic County Manchester Regional High School Districts in New Jersey, both with Latinx in-school suspension rates of over 30%.

Districts With Highest Suspension Rates for Native Americans

In order to analyze the data for the districts with the highest rates for Native American students, we filtered for districts with at least 100 Native American students and total district enrollment of at least 200 students. Using enrollment sizes as large as those used for the Latinx analysis would have resulted in the exclusion of far too many districts.

Table 7: Changes in Native American Suspension Rates in Some of the Highest-Suspending Districts (2015–16)

State	District	Total Enrollment 2015–16	Native American Enrollment 2015–16	Native American OSS Risk 2011–12	Native American OSS Risk 2015–16	2015–16 and 2011–12 Native American Change (Percentage Points)
MT	Poplar High School District	200	195	18.4%	74.4%	+56.0
MT	Browning Elementary School District	310	300	47.1%	61.7%	+14.6
CO	Colorado Springs School District No. 11	12,225	115	13.3%	52.2%	+38.8
AZ	Whiteriver Unified School District	840	825	37.7%	48.5%	+10.8
AZ	Baboquivari Unified School District #40	390	380	19.6%	38.2%	+18.6
AZ	San Carlos Unified School District	620	620	24.3%	37.1%	+12.8
AZ	Sacaton Elementary School District	350	315	36.6%	34.9%	-1.7
MN	Red Lake Public School District	550	550	56.4%	34.5%	-21.9
MT	Poplar Elementary School District	340	330	54.2%	33.3%	-20.8
AZ	Piñon Unified District	650	635	34.2%	33.1%	-1.1
OK	Ketchum Public Schools	320	145	14.3%	31.0%	+16.7
MT	Polson Elementary School District	495	190	25.0%	28.9%	+3.9
SD	Todd County School District 66-1	825	795	57.6%	28.9%	-28.7
MN	Bemidji Public School District	2,465	365	0.0%	28.8%	+28.8
AZ	Kingman Unified School District	3,305	105	50.0%	28.6%	-21.4
WY	Fremont County School District #25	1,355	245	20.0%	28.6%	+8.6
MN	St. Paul Public School District	16,875	215	26.5%	27.9%	+1.4
OK	Oklahoma City School District	12,455	515	51.0%	27.2%	-23.8
AZ	Salt River Pima-Maricopa Community Schools	265	230	27.6%	26.1%	-1.5
AZ	Casa Grande Elementary School District	2,400	135	16.0%	25.9%	+10

OSS = out-of-school suspension.

Source: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015–16.

The 20 highest-suspending districts for Native American students were located in just six states. Eight were located in Arizona, five in Montana, and three in Minnesota. In all of the listed districts, administrators suspended more than 1 in 4 Native American students in 2015–16. In the highest-suspending district, it was approximately 3 out of every 4.

These high and disparate rates are discouraging, but these data are from 2015–16. As of August 14, 2020, the newer data from 2017–18 had not yet been released by DoED. Some of the districts featured in Part II may have since found ways to lower their suspension rates. On the other hand, we have heard disconcerting anecdotes from community advocates in some districts in California, where their efforts have appeared to help, that some schools are finding other ways to remove students and are not actually implementing the reforms as intended. These unhealthy alternatives range from "off-the-books" suspensions to an increase in the rates of referrals to law enforcement.[87] Although we have not found evidence that this offsetting behavior is widespread, we are concerned that there is some inappropriate gaming of the system. When it comes to the harmful impact of school discipline, a more comprehensive review, beyond out-of-school suspensions, would better reflect the reality experienced by students, and especially students of color. This means that without a more comprehensive review of data, there may be some districts with low, or just not particularly high, suspension rates, but those rates do not accurately represent their responses to student misconduct. Although off-the-books suspensions cannot be captured, a more comprehensive review of the data regarding other responses to misconduct, for which the data are collected, would provide a clearer sense of how punitive discipline may be diminishing access to instruction and obstructing the opportunity to learn.

For example, after civil rights advocates voiced numerous concerns about school policing generally, OCR began collecting data from schools on their referral of students to law enforcement and the subset of these referrals that resulted in arrests. These data became a required part of the CRDC beginning in 2009–10. In addition, some educators might inappropriately call police to respond to normal adolescent behaviors, especially those by students of color. For this reason, we present a limited view of these data in Part III and included these data for every district in the corresponding spreadsheets.

Part III: School Policing, Lost Instruction, Referrals to Law Enforcement, and School-Related Arrests

In the wake of the massive protests against police brutality and the murder of George Floyd, there has been a spillover effect from the heightened awareness of abusive policing directed at Black people as well as against those protesting the racist and excessive use of force, with many school districts taking action and leading initiatives to sever or limit their relationships with local police departments across the country. Many large districts are taking steps to eliminate school-based law enforcement, including Denver; Milwaukee; Minneapolis; Oakland, CA; and Portland, OR.

Additionally, there are proposed actions in many other cities.[88] These changes do not mean that schools will not still refer students to law enforcement. In preparing this report, we did intend to have a longer and more detailed third section on student referrals to law enforcement and student school-related arrests at the national, state, and district levels. However, in 2015–16, the data on school-related arrests were either zero or missing from the *majority* of the largest districts in the nation, including Los Angeles Unified School District and New York City. This means that the state and national data are also seriously underrepresenting the degree of student referrals and arrests for school-related behaviors.

These data are critically important to the formation of public policy, and districts are required to report these data, every other year, to DoED as part of the CRDC.[89] Moreover, states and districts are required to report these data annually to the public as part of their report cards, pursuant to the federal Every Student Succeeds Act of 2015 (ESSA).[90] Where we can see the data, the disparities are often stark. Yet widespread reporting noncompliance has meant that the public cannot tell how often most districts called upon police and security to enforce school rules. Without reliable public reporting of the data, the true extent of the school policing disparities and their impact on students by race and disability remain hidden. Further, without a substantial improvement to the collection and reporting of the school policing data it will remain difficult to evaluate reform efforts.

However, the Center for Civil Rights Remedies (CCRR) was able to take a closer look at the data on security personnel and lost instruction for all of the high schools in California. Using the 2015–16 OCR data, CCRR developed a way to detect whether having more security staff was related to higher rates of lost instruction for high school students in California. Specifically, in a report called *Is California Doing Enough to Close the School Discipline Gap?* CCRR examined the relationship between days of lost instruction and different levels of staffing in California high schools. That study found a positive relationship between security staff-to-student ratios and rates of lost instruction for all students, after controlling for poverty. That is, across the group of schools, an increase in the security staff-to-student ratio was related to an increase in the rate of lost instruction. In addition, the CCRR report contains a sub-analysis across all the high schools in California that had at least 100 Black students and found that there was an even stronger positive association between an increase in the security staff-to-student ratio and an increase in rates of lost instruction for Black students. Across this subset of high schools, the study also found that an increase in the support staff-to-student ratio was associated with a decrease in the rate of lost instruction for Black students. CCRR's recent study is the first to describe an association between higher rates of lost instruction and higher security staff-to-student ratios in California, but other

national studies have had similar findings, suggesting that when police are in our schools, they either get directly involved in routine school discipline or their presence indirectly contributes to a harsher, more exclusionary climate.[91]

In 2014, during the Obama administration, the discipline guidance that was issued jointly by the U.S. education and justice departments (since rescinded by the Trump administration) explains that law enforcement should not be involved in routine school discipline.[92] One reason why is that school authorities have similar obligations toward students as parents have to their children under the legal doctrine of *in loco parentis*, which means that the adults in the school are standing in the place of parents. Therefore, schools are expected to act in the best interest of the child. The doctrine has also been interpreted to mean that students do not have the same legal protections against search and seizure when in school as they would if they were on a street corner.[93]

One would not expect educators who are acting in the place of parents to call the police on their students as a response to minor misconduct, such as acting with disrespect, failing to cooperate, or disrupting a public assembly. Unfortunately, the data suggest that, in many schools, they do.[94] For example, the chief of Oakland's school police told the *San Francisco Chronicle* that the police only come to the school when they are called and that of the 2,000 calls they receive each year, only about 600 entail misconduct that warrants police intervention. In other words, over 70% of the time, a different response that did not involve the police would have been more appropriate.[95] On June 24, 2020, the Oakland Board of Education unanimously voted to end the Oakland School Police Department's involvement in Oakland schools and adopted the George Floyd Resolution, which called for dedicating the saved funding to student support services instead.[96] The Los Angeles Board of Education failed to pass a similar proposal a day earlier. One of several reasons one board member suggested was that the board just did not have enough data.[97]

The need for districts to report accurate data on referrals to law enforcement and school-related arrests is of heightened importance, given that many districts in previous years have hired more law enforcement and security personnel.[98] According to the latest data from the National Center for Education Statistics (NCES), the proportion of public elementary and secondary schools in the United States with school security staff—including school resource officers (SROs), armed guards, etc.—showed a 50% increase from 2005–06 to 2017–18 (41.7% of schools to 61.4% of schools). And that includes a 5 percentage point increase from 2015–16 to 2017–18, when it grew from 56.5% to 61.4%.[99] In secondary schools serving over 75% students from low-income families, an even larger 6.5 percentage point increase was reported during the same period.

In 2017–18, compared to the national average of 61.4%, the proportion of public schools in the United States with school security staff was even higher for:

- Large schools (1,000 or more students), at 94.3%;
- High schools, at 84.3%; and
- Over 75% non-White enrollment schools, at 67.4%.

However, Denise C. Gottfredson, one of the nation's leading researchers on school safety and juvenile delinquency, has stated that "there is no evidence that placing officers in the schools improves safety."[100] The effort to deter school shootings is likely one contributing factor to the

increase in police on campus, but the research available does not indicate that armed security guards deter school shooters.[101] For example, Professor Aaron Kupchik, an expert on school policing, has argued: [102]

- There is no evidence showing that school police prevent school shootings.
- There is no research that shows that having police on campus reduces student crime.
- There is evidence that the presence of SROs results in criminalization of routine discipline issues, with students being sent to juvenile court rather than to the principal's office.

Further, contributing authors to *Closing the School Discipline Gap* suggested that hiring police and spending education dollars to increase security could be counterproductive.[103] For example, Osher and colleagues showed that additional investment in security by the Cleveland School District following a school shooting there did not increase teachers' sense of security or reduce the number of behavioral incidents.[104]

Finn and Servoss found higher suspension rates, especially for Black and Latinx males, in the schools that had invested more in security measures, including random student searches, drug sweeps, a greater police presence, metal detectors, and security cameras.[105] Not surprisingly, a higher degree of "school security" was significantly related to neighborhood crime and urbanicity. About 90% of schools in high-crime neighborhoods had a high level of security, compared to 27% of schools in low-crime neighborhoods. However, after applying school-level controls, investing in additional security was not associated with better behavior or higher safety ratings but was associated with higher suspension rates, especially for Black males. A subsequent analysis by Dr. Servoss revealed that, after controlling for higher levels of crime, having higher security was associated with having more Black students.[106]

Moreover, one recent study, published by the University of Texas at Austin in 2018, controlled for the influence of poverty and many other factors associated with more police in schools and found that "receiving federal funding for school police in Texas increases disciplinary rates for middle school students by 6% but does not change high school disciplinary rates."[107] Even proponents of additional school security have acknowledged the potential problem that if police are on campus, they will wind up involved in routine school discipline. For example, in his discussion of different models of deploying SROs, a leading consultant for the school security industry writes, "Assigned SROs can also be misused by school staff: There are stories of staff who ask SROs to inappropriately help to enforce school rules.... At times administrators who may be trying to make the case for removing a student from school may even ask the SRO to give a citation or arrest a student for breaking a school rule."[108] Other studies have shown that police officers in school settings often use law enforcement tactics, including random sweeps, student searches, drug testing, and interrogations.[109]

One reason a police presence might be expected to escalate problematic behaviors is because police are trained to look for trouble and are evaluated on the basis of issuing citations and making arrests.[110] Advocates have many examples of abusive school policing, and several have resulted in litigation.[111] These concerns are greater for exchanges between police and students of color, given the numerous anecdotes and studies suggesting that police regularly engage in racial profiling.[112] Moreover, many videos show police overreacting to students of color, body-slamming students for minor misconduct, and handcuffing even very young children of color.[113] The report *We Came to Learn: A Call to Action for Police-Free Schools* by the Advancement Project documents the history of

the school policing model and discusses "how school police became institutionalized in America's public education system through funding and policy at both the federal and local level." The report chronicles the cases of excessive and abusive conduct by school security personnel between 2010 and 2018.[114]

Other studies and anecdotes have fueled concern that adding police in schools criminalizes typical adolescent misconduct.[115] For example, Judge Steven Teske, Chief Judge of the Juvenile Court of Clayton County, GA, testified before the U.S. Senate that adding police in Clayton County, GA, dramatically increased the number of students in his court who had been charged with felony misdemeanors based on school-related misconduct.[116] Judge Judith Kaye, the former Chief Judge of the New York Court of Appeals and Chair of the New York State Permanent Judicial Commission on Justice for Children, organized a national conference to address these concerns. The lack of data and the inaccuracies of existing data were also raised at this conference, and these data issues have been recurring problems among those trying to study the impact of school police on students.

A tremendous amount of data on school policing are missing: After we determined that the referral to law enforcement and school-related arrest data were seriously underreported, we decided to further expose the extent of the missing data.[117] In fact, this report is the first to provide a comprehensive review of the extent of the missing data. Given that referrals to law enforcement and school-related arrests are more likely to happen to middle and high school–age children, and in districts with large numbers of secondary-level children, to highlight the likelihood that the zeros were not accurate, we narrowed this report's findings regarding the referral and school-related arrest data to the secondary level for all of the 1,630 districts in the United States that enrolled at least 3,000 secondary students. The percentages of these schools as described below only reflect data reporting at the secondary level:

- Approximately 60% of all the large districts reported zero school-related arrests.[118]
- Just over 32% reported zero referrals to law enforcement and zero school-related arrests.
- Slightly more than 16% reported the identical number of referrals to law enforcement as school-related arrests.

These findings raise the possibility that districts with identical numbers of students arrested and referred might have underreported referrals because not all referrals to law enforcement lead to an arrest. Specifically, OCR defines referrals as including all calls to law enforcement. It also includes all tickets, citations, or other violation notices for school-related conduct and all arrests. It is likely that some portion of the approximately 265 districts with identical counts of arrests and referrals only counted arrests and reported that number in both columns. It is also possible that districts only knew their referral numbers and put that number in both places, and in some districts, the police may have arrested each of the students that were referred.[119]

Further, when we looked only at districts serving at least 500 Black secondary students, that group of 1,200 districts had an even higher percentage of missing policing data.[120] These data are particularly questionable because there is extensive research demonstrating that predominately Black districts experience higher degrees of security and higher percentages of referrals to law enforcement and school-related arrests.[121] Given the large amounts of missing, erroneous, and clearly suspect data, in order to avoid adding to the likely misperception that such rates are as low

as reported using the CRDC data, we do not report the national or state data. Instead, we analyzed data only for a limited subset of districts, and we feature those with high rates of student who were arrested.

Some districts had extremely high rates of Black student school-related arrests: In Table 8, we selected to report on all the districts with at least 200 Black secondary students that reported a rate of Black student school-related arrests of 50 or higher per 1,000 students. All these districts reported and certified their data as accurate. Further, because it is common that elementary students are not arrested, the rates for arrest are much lower when reviewed using data on all grades, k–12. For example, Table 8 shows that in the College Community School District in Iowa, the Black student arrest rate at the secondary level was 22.5%. However, if we included the data from the elementary schools, there were approximately 45 students arrested and 350 Black students enrolled across all grades. The rate when calculated including elementary school students was approximately 10.7 %, less than half the secondary-level student arrest rate.

Table 8: Top 25 Districts for Black Secondary Student School-Related Arrest Percentage Rates (2015–16)

State	District	Total Secondary Enrollment	White Student Arrest Rate	Black Student Arrest Rate	Black-White Difference in Arrest Rates
IA	College Community School District	3,150	5.5%	22.5%	17.0
WI	Janesville School District	5,705	5.5%	20.3%	14.8
MO	Normandy Schools Collaborative District	975	0.0%	16.8%	16.8
NJ	Greater Egg Harbor Regional High School District	3,260	1.8%	13.2%	11.4
GA	Seminole County School District	825	2.4%	12.2%	9.8
IA	Dubuque Community School District	5,660	1.2%	11.5%	10.4
PA	Pittsburgh School District	9,820	1.8%	10.1%	8.3
PA	Steelton-Highspire School District	525	0.0%	8.8%	8.8
NV	Washoe County School District	30,860	1.9%	8.3%	6.4
PA	York City School District	1,135	0.0%	8.2%	8.2
IA	Waterloo Community School District	5,340	1.2%	8.0%	6.8
PA	Wilkes-Barre Area School District	3,065	1.6%	7.8%	6.2
IN	Richmond Community Schools District	2,805	2.8%	7.7%	4.9

State	District	Total Secondary Enrollment	White Student Arrest Rate	Black Student Arrest Rate	Black-White Difference in Arrest Rates
IN	Muncie Community Schools	2,810	3.6%	7.3%	3.6
PA	Bensalem Township School District	2,650	3.0%	6.9%	4.0
OK	Muskogee School District	2,300	3.8%	6.8%	3.0
PA	Allentown City School District	8,030	1.0%	6.6%	5.6
PA	Pottsgrove School District	1,765	0.8%	6.5%	5.7
MD	Wicomico County Public Schools	6,855	1.9%	6.3%	4.4
SC	Barnwell 19 School District	315	0.0%	6.3%	6.3
DE	Lake Forest School District	1,865	1.7%	6.0%	4.4
PA	Central York School District	2,790	0.3%	5.6%	5.3
MD	Washington County Public Schools	11,700	1.0%	5.4%	4.4
MI	Education Achievement Authority of Michigan	2,800	-	5.4%	-
MS	Picayune School District	1,445	1.1%	5.3%	4.1

Note: Districts with at least 200 Black secondary students that reported a rate of school-related arrests for Black students at 5% or higher. In the table above, we removed five districts that reported more arrests than referrals to law enforcement because they did not apply the CRDC definition for referrals to law enforcement.

Source: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015–16.

In each of the districts, more than one Black student was arrested for every 20 Black secondary students enrolled (>5%). In most of the selected districts, the Black student arrest rates are much higher. Given the awareness of unjustified arrests of Black people throughout America, and the general assumption that individuals are innocent until proven guilty, we should not assume that just because Black students were arrested for school-related behavior that they actually engaged in dangerous or criminal behavior. It is noteworthy that none of the racially disaggregated federally collected data on school-related arrests describe the reasons or incidents leading to the arrest. From states that do report incidents resulting in arrests, however, we know that misconduct like "disruption of a school assembly" is fairly common.[122]

We acknowledge that the CRDC 2015–16 data, being over 4 years old, may not reflect current arrest rates. Considering that the NCES data cited earlier indicate that there are more police on campus than there were in 2015–16, the more recent rates are likely higher. As the nation bears witness to incidents of police brutality, generally, and as concerns mount regarding the impact of racism on police forces around the country, we must recognize that, in many cases, those are the same police that patrol the hallways of our schools. The increasing numbers of police on campus only adds to these concerns. Some districts employ private security guards, and many large districts have both security guards and sworn law enforcement officers on their staffs.

This report has raised serious concerns about the impact of the growing numbers of police and security staff, but no recent disaggregated data exist to analyze all the schools in the nation. In July 2020 we filed a formal Freedom of Information Act request with OCR seeking the 2017–18 data that it had already collected from districts. Within 2 weeks, OCR responded that the data were not yet available. While OCR has no explicitly required timeline for reporting these data to the public, there is a federal requirement that states and districts publicly report these data on an annual basis.

Specifically, pursuant to ESSA, signed into law by President Obama in December 2015, every state must report the disaggregated data on referrals to law enforcement and school-related arrests (in accord with the CRDC) in their state and district report cards.[123] As of July 20, 2020, CCRR completed its review of every state's website to see what is currently available and whether the data provided by each state complied with the requirements of the report card provisions:

- As of July 20, 2020, not one state was fully compliant.
- Thirteen states made a reference to the CRDC data in the report card sections of their websites and/or provided a link to the 2015–16 data posted on the DoED website.
- A handful of states, including Colorado, Indiana, Massachusetts, Maryland, and North Carolina, did provide some school policing data more recent than 2015–16 on their websites, at least at the district level.

Given our concerns about the impact on the civil rights of children from having police on school campuses, our compliance review checked to see whether both state and district report cards reported the data by race/ethnicity, disability, and English learner status for both referrals and arrests at the district level, nothing less than what ESSA requires. Moreover, while ESSA references the CRDC, a state could choose to create a different definition of "referral to law enforcement." In at least two states that had reported some more recent arrest and referral data, Indiana and Maryland, the referrals reported to the public only included those referrals resulting in an arrest.[124]

Of all the states, Rhode Island came closest to being fully compliant. Based on our review of the Rhode Island state report card and one large district in the state, it appears that the state provided all the CRDC data, including data on students with disabilities and English language learners.[125] In addition, it provided gender data and enabled users to see the cross-sectional data. For example, one can cross-reference discipline data broken down by race paired with disability or race paired with gender. Further, one can see the numbers of both students referred to law enforcement and students subjected to school-related arrests. Rhode Island deserves credit for making disaggregated district-level data easy to find and clearly included as part of the state and district report cards. The older data will provide a good baseline to measure trends, but ESSA report cards should contain the most recently collected data. The law requires states to report the data *in accord with* what was *collected* for the CRDC.[126]

Rhode Island's website also states: "Districts report these numbers directly to CRDC. **RIDE** [Rhode Island Department of Education] **does not verify the validity of the content** [bold emphasis added]."[127] This note is disturbing because it suggests that the state has not taken responsibility for the quality of these data when, in fact, ESSA's public reporting requirements are state obligations. DoED completed its collection of the 2017–18 CRDC data more than a year ago, in the spring of 2019. Rhode Island is responsible for collecting and publicly reporting these more recent data pursuant to ESSA. The state could have required that each of its districts send the state the same data that each district reported to the federal government. In Massachusetts, for example, the state has

reported recent data from 2018–19 on school-related arrests that it collected from each district. Many districts failed to provide their data to the state, and the state has yet to collect and report any of the required data on referrals to law enforcement.

The point of adding the data to the report card provisions of ESSA was to raise public awareness about potential school climate concerns and the excessive use of police in our public schools. Even in those states that were partially compliant and have posted more recent data, such as Massachusetts, we found that many very large districts have blanks or zeros where their school policing data should be. The combination of failed federal oversight and state *and* district noncompliance with ESSA's annual report card requirements has left state and district policymakers without the vital information they need to inform their school policing policy discussions. While some improvements are underway in some states, and although states like Rhode Island might quickly be compliant once OCR publishes the 2017–18 data, the widespread lack of compliance at the district level suggests that additional measures are needed to ensure that all members of the public can see data showing how often public school staff refer our children to the police and how often children are arrested for school-related conduct.

Discussion

It is important that readers understand the descriptive findings presented in this report in the larger policy context. At the federal level, the Trump administration has added more police to schools while it has diminished civil rights enforcement and oversight with regard to racial disparities in discipline. Specifically, the Department of Education's OCR has narrowed its enforcement scope,[128] and the DoED has rescinded its own aforementioned guidance issued jointly with the U.S. Department of Justice just 4 years ago in 2016. The latter change was opposed by at least 16 state attorneys general.[129] The guidance for school districts described how they might identify problematic racial disparities in school discipline and discouraged the involvement of law enforcement. It also provided suggestions on how districts might limit the involvement of school police in routine disciplinary matters. It was issued as part of a package of resources to help districts rethink their current policies and, when a causal connection was found between policies and racial/ethnic disparities, to pursue less-discriminatory alternatives.

DoED also attempted, in 2018, to rescind regulations designed to improve the monitoring of racial disproportionality in special education in three distinct areas: discipline, restrictive placements, and identification. A federal court struck down DoED's attempt, saying that DoED's proffered reasons were "arbitrary and capricious." In its attempts to justify these recent actions, DoED has echoed fear-based discourse on the subject of school discipline that was first raised in Breitbart News and *New York Post* editorials.[130] On the one hand, Secretary of Education Betsy DeVos used the tragedy of the Marjory Stoneman Douglas High School shooting to seek the rescission of both the guidance and the special education regulations, while on the other, she called for additional funds to add police in schools.[131] More recently, the U.S. Governmental Accountability Office analyzed the data on school suspensions and found that there was no indication that suspensions helped prevent shootings.[132]

Our major concern flowing from the recent actions of the Trump administration is that it signals that DoED is no longer concerned with, and is less likely to enforce, compliance with civil rights law. The administration is using education dollars to fund police, shifting public spending away from providing more and better qualified teachers, counselors, and other student support staff.[133] Despite serious shortages of funds in some districts, many will decide to increase spending on police, especially if there are federal grants encouraging them to do so. The aforementioned studies have suggested that investment in security does little to improve school climate or the conditions for learning.[134] In addition, a Texas study that found that federal funds for security were associated with an increase in disciplinary rates for middle school students also found that the rise in rates was "driven by a rise in disciplinary actions for low-level offenses or school conduct code violations, rather than serious offenses." The same study also found "suggestive evidence that exposure to a three-year federal grant for school police decreases high school graduation rates by approximately 2.5% and college enrollment rates by 4%."[135]

If we agree that there is too much lost instruction and that, despite the reductions and narrowing of the racial gap, the current disparities along the lines of race and disability depict a serious problem and a disparate economic burden, the core question for educators and policymakers becomes: What can we do about it?

Seek remedies to excessive discipline: There are likely many contributing factors to excessive and disparate discipline. In many cases, whether or not there is underlying discrimination, the harm is well established. If harsh and punitive school discipline policies are not educationally justifiable, we should replace them with sound and effective policies.

Appropriately frame the problem: How we frame the problem will drive the types of solutions we explore. If people are unaware of the large loss of instructional time due to suspension they might not realize that high rates and large disparities represent a serious problem. This report's emphasis on the days of lost instruction encompasses the adage, "We count what we care about!" If we care about equitable educational opportunity, then we should review how much educational instruction we take away, from whom, and to what end.

Several researchers and policy influencers have suggested that we need not take any actions until we learn more.[136] Although this may seem reasonable at first blush, there are two types of problematic assumptions with this approach: (1) that the status quo is acceptable; and (2) that we do not know enough about the remedy to change current policies and practices. Although it is beyond the scope of this descriptive report to respond fully, for the sake of this discussion, let us assume that data presented in this report indicates that, in many districts, the problem is real.

Undergirding the "study-only" approach is an assumption that the current frequent use of disciplinary removal is keeping chaos at bay. The belief that kicking out the "disruptive" students is likely beneficial to the "good" students is based on a false dichotomy that students are either disruptive or nondisruptive and that this is some immutable characteristic or deficit within the student. Findings from a Council of State Governments Justice Center study[137] suggest that the distinction is false, as more than 60% of Texas middle school students were suspended at least once by the time they left school.[138] This hard data on who gets suspended at some point during their schooling indicates that the majority of secondary students have, at one point or another, been counted among the "bad" or "disruptive." Therefore, if our responses to disruptive students are unjustified and harmful, it means that most students are being harmed, not helped.

Similar to the Texas study, a more recent national study by Dr. Janet Rosenbaum concluded that school factors, not students' characteristics, explained most of the differences in suspension rates among schools.[139] Similarly, another national study published in July 2019 used the National Longitudinal Survey of Youth from 1997 and determined that school suspensions contributed to the likelihood of committing an offense.[140]

Discrimination based on different treatment: Although it is difficult to assess the differences in treatment without a careful review of the records from similarly situated students, researchers with access to 12 years of individual student data for all the students in Louisiana were able to analyze this extensive set of data and find pairs of students, Black and White, who were punished for fighting with each other. Although the difference in punishment was not detected in every case, their review of the data found that the Black students tended to receive slightly longer suspensions.[141] A different national study, despite having serious limitations that made it less likely to detect discrimination, nonetheless did find that Black students were suspended 60% more often than similarly situated White students.[142] Most studies that were designed to look at different treatment look for clear indicators that similarly situated students committing the same offenses

were treated differently. Yet, as researchers from Tulane University in New Orleans point out, an analysis for different treatment is not capable of capturing the more subtle forms of different treatment and might only reveal the tip of the iceberg.

Discrimination based on implicit bias: We can measure the differences in the responses to similarly situated students who have similar misconduct and ask whether the students were suspended and, if so, for how long. We cannot capture, however, differences in perceptions of behavior or differences in how some misbehavior is tolerated and therefore does not even generate a report of a behavioral incident. For example, there is evidence from a rigorously controlled experiment on secondary teachers who possessed no explicit biases that indicates that when teachers believed the identical minor misbehavior was the first occurrence, they did not treat students differently and did not recommend suspension, but when teachers believed the behavior was repeated, they were more likely to recommend that Black students receive suspensions.[143]

A recent study examining teacher bias in discipline shows how implicit bias can influence not just our responses but our perceptions as well. The study, conducted by researchers at the Yale University Child Study Center,[144] prompted preschool teachers to look for signs of pending bad behavior and then tracked the eye movements of both Black and White teachers as they watched a screen playing four videos of individual Black and White preschoolers, separated by race with gender, with one video in each of the four corners of a large screen. In the study, no students were misbehaving or about to misbehave, yet all the teachers watched the Black boys far more than the other children. This also means that if Black boys misbehaved at equal rates as the other race/gender groups in the study, they would be observed misbehaving more often, thus reinforcing the racially biased expectations that they would be misbehaving more.

While many teachers and administrators would say they treat students equally, this study suggests that negative racial stereotypes about behavior can corrupt our expectations and influence whom we pay attention to and whom we ignore.[145] Of course, just as states and schools vary, the degree to which unjustifiable policies, explicit biases, or the subtler implicit biases exist also varies. Of course, other factors—such as the quantity and quality of support staff that students exposed to trauma may have access to, or the distribution of experienced school principals—may also contribute to discipline differences.

The obvious other contributing factors are differences in school policies and practices. Several studies suggest that a good deal of the racial disparities are explained by differences in policies between schools and not by evidence of different treatment by race within a school.[146] Some researchers have suggested in public forums that if race-neutral policies are to blame, and not intentional different treatment by teachers or administrators, then there is no racial discrimination. However, as the next section explores, even neutral policies designed for an education purpose, and applied with no intent to discriminate, can violate civil rights law if they have a disparate impact that cannot be justified.

Discrimination based on disparate impact: As an article written by Linda Darling-Hammond discussing the use of suspension points out, "[A] better way to make students safe is to invest in student supports, including social and emotional learning and mental health supports; community involvement, including access for children to health and social services supports that address the trauma many experience; and professional development for teachers and school staff."[147] In fact, if harsh disciplinary removal policies are not proven effective, in that they neither deter future

misbehavior nor are likely to improve the student's sense of safety or conditions of learning, then they are unjustified. Any policy or practice that causes a racially disparate burden should have an educational justification. The key concept is that if a policy provides no educational benefit but causes disparate harm, it would likely be deemed a violation of civil rights laws. Therefore, a review of a policy or practice for a possible unlawful disparate impact begins with a query into the educational justification. In some cases, the justification demonstrates the educational necessity of the policy in question. In those cases, there should be a further inquiry into alternative ways to meet the same necessary educational goal. Most importantly, when the need for the remedy to a disparate impact issue involves systemic changes to policies and practices, the replacement policy must meet the goal.

A policy that has a disparate impact because of policymakers' implicit bias is an additional example of how, in the real world, there may be a connection between different treatment and what appears to be a purely neutral policy with an unintended disparate impact. For example, if within a large district, Black students are more likely to attend a school that employs a harsh disciplinarian, has a much higher security staff-to-student ratio, or where the disparities in suspensions are linked to violation of rules that are not part of the district's official code of conduct, it becomes important to ask why harsher policies or practices are found in schools enrolling higher numbers of Black children. In other cases, rules that are very vaguely worded, such as suspensions for "uncooperative" or "disruptive" behavior or otherwise "detrimental to school climate" may be more susceptible to the influence of implicit bias and contribute more to the observed racial disparities than more objective rules, such as those prohibiting the possession of weapons or drugs.

The dividing line may not always be as clear as some legal analyses might suggest. When looking into disparate impact and different treatment (including implicit bias), the data disparities may reflect both. Moreover, considering that even the most well-intentioned educators may have implicit bias, there is good reason to think that the impact of implicit bias would not easily be captured using the different treatment analysis that compares responses to similarly misbehaving students. The assessment of different treatment only includes misconduct that was noticed *and* received an official response. However, the closer monitoring of Black students could also mean that there are misbehaviors of non-Black students that teachers missed entirely because they were monitoring Black students more closely. Consider the implications of the aforementioned Yale study of the differences in how teachers monitored preschool students. As the more closely observed Black students grow older, the repeated experience of unequal monitoring and the resulting disparities in punishment may erode trust and harm the relationships that Black students have with their teachers, and to school, generally. Given the complexity of discrimination, the remedy to one kind of discrimination often should also consider providing safeguards against the other.

Educators' discipline policy decisions make a difference: Nobody benefits if an educationally unsound policy sets forth harsh responses to student misbehavior and causes students to miss instruction. In some cases, educators may find that the rule itself is not needed, but more often the question is whether another type of consequence would be more effective. Even if one racial or ethnic group is observed to engage in minor misconduct more often than others, it would never justify that group receiving unsound punishment or a counterproductive response. For example, if a district initiated a policy that truant students were to be automatically suspended if they miss 10 days of school, the policy could be challenged by students from the most frequently truant racial/ethnic group, even if there was no question that they were truant more often. An effective response

to truancy should help improve student attendance, yet suspensions prohibit attendance. In this case, the central concern pursuant to disparate impact analysis would be whether suspending truant students helped improve future attendance. The equally important follow-up question would be whether a different kind of response, one that did not prohibit attendance, might be more effective. One should not accept disparate patterns as necessary just because the stated goal of the policy that caused the disparities is aligned with an educational purpose.

The disparate impact analysis is focused on the justification for the policy, including how well the consequence fits the intended purpose. When examining the justification for a harsh suspension policy, for example, it is important to resist unproven assumptions that the suspensions are serving the intended purpose, or that alternatives that reduce suspensions will create chaos or necessarily increase exposure of peers to disruptive youth. The heart of the civil rights concern about suspensions is that once it is clear that an unsound or unjustified policy or practice harms one group more than others, it becomes both a moral and legal imperative to eliminate it and, often, to replace the harmful policy with one that is sound and educationally justifiable.[148]

Policies and personnel choices matter: A high degree of variation is often found between schools within the same district. Although districts typically have a districtwide student code of conduct, in many districts, the individual school leaders have the autonomy to respond to student behavior according to their own beliefs and attitudes. A study by Dr. Russ Skiba that surveyed principals from every school in Indiana found that a principal's attitude on school discipline was not only the most powerful predictor of whether suspension rates were high or low but was also the strongest predictor of whether racial disparities were large or small (after controlling for poverty and several other factors).[149]

A similar finding in CCRR's recently released study of corporal punishment was that within most districts in the 19 states that still allow it, the decision to use corporal punishment was left to the discretion of individual school leaders. Often, we found that less than half the schools within a given district still paddled children. In many of the districts we reviewed, there was undeniable evidence that the policy of allowing corporal punishment had a disparate impact by race and by disability status.[150] In contrast, with suspension the issue of discretion is more complicated and considers the necessity of the rule, as well as the duration.

Although no national data have been collected on the reasons for suspension disaggregated by race, CCRR has examined data from every school and district in California and Massachusetts, two of several states that do collect it. Massachusetts provides a breakdown of the days of lost instruction for each code of conduct violation. Perhaps the most disturbing finding in our Massachusetts study is that the majority of suspensions (and resulting loss of instruction) come from the catchall category 18, which includes all nonviolent, non-drug, and noncriminal behaviors not already covered by the 17 other categories.[151] In other words, this vague area covers a wide range of minor behaviors that do not have their own distinct code categories, from disruption to skipping class. Our report, *Suspended Education in Massachusetts*, found that nearly all the highest-suspending districts in the state also had large racial gaps. Moreover, in nearly all of the high-suspending districts, 50% or more of the days of missed instruction were due to category 18 offenses.[152] This begs the question of whether policies that remove students from school for such minor misbehaviors are ever justifiable. Notably, at least three states—Ohio, Texas, and California—prohibit suspensions for minor misbehaviors for students in the early grades.

Teachers and leaders may need additional training to overcome a detrimental overuse of suspension. Teacher testimonials do suggest that educator training can make a tremendous difference. In fact, the American Federation of Teachers has dedicated one of its monthly publications to discipline reform and provided training on restorative justice to its members.[153] The National Education Association has similarly called for support and training for teachers in restorative approaches and other more effective practices.[154]

Research on teacher training programs suggests that training programs focused on improving teacher–student engagement may be effective in reducing racial discipline disparities. In one randomly controlled study of a teacher training program designed to improve teacher–student engagement among middle school teachers, researchers found this rigorous and sustained yearlong training program not only helped teachers improve their student engagement, as intended, but it also had the corollary positive impact of nearly eliminating disciplinary referrals to the principal's office, which also nearly eliminated the racial gap in school discipline.[155] In another study, districtwide training intended to boost mutual respect was associated with a narrowing of the racial discipline gap.[156]

More often, systemic changes, such as Positive Behavioral Interventions and Supports, that do include a training component for teachers have been shown to reduce suspensions. Often, these systemic changes do not include a direct effort to address the role that different forms of racial discrimination might play in the observed disparities, and no major changes are observed. However, as described in Appendix A, if racial progress and a narrowing of disparities is measured in strictly relative terms, if changes to the underlying rates are not carefully considered, and if researchers do not consider the narrowing of the racial difference in absolute terms, the efficacy of some approaches to narrowing disparities may be overlooked.[157]

Why measuring lost instruction due to suspensions is vitally important: A major reason we care about suspension disparities is that they lead to inequities in the opportunity to learn. However, measures like the risk for suspension do not fully capture the impact on instruction. By taking the tally of the total days lost and converting the data into rates of lost instruction, this report fully captures the immediate impact on educational opportunity as experienced by each group.

With this descriptive report, and by comparing the rates of lost instruction, educators, policymakers, and advocates can see with far greater clarity what the educationally disparate impact is from out-of-school suspensions. We encourage all states and districts to examine the disparate impact on instructional time every year, but it is especially important to reflect on these data this year, before schools reopen in person, given that the pandemic has already inflicted disparate instructional losses on many of the same groups that experienced the highest losses in 2015–16. When DoED eventually releases the data from 2017–18, we hope to update these results and especially our analyses describing the impact of suspensions in terms of the rates of lost instruction at the secondary level that too often remains hidden from view.

When students return to school, the pre-existing gaps in the opportunity to learn will have been seriously increased by the pandemic. Therefore, we hope readers examine the findings on lost instruction presented here (with their now shared understanding of the impact of being kept out of school) and seriously rethink exclusionary school discipline and the involvement of law enforcement and security guards. The need for alternatives to suspending students has never been more obvious. With this challenging context in mind, and based on both the descriptive findings and other research findings referenced in this report, we offer the following recommendations.

Recommendations

Eliminate unnecessary removals

Generally, policymakers at the federal, state, and local levels should eliminate the use of out-of-school suspensions and expulsions for lower-level offenses and should reduce the length of suspensions for other moderate and serious offenses, when practicable. In some cases, like suspensions for truancy, eliminating grounds for suspension requires no replacement.

Switch to more effective policies and practices that serve an educational purpose

In many other cases, policymakers should replace punitive discipline with supportive and inclusive responses that research indicates will likely serve a clear educational purpose. Toward this end, educators should pursue nonpunitive strategies—alternatives that teach responsibility, enhance social and emotional learning, and help students improve their conduct. Policymakers should consider supporting a range of alternatives, including trauma-informed, restorative, and culturally responsive practices that emphasize remedying root causes. A focus on the educational purpose should also encourage those using suspensions to reduce their duration. The success of alternative approaches frequently entails training to help teachers to improve classroom management skills in ways that are aligned with these responses. Administrators must also be provided with the training and support they need to implement discipline reforms with integrity and to improve equity in resources and outcomes.

Review and respond to discipline disparities to promote more equitable outcomes

Equitable approaches should include efforts to diminish the influence of racism and improve the multicultural responsiveness of all adult members of the school community, including regular reflection on the disparities in exclusionary discipline and its impact on the opportunity to learn. Therefore, a comprehensive understanding of the impact of disciplinary exclusion disparities along the lines of race, gender, English learner, and disability status ultimately entails evaluating the disparities in days of lost instruction due to disciplinary removal. The point of such reflection is not only to discourage the use of suspensions, but also to reduce their length when they are used which will help diminish their disparate impact as much as possible.

Policymakers should also consider supporting teacher training designed to improve teacher–student engagement. These and other approaches that improve the quality of relationships between teachers and students have also shown promise for reducing suspensions and their racially disparate impact on educational opportunity. More efforts are needed to understand and eliminate the impact of racial discrimination on disciplinary decisions, including the invocation of law enforcement.

Some of the recommendations above and some that follow may be beyond the scope of the particular descriptive research presented in this report, but all are based on our prior studies, including research featured in our book, *Closing the School Discipline Gap: Equitable Remedies for Excessive Exclusion*; broader knowledge of the research literature; and experience providing assistance to states and districts. Based on our broader understandings, we also encourage Congress to consider the recommendations specified by the Leadership Conference on Civil and

Human Rights' letter to Congress, titled "Civil Rights Principles for Safe, Healthy, and Inclusive School Climates," which was joined by 295 signatories on June 19, 2020, including the Civil Rights Project at UCLA.[158]

In addition, at all levels, policy changes are needed to ensure that when efforts to address excessive and disparate discipline are undertaken, progress is evaluated using the following two principles:

1. Reduce the harm experienced by those groups that are most often suspended by reducing both the use and the duration of suspensions.
2. Prioritize efforts that help prevent misconduct.

Federal law and policy recommendations: More efforts are needed to eliminate the impact of racial discrimination on disciplinary responses. The following recommendations apply to the federal government, including the presidential administration, and reflect areas of concern raised in the current report.

- The administration should reinstate the U.S. Department of Education (DoED) and U.S. Department of Justice's 2016 guidance on school discipline to inform state and local efforts to eliminate the discriminatory use of exclusionary discipline policies.
- Once the guidance is reinstated, these two enforcement agencies should review the data for districts with large disparities in rates of lost instruction, as well as high and disparate rates of referrals to law enforcement, and intervene as appropriate.
- Congress should increase funding to federal civil rights enforcement agencies to increase their capacity to conduct the suggested reviews and interventions.
- DoED should offer technical assistance, alongside increased oversight and accountability, to ensure that states and districts accurately report their discipline data, including required but often underreported data on referrals to law enforcement and school-related arrests.
- Congress should add a private right of action to ensure that, when necessary, individuals can take recourse in a court of law when asserting systemic forms of discrimination, including policies and practices that may fall afoul of the disparate impact regulations pertaining to race, national origin, gender, and disability discrimination.
- DoED needs to continue to collect and report discipline data, including days of lost instruction due to out-of-school suspensions, and referrals to law enforcement and school-related arrests, but do so annually.
- OCR needs to add to the current CRDC a collection of data on the total number of suspensions. For each suspension, the primary reason for the suspension should also be collected, and these data should be publicly reported on OCR's website.
- Congress should provide federal funding to states and districts to encourage training of teachers and administrators to implement more effective alternatives to punitive and exclusionary forms of school discipline, and to ensure that there are sufficient support personnel to address the needs of students with disabilities as well as students with mental health needs, including youth who have experienced trauma.

- DoED should support additional state- and district-level research regarding more effective policies and practices to use instead of disciplinary removals.
- DoED should also provide additional accountability measures to discourage blatant noncompliance with data collection and reporting.
- DoED should also provide technical support to states and districts to ensure that the public at the state and local levels receives accurate and timely data on school climate, disaggregated across more than one protected category (e.g., race with disability as currently required by the CRDC).
- Members of Congress should request that the U.S. Government Accountability Office conduct a review of the extent of noncompliance with ESSA's state and district report card data requirements pertaining to referrals to law enforcement and school-related arrests.

State law and policy recommendations: State policymakers should improve the collection and public reporting of discipline data and create incentives for districts to reduce the use of suspensions, especially for minor offenses. State policymakers should also consider the following actions:

- State boards of education should review and revise the statewide accountability plan and make school discipline one of the additional nonacademic indicators for district accountability. In California, for example, any district that suspends over 6% of the enrolled student body is flagged as needing improvement, and the state then offers technical assistance.
- State departments of education should identify districts in the state that have problematic racial and disability disparities in discipline and, when applicable, provide support to identified districts to conduct root-cause analyses and effective redirection of Individuals With Disabilities Education Act (IDEA) funds toward coordinated early intervention services.
- State attorneys general should incorporate the federal school discipline guidance and increase enforcement of antidiscrimination laws in our public schools, especially with regard to unjust disciplinary removals. Several attorneys general have issued such statements. In Washington state, a combination of legislation, regulation, and state guidance is being implemented to target high and disparate exclusionary discipline, including transfers to alternative schools.
- Both the state departments of education and attorneys general should ensure the collection and public reporting of accurate discipline data in annual state and district report cards, including days of lost instruction due to out-of-school suspensions, referrals to law enforcement, and school-related arrests.
- State attorneys general should review the state's implementation of IDEA requirements to identify racial disproportionality in discipline among students with disabilities to ensure that state departments of education are appropriately implementing the federal regulations.
- State legislators should limit the use of suspensions to ensure that minor misconduct is not met with disciplinary exclusion from school. California, Texas, Ohio, and Connecticut all have passed legislation limiting the use of suspension for minor misconduct.

- State policymakers should eliminate the use of federal, state, and local funds for school police and/or security staff and encourage the elimination of police involvement in addressing routine school discipline. When practicable, funds delineated for police and security should be redirected toward direct supports for students, teachers, and administrators.

Recommendations for local policymakers: Even in the absence of federal or state policy changes, there is a great deal that individual school districts can do, including the following:

- Track the frequency and rates of lost instruction from out-of-school suspensions and use the data to inform local discipline policy.
- Have school boards conduct a public review and discussion of discipline disparities at least twice each year at school board meetings, including the amount of lost instruction due to discipline and the resulting disparities. For districts in which suspensions are frequent and disparities are wide, they should develop an action plan with specific goals for implementation informed by input from the community members most affected.
- Continue to use the DoED's and U.S. Department of Justice's 2016 guidance on school discipline to evaluate and guide how and when to make changes to the code of conduct.
- Require that all suspensions over a certain length be subject to review and approval by the district's central office to ensure that disparate patterns are noticed and that lengthier suspensions are justified in light of the educational purpose.
- Demand that local and state educational agencies report annually disaggregated data on referrals to law enforcement and school-related arrests.
- Audit public school funding and seek the elimination or reduction of funding for school police and security guards. Compare allocations for police and other security with funding for student support personnel. Use the best available research on the impact of school police on school climate to inform decisions regarding security personnel.
- Decriminalize disorderly conduct and other nonviolent and non–drug-related behavior so that school behavior incurs school-based responses.
- Set aside the resources needed for leadership and staff training and for intervention programs that will address the unjustified loss of instruction due to disciplinary removal.
- Use school climate surveys, behavior incident reports, and other monitoring to ensure that school reforms are improving the conditions of learning.
- Seek partnerships with other organizations and dedicate resources to evaluating reform efforts to distinguish the effective remedies from ineffective discipline reform efforts.

Appendix A: Methods and Data Cleaning

Data come from the U.S. Department of Education Civil Rights Data Collection (CRDC), which is a federally mandated data collection containing information on student enrollment, demographics, discipline, and other institutional and educational services schools and districts. The data are sometimes referred to as the Office for Civil Rights, or "OCR," data and sometimes as the "CRDC." The CRDC is the only source providing data from every large district in the nation that also goes as far back as the 1970s. To get a more accurate sense of the use of exclusionary discipline and its impact on the opportunity to learn, this report primarily focuses on days of lost instruction due to out-of-school suspensions. It is important to note that the 2015–16 data collection year is the first time days of lost instruction due to out-of-school suspensions were collected and reported.

In efforts to further understand the school-to-prison pipeline, this report also looks at students referred to law enforcement including those arrested for school-related misconduct for which data were first collected in 2009–10. CRDC defines referrals to law enforcement as an action by which a student is reported to any law enforcement agency or official, including a school police unit, for an incident that occurs on school grounds, during school-related events, or while taking school transportation, regardless of whether official action is taken. Citations, tickets, court referrals, and school-related arrests are considered referrals to law enforcement. The CRDC defines school-related arrest as an arrest of a student for any activity conducted on school grounds, during off-campus school activities (including while taking school transportation), or due to a referral by any school official. Note that all school-related arrests are considered referrals to law enforcement, but not all referrals to law enforcement lead to an arrest.[159]

This report also calculates in-school and out-of-school student suspension rates distinctly from rates of lost instruction. The CRDC defines an in-school suspension (ISS) as an instance in which a child is temporarily removed from his or her regular classroom(s) for at least half a day for disciplinary purposes but remains under the direct supervision of school personnel. Direct supervision means school personnel are physically in the same location as students under their supervision. Out-of-school suspension (OSS) is defined distinctly for students with and without disabilities. That is, for students with disabilities served under IDEA: OSS is an instance in which a child is temporarily removed from his/her regular school for at least half a day for disciplinary purposes to another setting (e.g., home, behavior center). OSS includes both (1) removals in which no individualized family service plan (IFSP) or individualized education plan (IEP) services are provided because the removal is 10 days or less and (2) removals in which the child continues to receive services according to his/her IFSP or IEP. For students without disabilities and students with disabilities served solely under Section 504 of the Rehabilitation Act, OSS is an instance in which a child is temporarily removed from his or her regular school for at least half a day (but less than the remainder of the school year) for disciplinary purposes to another setting (e.g., home, behavior center). OSS includes removals in which no educational services are provided and removals in which educational services are provided (e.g., school provided at home instruction or tutoring).[160]

In this report, a greater emphasis has been given to districts with schools at the secondary level. In alignment with our previous research and other findings, we know that the largest inequities and disparate impact happens within this level. The district estimates were calculated by selecting just those schools within each district that conformed to the specific grade-span configuration associated with each level of schooling.[161] The following table summarizes how we categorized the schools into elementary-level and secondary-level schools:

Table A1: Definitions for Grade Level Categorization on CRDC 2015-16

Category	Grade-Span Configurations
Elementary Level	Any school with any combination of kindergarten through 5th and without a 7th or 8th grade
Secondary Level	5–8, 6–8, 7–9, 6–12, 9–12, 10–12, and 9th-grade academies
K–12	All elementary and secondary schools, and k–8 and k–12 schools

To conform to the Institute of Education Sciences (IES) requirements for using the restricted unrounded data in our analysis, all published counts of enrollment, and all unduplicated counts of students who were suspended out-of-school, were suspended in-school, were arrested, or were referred to law enforcement were rounded to the nearest 5. These rounded data are available in the companion spreadsheets.[162] All the rates provided in this report are based on raw data that were first rounded up or down to protect against disclosing personally identifiable student information. For example, if 17 Black students were suspended out of school, that number would be reported as 15 due to rounding. And if 323 Black students were enrolled, that count would be rounded up to 325. We next used these rounded values to calculate the student suspension rates. In this example, the resulting suspension rate using unrounded data comes to 5.3%, but we report a rate of 4.6%, which is the rate we calculated using the rounded data. Moreover, because all rates provided in this report are rounded to either one decimal place or to whole numbers, it is fair to say that the reported rates are also slightly rounded. When enrollment numbers are low, the application of rounding rules can distort the findings. The rounded enrollment data were also used to calculate rates of lost instruction due to out-of-school suspensions. The raw counts of days of lost instruction that appear in our state- and district-level spreadsheets for students in grades k–12 are not rounded and are identical to the counts of "days of missed instruction" available to the public on OCR's website.

Sample

The CRDC gathered data from every public school in the nation (after cleaning, the number was 16,955 school districts). Our analysis for k–12 included all of these districts. However, not every district had all grade levels. At the elementary level, 11,530 school districts were included in the district-level calculations of discipline rates. At the secondary level, 12,735 school districts were included in the district-level calculations of the discipline rates. Note that k–8 schools were only included in the k–12 analyses. We excluded approximately 1,025 schools from all analyses because we either identified reporting errors or they were categorized as juvenile justice centers or virtual schools. (See "Procedure" section below for the specific breakdown of errors.)

Data Omissions

Section 504 only: Data on students identified as having disabilities under "Section 504 only" were not covered by this report because OCR did not collect data on their suspension numbers disaggregated by race. Their omission did not affect what we have reported for students with disabilities identified under the IDEA or for students without disabilities. In the text, figures, and

tables, we use the term students with disabilities (SWD), but we indicate that we are including only those eligible pursuant to the IDEA when we add "IDEA" under or next to the abbreviation SWD. We are concerned that we cannot see the racial data for SWDs that are eligible under Section 504 only, but that issue is beyond the scope of this report.

Juvenile justice centers/facilities: Students in state-run, long-term juvenile justice facilities were excluded (650 centers composed solely of students in juvenile justice facilities) from all estimates in the report. However, we listed them in a separate spreadsheet contained in the Excel file posted online. We believe that, although this information is very valuable, these educational settings are different enough from regular schools that the data on them deserved separate treatment. Most of these schools reported no out-of-school suspensions, but that may mean that, in some cases, the students did not actually attend school while in the facility or that the responding correctional district did not regard disciplinary removal from a classroom as an out-of-school suspension. Furthermore, the out-of-school suspension of students attending a correctional facility has different implications, as the students remain under adult supervision. Moreover, all the students in these settings are there for disciplinary reasons, although not necessarily for misbehaving at school. We believe that some of the students in these facilities may have been disciplined at some point during the 2015–16 school year in a regular school district; thus, there is a high risk that such students would have been counted twice in the same sample. There was no way to check, so we omitted these facilities. Finally, the research in the "Discussion" section of this report pertains to regular schools, not juvenile justice facilities, so we decided it did not make sense to compare or rank-order such districts with regular school districts. When juvenile justice schools were counted as part of a school district, we also removed such schools before calculating the district's suspension rates. Future reports will review these districts and their data more fully so that we might better understand the implications of disciplinary removal from schools within juvenile justice facilities.

Virtual schools: We also removed the majority of virtual schools (n=240). When most students are attending school from their own homes, the term "out-of-school suspension" has an entirely different meaning. For this reason, we exclude any virtual schools that had an out-of-school suspension risk less than or equal to 1% or a total count of out-of-school suspensions less than or equal to one. We include virtual schools that have more than one suspension, given the possibility that they had some degree of on-campus student attendance.

Procedure

After we coded and stratified the school-level data by grade configuration, we then calculated the different types of rates at the elementary and secondary levels for the district, state, and national levels based on straightforward calculations. We calculated the days of lost instruction per 100 enrolled by dividing the total days of lost instruction by the enrollment. We then multiplied that result by 100. This method allowed us to compare the impact that lost instruction had across racial groups and across districts.

For suspension risk, we divided the number of suspended students by the total enrollment and multiplied the result by 100 to arrive at the percentage suspended. We describe this percentage throughout the report as either the student suspension rate or the *risk* for out-of-school suspension. Readers should note that the CRDC included the number of students suspended

out of school one time and, separately, the number of students suspended out of school two or more times. We added these mutually exclusive categories together to report the *unduplicated* number of students suspended one or more times. This sum represents the total number of students suspended.

The spreadsheets published with this report include two categories of students: all students and students with disabilities. To determine the estimated risk for *all* students, we combined the number of suspended students *with disabilities* and *without disabilities*. This enabled us to report the risk for suspension for every major racial/ethnic group for all students and to break it down further by students with disabilities.

Removals: When the districts reported their data to OCR, each district superintendent was required to certify that the data were accurate and that the certifications were checked before OCR published the data. In our independent review, we discovered obvious collection or reporting errors in several schools districts that forced us to remove them from our analyses. These removals are listed in a separate tab in our Excel spreadsheet called "Removals." The removals sheet provides the data as reported by OCR, rounded per IES requirements.

Some schools and districts may have accidentally overreported their data (reported suspending more students than they enrolled), some may have underreported their data, and others may have failed to report baseline enrollment data or reported nothing at all in some categories, essentially ignoring the federal requirement that they respond. The removal types that led to schools being removed from our analyses include:

- Just over 60 schools were removed because they reported suspension rates of over 100% for all students or for any racial/ethnic group and their total enrollment was greater than or equal to 10.
- And over 70 alternative schools were removed because they reported suspension rates of over 150% for all students or for any racial/ethnic group and their total enrollment was greater than or equal to 10. Please note: All alternative schools were removed from the analyses reported for each district in the spreadsheet.

It is far easier to detect overreporting of suspension than to know if a district reported few to no suspensions accurately. Because the school enrollment data are based on the enrollment as of a specific date in October, but the suspension data are based on the entire school year, schools with high suspension rates that significantly expand their enrollment after that date could conceivably have student suspension rates of over 100%. Based on our working with these data since 1999 we know this is rarely the case for traditional schools. However, alternative schools often do have expanding enrollments, and some frequently use suspensions. This is why we set a higher threshold of over 150% suspension rate before assuming the data on the students suspended from alternative schools were in error. Readers are reminded that each district certifies the data they submit as accurate. Our data cleaning efforts are designed to remove only the most likely errors, despite this certification. In most states, we found no alternative source to reference that would have helped us flag grossly underreported data. Moreover, it is worth noting that most of the errors districts removed were those with large overreporting errors. To the extent that the overreporting districts also may have been high-suspending districts, their removal may have lowered the national and state estimates.

The Reason This Report Focuses on Absolute Differences to Measure Disparities and Their Changes Over Time

When the subject of a comparison is something negative, the actual magnitude makes a profound difference in the lives of children. Therefore, the chosen measure should reflect the magnitude of the harm, as reducing harm is the most important factor. Rates of days of lost instruction are a prime example. Assuming the quality of instruction is the same, the differences in lost instruction equate to differences in the opportunity to learn. Any parent or teacher or administrator knows that missing 20 days of school is worse than missing 10 days because instruction is valuable, and there are only 182 days in a school year. Expressed as a ratio, one group missing twice as much instruction as another tells us nothing about how much instruction was actually lost. Twice as much can mean 2 days versus 1 day, with a difference of just 1 day, or 40 days versus 20 days, with an absolute difference of 20 days. Thus, the disparity described in relative terms does not reflect the magnitude of the difference in harm.

A focus on relative risk ratios rather than risk differences is similarly problematic when comparing the risk for suspension. The risk is a simple percentage calculation that begins by dividing the unduplicated number of students suspended at least once by the group's enrollment. If 10 Black students were suspended one or more times and 50 were enrolled, the risk would be 20%. If Whites were the comparison group and their risk for suspension was 10%, the relative risk ratio calculation entails dividing 20% by 10%, which equals a ratio of 2.0. In this case, it means that Blacks were twice as likely to be suspended as White students. However, a risk ratio of 2.0 can be found in low-suspending districts or in high-suspending ones. For example, the statement that Blacks are suspended at twice the rate of Whites is no less true if the Black rate is just 0.4% and the White rate is 0.2%. Yet in this second example, the Black-White racial gap is just two tenths of 1 percentage point, whereas in the first example, the difference was 10 percentage points. A 10 percentage point gap is 50 times larger than a gap of two tenths of 1 percentage point, yet in both cases, the relative risk ratio would be accurately described as 2:1. Note that 2.0 is how the risk ratio is usually presented in text, and we added to clarify.

Moreover, if the comparison group is White students, but no White students were suspended, a relative risk ratio cannot be calculated. This problem occurs in many elementary schools, as well as when comparing rates for low incident responses to behavior such as school-related arrests.

An emphasis on risk ratios rather than risk differences is also highly problematic when reviewing trends in discipline disparities over time. When it comes to outcomes in education that matter, whether it be reading proficiency, graduation rates, or college preparedness, it is very unusual to find discussion of progress that does not describe how far the group we are most concerned about is from a goal. If the group we are concerned about does not show any movement toward such important goals, we should not consider it a sign of progress when the change is due primarily to a decline in the comparison group's performance. But if we use a relative ratio as the primary indicator of progress, this is often the case.

Often, the risk ratio widens despite progress on all the underlying indicators. One mathematical property of relative ratios is that in order for a relative ratio to get smaller over time, the ratio of the decline must exceed the starting ratio. This creates a problem, especially in the area of discipline, in which interventions are designed to help all children. For example, imagine that Black students have a risk for suspension that is four times the rate of White students, and intervention Z helps

both racial groups. As a result of the intervention, suspension rates decline for both groups, but the rate for Blacks declined by 6 percentage points and the rate for Whites declined by 3 percentage points. This means that Black students experienced a percentage point decline that was twice the decline experienced by White students. Yet, because the Black:White ratio of decline was smaller than 4.0, the new risk ratio will be larger than the starting ratio.

This means that a focus on changes in risk ratios over time leads to erroneous conclusions about progress or the lack thereof. Consider the following example: In 2017–18, a district suspended 40% of the enrolled Black students and 20% of the enrolled White students. The "risk ratio" is 2.0, meaning that the suspension rate for Blacks is twice the suspension rate for Whites (40% divided by 20% = 2). The Black-White gap is a wide 20 percentage points. Now imagine that in 2018–19, the same district suspended 3% of the Black students and 1% of the White students. The Black-White gap narrowed, from 20 percentage points to just 2 (-18 points), and the difference between the two groups in 2018–19 is one tenth of what it was in 2017–18. Black rates fell (-37 points) more than White rates fell (-19 points), and harm from excessive suspension is now much lower for both groups. However, despite these clear improvements, the risk ratio has increased considerably, from 2.0 to 3.0 (because 3% divided by 1% = 3). While a risk ratio of 3.0 does suggest that a problem remains, we assert that progress has been made when suspension rates go down and the racial gap narrows (in absolute terms), even if the purely relative ratio increases. Similarly, if we reverse the above scenario, with rates increasing more for Black students than White students, widening the racial gap tenfold from 2 points to 20 points, then we assert that the situation should be described as having seriously deteriorated, even if the risk ratio improved.

For these reasons, this report does not use relative ratios in any of our descriptive reporting; when this report analyzes trends, we show the trendlines for each group before we calculate how the racial gap changed. In this way, our analyses of racial disparities and their change over time is nested in the review of whether the underlying risk for suspension is high or low and whether the most recent rates represent an increase or decrease.

Appendix B: Discipline Reform and Chaos

Commentary on Research-Based Suggestions That Discipline Reform Will Lead to Chaos

The assertion that discipline reform is causing chaos has not been empirically proven, but the suggestion that we would have chaos without suspensions has been reinforced in numerous discussions about discipline reform and the 2014 disparate impact guidance. One such noteworthy and relevant reference relates to how the comprehensive Brookings Institution report on suspensions in California's schools, discussed below, conflates research about disruption in general to implicate discipline reform, raising the concern that reform may put orderly classrooms and well-behaved children at risk.[163]

Assumption That Reducing Suspensions Necessarily Increases Exposure to Disruptive Students Lacks Evidentiary Basis

The Brookings study, which explored California's school-level discipline data, found extraordinary racial differences. However, the report referenced a study of students in Alachua County, FL, to make the point that being in the same classroom as disruptive students puts a burden on nondisruptive peers, a fact that Brookings asserts is often overlooked by discipline reform proponents. The study's relevance to the discussion builds on a tacit assumption that discipline reform will cause greater exposure to disruptive students. Yet the cited research is not a study of discipline reform but of the broad societal impact of domestic violence. Specifically, the oft-cited Alachua County study examined how children exposed to domestic violence in their homes impacted their peers in school. The study treated students from these violent homes as a proxy for disruptive students. The study authors estimated that such exposure had serious economic costs for their nondisruptive peers.

Not mentioned is the fact that Alachua County was among Florida's highest-suspending districts. The costs associated with being in a class with disruptive peers in Alachua County might better be described (in context) as the costs incurred in a district that frequently suspended students for disruptive behavior. Given that youths exposed to domestic violence are probably subjected to a greater risk for re-exposure when they are sent home from school, it is more likely that frequent suspensions exacerbate the harm to these children and thereby also increase the likelihood that they will exhibit problematic behavior when they return. When one considers the data from the district showing high rates of suspensions, the study begs the question of whether nonpunitive interventions, and more specifically, whether providing support to traumatized youths displaying problem behavior, might have reduced these students' disruptive behavior and mitigated the costs to peers documented in the Alachua County study.

The Brookings report instead suggests that we take it as a given that high-suspending schools are helping make the learning environment more productive for nondisruptive students by instilling order. Missing is any research demonstrating that frequently suspending children produces the kind of order that improves the learning environment. The author of the Brookings report does point to a working paper by researchers from the University of Arkansas, but in response to published peer-reviewed criticism of their work, the authors issued a statement that their findings should not be used to suggest that suspensions are beneficial or that they boost test scores.[164]

More recently, the authors of that working paper published a peer-reviewed paper showing that suspensions do harm academic outcomes. Moreover, the best research available suggests that suspensions generally fail to deter misbehavior and may in fact reinforce the behavior they are intended to deter; neither the suspended students nor their peers appear to improve their behaviors in harsh disciplinary environments.[165]

Appendix C: Additional Data Referenced in Part I of Report

Table C1: Days of Lost Instruction Due to OSS per 100 Students by State at the Elementary Level

State	Black-White Gap	All Students	Latinx	Native American	Asian	Hawaiian or Pacific Islander	Black	White	SWD (IDEA)
MI	59	16	10	10	1	19	67	8	28
OH	50	13	10	18	1	4	56	6	25
MO	39	13	7	12	1	3	46	6	27
TN	35	12	3	24	1	2	38	3	22
NE	33	6	5	17	2	1	36	3	19
IN	31	9	6	7	2	2	37	5	21
VA	27	10	3	8	1	4	31	5	24
WI	26	5	5	10	1	1	29	3	17
PA	26	6	8	8	1	1	28	3	14
AR	25	11	4	3	1	2	31	6	19
KS	25	6	5	4	1	5	29	4	14
NC	24	12	5	25	1	7	30	6	26
SC	23	14	4	11	1	4	29	6	25
OK	23	9	7	9	2	7	30	7	20
IL	22	5	2	2	0	1	24	2	11
DE	21	11	6	15	1	3	25	4	25
NV	21	9	6	9	2	5	28	7	18
WV	20	10	6	0	1	1	29	9	20
ME	20	4	6	8	1	0	23	3	13
AZ	19	8	7	17	2	4	25	6	14
LA	19	14	3	11	2	3	24	5	20
MS	19	16	5	10	3	8	25	7	23
GA	18	10	3	7	1	3	22	4	22
MN	18	4	4	11	1	1	19	2	13
TX	15	5	3	3	0	2	18	3	12
AL	15	9	2	3	1	3	19	4	14
SD	15	5	4	15	0	4	17	2	13
NJ	13	3	3	4	1	1	14	1	7
AK	13	8	9	10	2	6	19	6	22

State	Black-White Gap	All Students	Latinx	Native American	Asian	Hawaiian or Pacific Islander	Black	White	SWD (IDEA)
KY	13	4	2	4	1	5	15	2	7
CA	12	4	3	9	1	3	16	4	10
FL	12	7	3	3	1	3	16	4	14
IA	11	2	2	4	0	1	12	2	10
WA	10	6	6	15	1	6	16	6	22
NY	9	4	3	5	0	1	11	3	11
UT	8	2	3	3	0	2	9	1	4
MD	8	4	1	4	0	3	10	2	13
CT	8	2	4	4	0	1	9	1	8
CO	8	6	7	9	1	8	12	5	16
RI	7	4	6	11	2	0	9	2	9
NH	6	5	10	18	1	0	11	4	13
NM	6	4	4	4	0	0	10	4	8
MA	6	2	4	2	0	1	7	1	5
VT	6	4	3	9	0	0	10	4	11
MT	6	5	1	21	1	1	8	2	9
WY	6	5	6	8	1	6	10	4	13
OR	5	4	3	8	1	2	9	4	9
ND	2	2	1	6	0	2	3	1	4
ID	1	4	2	23	0	1	5	4	8

Source: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015–16.

Table C2: National Summary of Districts Where Secondary-Level Students Lost More Than 1 Academic Year of Instruction Due to OSS per 100 Students by Subgroup

Group	All Districts	Districts That Lost More Than 1 Academic Year		
	Total Enrollment	Approximate Number of Districts	Subgroup Enrollment in a High-Suspending District	Percent of Total National Enrollment
Latinx	5,791,685	100	22,410	0.4%
Native American	209,055	75	12,665	6.1%
Asian	1,210,940	5	260	0.0%
Hawaiian or Pacific Islander	77,660	10	585	0.8%
Black	3,539,355	475	492,755	13.9%
White	12,269,905	70	20,600	0.2%
Students with Disabilities (IDEA)	2,925,145	490	170,320	5.8%

Note: The Individuals with Disabilities Education Act (IDEA) category includes multiple racial and ethnic groups. Note that it is not possible to distinguish between race/ethnicity and disability status for the variable of days of lost instruction. Districts with at least 10 students enrolled per subgroup were counted.

Source: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015–16.

Table C3: Days of Lost Instruction Due to Out-of-School Suspension per 100 Students for Largest Districts at the Secondary Level

State	District	All Students	Latinx	Native American	Asian	Hawaiian or Pacific Islander	Black	White	SWD (IDEA)
TN	**Shelby County Schools District**	197	63	30	8	20	**232**	51	**836**
TN	**Knox County School District**	130	**103**	**212**	**43**	**133**	**325**	**96**	**165**
AL	**Mobile County School District**	121	50	**130**	**25**	**243**	**186**	**59**	53
GA	**DeKalb County School District**	119	46	68	**19**	102	160	17	113
NC	**Cumberland County Schools**	93	62	90	**17**	35	145	36	145
AZ	**Phoenix Union High School District**	92	**79**	70	11	**180**	**186**	**155**	108
GA	**Clayton County School District**	90	40	23	12	67	110	**60**	92
KY	**Jefferson County School District**	89	46	**167**	17	17	163	44	126

State	District	All Students	Latinx	Native American	Asian	Hawaiian or Pacific Islander	Black	White	SWD (IDEA)
TX	Dallas ISD	82	**69**	49	16	13	137	40	118
NC	Charlotte-Mecklenburg School District	81	54	81	12	92	154	16	**164**
TX	Fort Worth ISD	75	47	86	12	54	178	33	146
VA	Chesterfield County Public School	74	**109**	91	10	5	134	39	**195**
FL	Polk School District	74	63	66	10	58	132	**56**	98
GA	Cobb County School District	73	64	**111**	11	20	150	25	153
NC	Wake County Schools	71	**78**	109	7	**162**	**186**	19	**207**
MD	Baltimore City Public Schools	70	16	71	2	0	78	8	112
PA	Philadelphia City School District	65	55	18	7	20	92	27	88
TN	Davidson County School District	63	39	83	14	13	97	33	102
NC	Guilford County Schools	62	47	58	14	40	113	20	140
TX	Aldine ISD	62	45	5	7	64	113	44	84
FL	Manatee School District	61	60	40	13	90	144	41	75
SC	Greenville 01 School District	61	49	75	7	47	138	36	136
NC	Winston-Salem/ Forsyth County Schools	60	72	68	2	**116**	122	16	119
GA	Fulton County School District	58	43	5	4	31	114	9	88
FL	Volusia School District	56	56	43	7	80	123	40	79
NV	Clark County School District	51	46	43	11	40	135	30	96
GA	Henry County School District	51	21	28	5	8	76	21	76
FL	Orange School District	50	41	29	8	26	108	19	55

State	District	All Students	Latinx	Native American	Asian	Hawaiian or Pacific Islander	Black	White	SWD (IDEA)
MD	Prince George's County Public Schools	49	22	49	8	12	64	16	97
NY	New York City Public Schools	43	36	42	8	0	95	14	95
TX	Houston ISD	43	33	23	5	4	85	12	91
NC	Union County Public Schools	43	62	**129**	7	20	142	21	119
CA	Kern High School District	42	38	40	16	20	116	39	
GA	Gwinnett County School District	42	47	60	9	35	69	18	60
TX	Garland ISD	41	39	31	5	68	88	21	86
CA	Fresno Unified School District	41	39	39	10	31	98	34	102
FL	Osceola School District	40	43	29	11	40	57	28	48
NM	Albuquerque Public Schools	39	45	42	8	18	79	20	68
NV	Washoe County School District	38	47	53	11	69	136	28	69
FL	Pasco School District	38	36	41	10	47	86	34	63
FL	Hillsborough School District	38	35	28	3	31	87	17	78
TX	Cypress-Fairbanks ISD	35	35	33	5	9	84	15	83
FL	Brevard School District	35	36	43	6	20	77	25	66
TX	Alief ISD	34	29	19	6	10	58	20	49
FL	Duval School District	34	18	18	3	17	60	11	38
TX	Pasadena ISD	33	29	40	3	67	85	32	66
CA	Elk Grove Unified School District	33	37	23	8	27	93	21	109
IL	City of Chicago School District 299	32	18	26	3	11	59	9	46

State	District	All Students	Latinx	Native American	Asian	Hawaiian or Pacific Islander	Black	White	SWD (IDEA)
CO	Cherry Creek School District No. 5 in the County of Arapahoe	31	38	30	9	54	75	20	71
FL	Palm Beach School District	31	23	28	5	39	66	13	49
AZ	Mesa Unified District	30	37	48	8	50	93	17	48
MD	Anne Arundel County Public Schools	30	28	33	6	27	72	17	61
TX	Austin ISD	29	35	45	4	60	69	9	66
FL	Lee School District	28	27	7	4	10	68	16	53
CO	Jefferson County School District No. R-1	27	47	37	6	8	75	21	52
VA	Henrico County Public Schools	27	17	56	4	12	55	9	60
TX	Northside ISD	27	29	13	6	17	50	14	73
TX	Klein ISD	25	24	21	3	20	72	12	77
VA	Prince William County Public Schools	25	26	17	8	24	45	15	60
FL	Seminole School District	24	24	24	3	18	64	15	50
TN	Rutherford County School District	23	16	9	13	17	48	18	36
TX	Arlington ISD	22	16	23	4	9	47	10	51
CA	Anaheim Union High District	21	26	23	5	56	36	17	47
TX	Brownsville ISD	21	21		0	0	24	17	45
MD	Baltimore County Public Schools	21	19	18	4	0	34	10	44
FL	Pinellas School District	20	17	9	4	17	53	12	31
TX	United ISD	20	20	80	3		6	5	44
VA	Beach City Public Schools	20	18	6	4	6	43	11	37

State	District	All Students	Latinx	Native American	Asian	Hawaiian or Pacific Islander	Black	White	SWD (IDEA)
CA	Corona-Norco Unified School District	19	22	8	7	9	36	14	50
CA	Chaffey Joint Union High School District	18	20	28	3	32	37	12	10
UT	Granite School District	17	31	31	7	33	54	10	38
CA	Long Beach Unified School District	16	14	27	6	21	39	7	38
UT	Jordan School District	16	33	2	**49**	20	36	12	55
CA	Santa Ana Unified School District	15	17	0	1	0	33	4	26
MD	Howard County Public Schools	15	24	70	4	8	39	6	42
TX	Fort Bend ISD	15	14	0	2	0	32	4	37
CO	School District No. 1 in the County of Denver	12	13	22	2	10	26	4	34
MD	Montgomery County Public Schools	12	15	8	3	0	32	2	8
CA	San Diego Unified School District	12	13	6	4	11	36	7	28
CO	Douglas County School District No. 1	10	18	14	4	13	38	9	19
VA	Loudoun County Public Schools	10	18	17	3	18	28	8	33
GA	Forsyth County Schools	10	17	6	3	0	23	9	24
TX	El Paso ISD	10	10	2	1	5	20	5	21
TX	Katy ISD	9	11	6	1	18	25	5	23
TX	Round Rock ISD	8	11	14	1	10	25	5	25
FL	Broward School District	8	5	1	2	0	14	3	9
TX	Lewisville ISD	8	11	9	2	20	25	4	18

State	District	All Students	Latinx	Native American	Asian	Hawaiian or Pacific Islander	Black	White	SWD (IDEA)
CA	San Francisco Unified School District	7	9	3	1	24	46	3	27
TX	Conroe ISD	6	7	8	1	9	21	4	17
TX	North East ISD	6	6	5	1	9	18	3	16
VA	Fairfax County Public Schools	5	10	10	2	3	13	3	14
UT	Alpine School District	5	17	20	1	5	6	3	14
CA	Capistrano Unified School District	5	10	0	1	3	14	3	7
CA	Sweetwater Union High School District	5	5	5	2	7	9	5	13
TX	Frisco ISD	4	5	6	1	12	13	3	11
CA	Los Angeles Unified School District	2	1	1	0	2	7	1	4
FL	Dade County School District	2	2	5	1	0	2	2	2
UT	Davis School District	1	3	3	0	0	2	1	3
TX	Plano ISD	0	0	0	0	0	0	0	0

Note: The highest five districts for each student group are highlighted.

Source: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015–16.

Appendix D: Additional Data Referenced in Part II of Report

Table D1: Out-of-School Suspension Rate at the State Level (Elementary)

State	All Students	Latinx	Native American	Asian	Hawaiian or Pacific Islander	Black	White	SWD (IDEA)
MS	5.6	1.9	3.6	1.9	0.0	8.3	2.6	8.2
SC	4.8	1.8	3.1	0.7	2.1	9.3	2.4	8.8
LA	4.3	1.4	4.2	0.7	2.0	7.3	2.1	9.2
MI	4.0	2.7	3.9	0.5	2.9	13.8	2.4	7.3
NC	3.7	1.8	6.0	0.5	2.2	8.3	2.0	7.7
AR	3.6	1.4	1.1	0.4	0.8	9.4	2.3	6.2
DE	3.6	2.3	2.4	0.2	0.0	7.9	1.6	8.2
OH	3.5	2.7	3.8	0.5	1.1	13.2	1.8	7.4
AL	3.5	0.7	1.5	0.3	1.3	7.4	1.7	6.0
NV	3.4	2.5	3.2	1.3	2.1	10.1	2.7	6.7
GA	3.4	1.3	2.2	0.4	1.1	6.9	1.4	7.3
OK	3.4	2.6	2.9	0.5	2.5	10.9	2.5	7.6
MO	3.3	1.9	3.6	0.4	0.9	9.8	1.9	6.6
IN	3.2	2.2	1.7	0.6	1.4	11.6	2.0	6.6
TN	3.1	1.1	2.2	0.3	2.2	8.8	1.3	4.6
WV	3.1	1.6	0.0	0.6	0.0	8.3	2.8	5.9
FL	2.6	1.4	1.3	0.3	1.4	5.9	1.9	5.5
VA	2.6	1.1	2.3	0.3	1.6	7.2	1.4	5.8
AK	2.6	2.4	3.4	0.7	2.2	5.9	2.2	6.8
AZ	2.5	2.2	4.4	0.7	1.5	7.6	2.0	4.3
PA	2.3	3.2	2.7	0.3	0.9	9.7	1.1	4.9
WA	2.1	2.1	4.6	0.5	2.2	4.8	2.0	6.6
CO	2.1	2.4	3.1	0.5	3.1	5.4	1.7	5.1
KS	2.0	1.6	1.9	0.6	1.1	8.2	1.4	4.4
MT	1.8	0.9	6.9	0.0	0.0	2.4	1.1	3.7
NE	1.8	1.4	4.5	0.6	0.0	8.4	1.1	4.9
WI	1.7	1.7	4.1	0.5	1.6	8.0	1.1	5.3
TX	1.7	1.2	1.2	0.3	1.0	6.0	1.0	4.9
RI	1.7	2.6	3.6	0.7	0.0	3.1	1.0	3.1

State	All Students	Latinx	Native American	Asian	Hawaiian or Pacific Islander	Black	White	SWD (IDEA)
VT	1.6	1.0	6.3	0.0	0.0	4.5	1.6	4.5
IL	1.6	0.7	0.6	0.1	0.8	7.3	0.8	3.7
WY	1.5	1.8	3.6	0.0	0.0	3.7	1.4	4.2
NM	1.5	1.5	1.4	0.3	0.0	3.7	1.4	2.8
OR	1.5	1.1	3.4	0.4	0.8	3.2	1.6	3.8
CA	1.5	1.3	3.1	0.4	1.2	5.6	1.4	3.9
NH	1.5	2.8	2.4	0.2	0.0	3.9	1.4	3.8
MN	1.5	1.4	3.5	0.3	0.0	6.6	0.7	4.3
NJ	1.4	1.5	0.7	0.2	0.9	5.0	0.5	2.6
ME	1.4	1.3	2.3	0.5	0.0	5.2	1.2	3.7
KY	1.3	0.7	1.4	0.2	1.3	4.5	1.0	2.9
MD	1.3	0.5	1.6	0.1	1.6	2.8	0.7	3.9
IA	1.2	0.9	1.8	0.3	0.9	5.5	0.8	4.2
SD	1.2	1.3	3.2	0.0	0.0	3.2	0.7	3.0
NY	1.0	0.7	1.2	0.1	0.2	2.6	0.8	2.3
ID	0.9	0.9	3.1	0.0	1.3	2.4	0.9	2.7
CT	0.9	1.6	2.0	0.2	0.0	2.7	0.4	2.8
ND	0.9	0.6	2.7	0.0	3.0	1.7	0.7	2.2
MA	0.9	1.7	1.1	0.1	0.0	2.8	0.4	2.1
UT	0.7	1.0	1.1	0.2	0.5	2.7	0.5	1.4

Source: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015–16.

50-State Review of Student Suspension Rates ("Risk" for Suspension) in 2015–16

In Table D1, one can see a wide range of suspension rates whether one looks at the racial differences within each state or compares states. It is also noticeable that at the state level, Black students and students with disabilities are suspended at extraordinarily high rates. In the highest-suspending states, the risk for suspension experienced by White and Asian American students is often half the risk faced by Black students and students with disabilities. It is also worth noting that when we rank-ordered the states by their overall risk, we expected to see a great deal of similarity with those states with the highest rates of lost instruction. As expected, most of the 10 states with the highest risk for lost instruction were also among the states with the highest rate of lost instruction. Readers should note that Hawaii is 30th on this list. We did not include it in our first analyses of days of lost instruction because we have found conflicting data on the days lost from another federal source, but had it been listed, it would have been the highest for lost instruction.

Table D2: State-Level Disparities in Out-of-School Suspension and the Black-White Discipline Gap at the Secondary Level (2015–16)

State	All Students	Latinx	Native American	Asian	Hawaiian or Pacific Islander	Black	White	Black-White Gap	SWD (IDEA)
SC	**15.1**	**10.0**	**15.2**	**2.7**	**9.2**	**26.3**	**9.2**	**17.1**	**26.1**
MS	**14.0**	6.3	10.3	2.0	5.0	21.2	**6.3**	14.9	**20.3**
DE	**13.0**	**11.3**	10.2	**2.6**	1.4	**23.8**	**7.0**	16.8	**24.6**
LA	**12.3**	8.6	**11.3**	**2.7**	6.5	18.3	**7.6**	10.7	**26.0**
AL	**12.0**	4.6	6.7	2.2	5.6	**23.2**	**6.3**	**16.9**	**16.5**
WV	**11.8**	9.1	10.7	**2.6**	**9.1**	**23.5**	**11.2**	12.3	**20.1**
NV	**10.8**	**11.1**	10.4	**3.2**	**9.5**	**27.8**	**6.7**	**21.1**	**19.4**
TN	**10.6**	8.3	7.8	**2.6**	5.0	**26.0**	5.7	**20.3**	15.6
GA	**10.3**	7.0	6.9	1.8	**11.4**	18.5	5.1	13.4	**16.9**
NC	**10.0**	8.5	**16.6**	1.9	**7.3**	19.6	5.8	13.8	**20.2**
AR	9.2	6.2	6.6	1.5	**7.7**	22.1	**6.0**	16.1	14.6
MI	8.6	**9.4**	10.7	1.9	3.8	**23.0**	5.8	17.2	15.9
OH	8.4	**9.7**	7.0	2.2	4.8	**23.7**	5.4	**18.3**	**16.6**
OK	8.1	8.4	7.3	1.7	6.1	20.8	**6.3**	14.5	13.7
IN	8.0	8.4	6.5	2.1	4.7	**24.1**	5.5	**18.6**	15.5
VA	8.0	6.1	8.1	1.2	5.6	18.1	4.9	13.2	15.4
KY	7.9	6.8	7.1	1.9	5.2	21.1	**6.2**	14.9	15.5
NM	7.5	7.9	10.6	2.1	5.3	12.8	5.2	7.6	12.8
MO	7.5	6.0	6.0	1.8	5.2	21.9	4.7	**17.2**	13.3
FL	7.4	5.7	7.0	1.4	5.7	13.4	5.7	7.7	13.0
PA	7.3	**13.3**	8.4	1.9	3.3	21.8	4.2	**17.6**	13.2
AK	7.3	8.2	10.1	1.8	**15.7**	16.2	5.6	10.6	14.2
RI	7.3	**10.8**	**16.3**	**2.5**	0.0	13.9	4.9	9	13.7
CO	6.9	**9.3**	11.9	**2.3**	6.6	15.4	5.0	10.4	13.0
TX	6.9	7.1	5.4	1.2	5.0	16.8	3.3	13.5	14.4
AZ	6.6	7.0	**13.6**	1.8	6.4	13.3	4.8	8.5	11.5
KS	6.4	7.6	8.1	2.3	3.8	21.7	4.4	17.3	12.5
NE	6.3	7.5	12.8	2.3	6.4	22.9	4.3	**18.6**	13.4
NH	6.3	**16.2**	8.8	2.1	5.9	17.0	5.7	11.3	13.9
HI	6.3	7.3	7.5	**3.2**	**10.3**	6.8	5.0	1.8	12.7

State	All Students	Latinx	Native American	Asian	Hawaiian or Pacific Islander	Black	White	Black-White Gap	SWD (IDEA)
IL	6.3	5.9	7.0	1.1	4.8	18.6	3.5	15.1	12.5
NJ	5.9	8.5	5.9	1.3	2.5	15.7	3.0	12.7	11.3
MD	5.9	4.4	6.6	0.8	3.9	10.8	3.3	7.5	12.8
MT	5.6	6.6	**18.5**	0.8	2.9	8.3	3.9	4.4	11.2
WA	5.6	7.2	10.0	1.7	9.5	12.9	4.6	8.3	14.2
OR	5.5	6.4	8.9	1.6	**7.3**	11.4	5.1	6.3	11.2
WI	5.4	7.0	10.6	1.9	4.4	**24.7**	3.3	**21.4**	14.0
ME	5.3	5.6	8.1	1.4	0.0	8.7	5.3	3.4	12.3
VT	5.3	4.6	**14.3**	2.3	0.0	11.1	5.2	5.9	12.8
MN	5.1	7.2	**14.1**	1.8	1.5	19.0	3.0	16	11.9
WY	5.0	6.6	**13.5**	**3.8**	5.9	8.0	4.4	3.6	10.3
CA	4.9	5.2	8.8	1.4	5.8	13.4	3.9	9.5	10.5
CT	4.9	9.1	6.0	1.0	2.1	13.3	2.3	11	11.6
MA	4.7	**9.9**	5.7	1.2	3.2	10.9	3.0	7.9	9.5
SD	4.5	6.5	**15.4**	2.0	**8.3**	12.0	2.9	9.1	10.2
NY	4.3	3.7	5.0	0.8	1.0	8.9	3.7	5.2	8.4
IA	4.1	5.1	3.9	1.4	5.9	16.8	3.1	13.7	9.9
ND	3.4	4.2	11.4	1.1	3.2	7.4	2.2	5.2	6.7
ID	2.9	3.6	5.8	0.8	2.8	4.3	2.6	1.7	7.3
UT	2.3	4.3	3.7	1.3	3.8	6.6	1.7	4.9	5.0

Note: The 10 states with the highest disparity for each group are highlighted.

Source: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015–16.

Table D3: Top 10 States With Largest Decrease from 2011–12 to 2015–16 Out-of-School Suspension Rate at the Secondary Level

State	All Students	Latinx	Native American	Asian	Hawaiian or Pacific Islander	Black	White	SWD (IDEA)
FL	-11.3	-13.0	-9.9	-1.9	-6.9	-17.0	-7.7	-23.7
RI	-6.9	-10.7	-5.1	-4.9	-15.0	-10.4	-5.9	-10.2
NM	-5.2	-6.6	-3.8	-1.8	5.3	-4.5	-3.0	-6.2
AL	-4.2	-2.9	-3.8	-1.0	3.5	-5.9	-2.7	-4.4
CA	-3.9	-4.4	-3.6	-1.4	-1.5	-6.7	-2.9	-6.7
IL	-3.3	-4.4	0.3	-0.7	2.3	-6.9	-1.9	-4.1
NC	-3.3	-3.8	-4.6	-0.6	1.8	-4.7	-2.3	-2.5
MD	-3.2	-2.3	-2.9	-0.9	-1.0	-4.3	-2.5	-6.3
MA	-2.9	-4.0	-5.6	-1.4	-1.9	-4.8	-2.5	-5.0
WA	-2.8	-3.6	-4.6	-1.2	-3.7	-5.9	-2.6	-3.9

Source: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2011–12 and 2015–16.

Table D4: Top 10 States With Largest Increase from 2011–12 to 2015–16 Out-of-School Suspension Rate at the Secondary Level

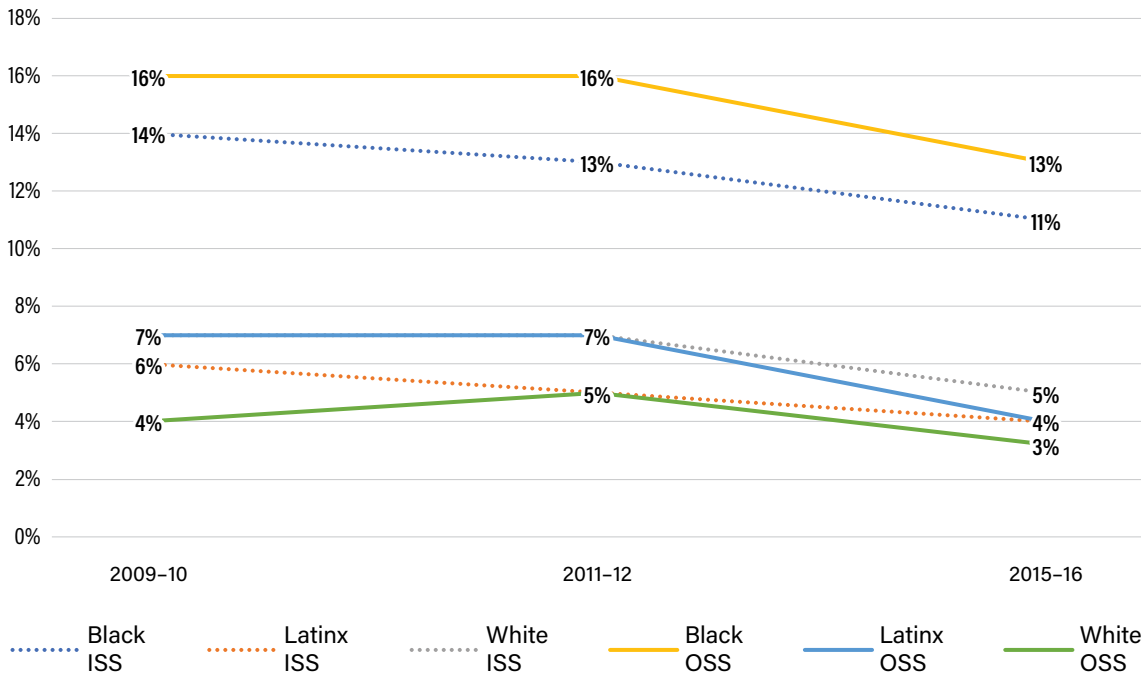
State	All Students	Latinx	Native American	Asian	Hawaiian or Pacific Islander	Black	White	SWD (IDEA)
NV	1.6	0.9	-0.8	0.5	1.7	7.9	0.0	-8.6
AK	0.3	0.1	1.4	-1.0	3.8	2.8	-0.6	1.8
ND	0.2	-0.3	0.0	1.1	3.2	2.7	0.1	2.0
KS	-0.1	-1.9	2.0	-0.1	3.8	2.3	-0.1	0.7
MN	-0.1	-1.0	-0.3	-0.6	0.1	-0.1	-0.3	-1.2
PA	-0.6	-2.2	6.2	0.2	1.2	-2.0	-1.1	-0.8
SC	-0.8	-2.5	-1.3	-0.7	-0.8	0.5	-1.0	0.8
KY	-0.9	-1.2	0.2	-0.3	5.0	-0.1	-1.0	-1.1
WY	-0.9	-1.6	1.4	2.6	5.9	-4.1	-0.9	0.5
MT	-0.9	0.0	1.7	0.8	-0.4	1.8	-1.2	-1.2

Source: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2011–12 and 2015–16.

District-level administrators in many high-suspending districts may find that alternatives to suspensions are being used successfully in neighboring districts. Those with high rates should be encouraged to look at lower-suspending districts in their regions as well as in other states.

Figure D1: Consistent Trends in Declining In-School and Out-of-School Student Suspension Rates from 2009–10 to 2015–16

In-School Suspension (ISS) and Out-of-School Suspension (OSS) Rates Over Time by Race/Ethnicity, K–12



Source: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2019–10, 2011–12, and 2015–16.

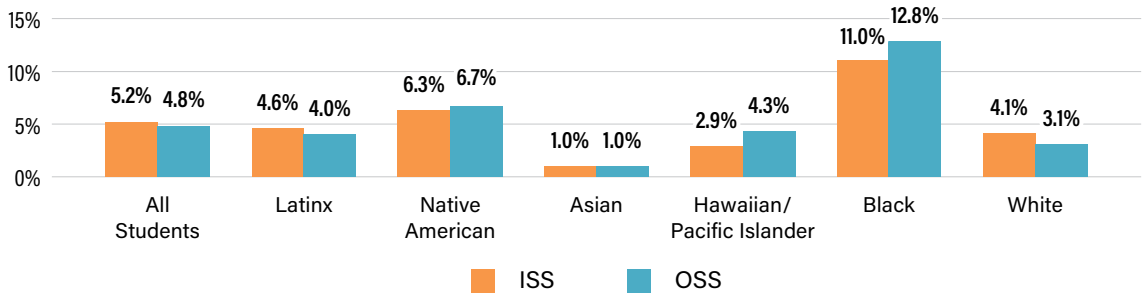
In-school suspensions have not gotten the same level of attention as out-of-school suspensions. One reason is that an out-of-school suspension implies no school involvement. Although anecdotal evidence suggests that many in-school suspensions are not helpful, and do not involve any meaningful instruction either, at least in theory, an in-school suspension can entail an attempt to provide an educationally sound response.[166]

We caution readers against assuming that students who are given an in-school suspension are receiving effective behavioral or academic support. In-school suspensions may represent dramatically different types of experiences depending on the school or district. For these reasons, readers should not automatically assume that a district with a high in-school suspension rate means that it is finding effective alternatives to out-of-school suspensions.

In Figure D2, we highlight data from 2015–16, the most recent year available, and include all the major racial/ethnic groups to more clearly illustrate how each racial/ethnic group differs in its risk for in- and out-of-school suspensions. By focusing on the most recent year, we can more easily compare the rates and disparities of in-school suspensions alongside out-of-school suspensions.

Figure D2: 2015–16 Racial and Ethnic Disparities in Suspension Rates

National K–12 In-School Suspension (ISS) and Out-of-School Suspension (OSS) Risk by Race/Ethnicity



Source: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015–16.

Although the overall rate of in-school suspensions is higher than out-of-school suspensions, the difference is less than half of 1 percentage point. Similarly, there is very little difference between rates within groups. However, among the three groups with the highest risk for out-of-school suspensions, all three had a higher risk for out-of-school than in-school suspensions. This difference was largest for Black students, whose risk for out-of-school suspensions was nearly 2 percentage points higher than their risk for in-school suspensions. In contrast, White students' risk for out-of-school suspensions was a full percentage point lower than their risk for in-school suspensions.

Given nationwide studies showing that the largest racial disparities are for minor misbehaviors, one would expect that Black students would have a higher risk for in-school suspensions than out-of-school suspensions.[167] But this is not the case. If in-school suspensions were a precursor to out-of-school suspensions, and if they had some deterrent value, one would expect that all student subgroups would have higher rates of in-school suspensions than out-of-school suspensions. One possible explanation, supported by other studies, is that some subgroups receive harsher treatment for similar offenses. This report, however, does not examine the causes of the observed differences in the risks for in- and out-of-school suspensions. The reasons may differ at the school and district levels. However, we did find some additional information that raises concerns. Namely, in many high-suspending districts, we find higher-than-average rates of in-school suspensions side by side with higher-than-average rates of out-of-school suspensions. This may reflect an overarching harsh discipline environment. In fact, of approximately 45 districts that had at least 3,000 students and suspended 20% or more of their student bodies at least once (over five times the national average of 4.8%), about 35 of them had in-school suspension rates of over 7%, which is well above the national average of 5.2%. What this suggests is that districts that frequently suspend students out of school also frequently suspend students in school.

Conversely, we found slightly above 750 districts with out-of-school suspension rates of between 1% and 2.4%, which is less than half of the national average for k–12. Out of these 750 lower-suspending districts, slightly over 16% had in-school suspension rates that were above the national average of 5.2%. In other words, among the 84% of districts with lower out-of-school suspension rates, most were also low for in-school suspensions. Although these observations are purely descriptive, they

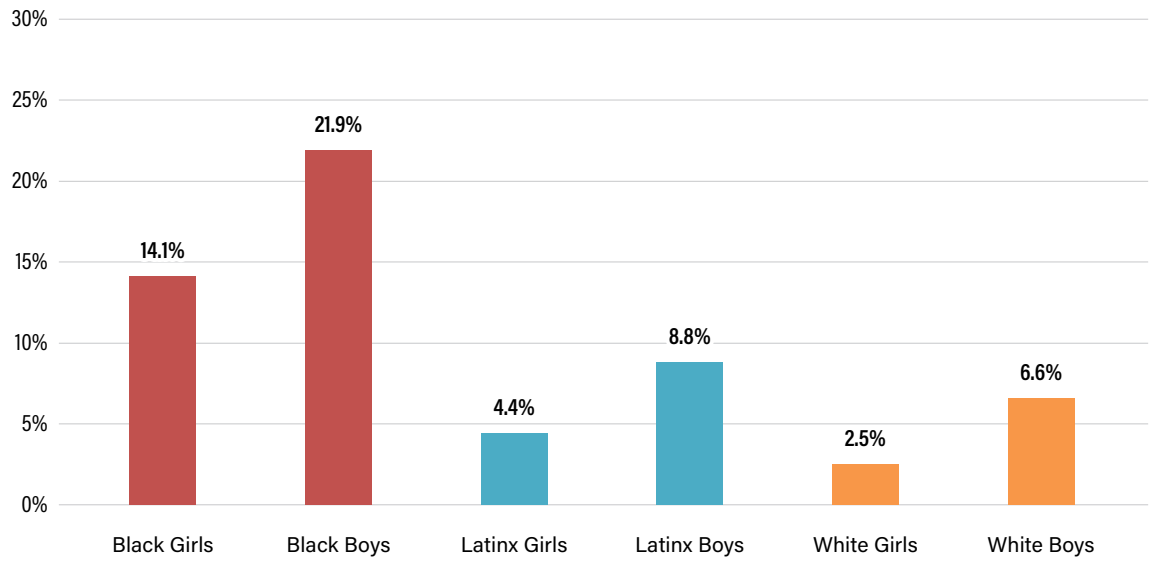
leave a clear impression that districts with high use of out-of-school suspensions were also high for in-school suspensions, and those with low use of in-school suspensions were not usually high in their use of out-of-school suspensions.[168]

Cross-sectional inequity: CCRR has been reporting on the racially disparate impact of discipline through the added cross-sectional lenses of race with gender and race with disability for at least 10 years. The days of lost instruction were only reported by race/ethnicity, and by gender, but not by disability. For those interested in looking at the risk for suspension at the secondary level through a cross-sectional lens of race with gender or race with disability, we provide the next two graphs.

Within every racial group, males are more likely to be suspended than females. If we look at the absolute size of this gender-based difference, it is largest for Black students, with Black male rates being 7.3 percentage points higher than Black females. However, we should not overlook the fact that Black females have the second-highest suspension rate and face a risk for suspension that is much higher than for Latinx or White boys.

Figure D3: Cross-Sectional Disparities in Students' Risk for Out-of-School Suspensions by Race With Gender (2015–16)

Out-of-School Suspension Risk by Race/Ethnicity and Gender, Secondary Level

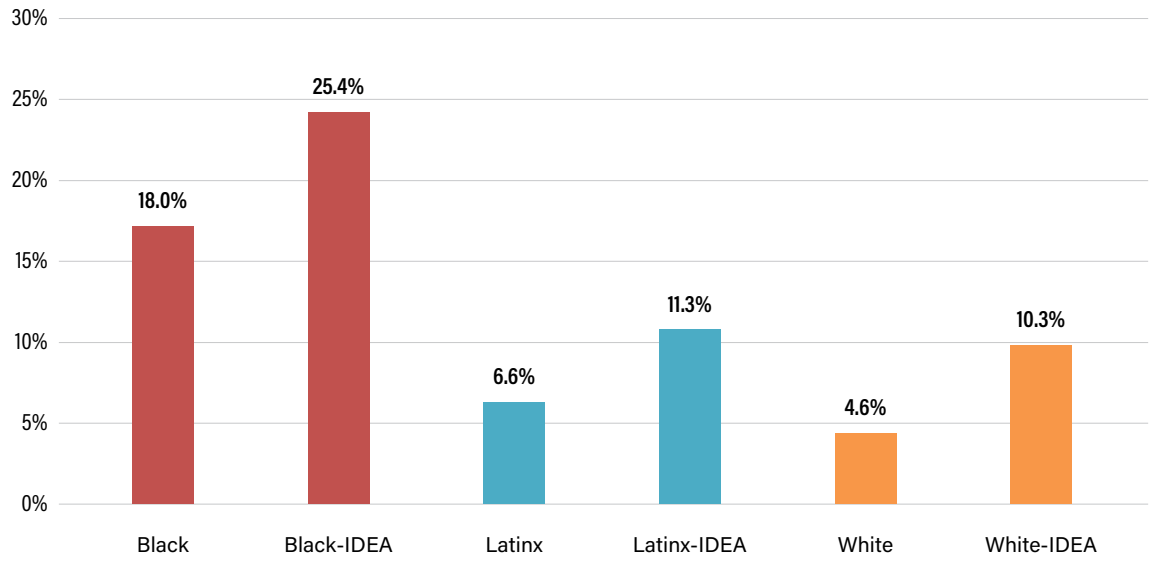


Source: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015–16.

While there is no legal requirement to look at the combined impact of race with gender, we would recommend that any district pursuing discipline reform consider the unique experiences of girls, especially Black girls, where these national patterns are replicated at the local level. Similarly, some of the most extreme disparities are found when we combine race with disability status. Although not featured in this report, much of these district-level cross-sectional data are available in the spreadsheets.

Figure D4: Cross-Sectional Disparities in Students' Risk for Out-of-School Suspensions by Race With Disability (IDEA) (2015–16)

Out-of-School Suspension Risk by Race/Ethnicity and Disability Status, Secondary Level



Source: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015–16.

For each subgroup represented in Figure D4, the 2015–16 overall student suspension rates are compared to just those with disabilities who are eligible pursuant to the Individuals With Disabilities Education Act (IDEA). Although the comparison group presented in Figure D4 is all students rather than students without disabilities, rates for students with disabilities are typically about twice as high as they are for their nondisabled peers.[169]

In addition to the procedural protections against discriminatory exclusion based on disability, in 2004, Congress was extremely concerned about racial disproportionality in special education identification, restrictiveness of placement, and discipline, including suspensions lasting just 1 day. Therefore, when Congress reauthorized the IDEA, it added a mechanism to address racial disproportionality, and it applied to racially disparate rates of disciplinary exclusion among students with disabilities. Specifically, Congress added that each state must review its districts' racial disparities in discipline. If the district exceeds a state's created threshold, it must repurpose 15% of its federal funds received pursuant to Part B of the IDEA. More thorough national, state, and district-level analyses are beyond the scope of this report, but the spreadsheets that accompany this report provide the district-level student out-of-school suspension rate for 2015–16 for k–12 and at the elementary and secondary levels for every district. As described in CCRR's report *Disabling Punishment*, sometimes the racial disparities in discipline at the district level are overlooked by state educational agencies, as each year, only about half the states identified any districts for racial disparities in discipline among students with disabilities.[170]

Appendix E: Referrals to Law Enforcement and School-Related Arrests

In the wake of several school shootings, but most notably the murder of 27 at Marjory Stoneman Douglas High School in Broward County, FL, the federal government convened a school safety committee that recommended using federal funds to add police to our public schools. However, in response to documented cases of excessive use of force and other inappropriate actions by school police, the Leadership Conference on Civil and Human Rights has called for ending police in schools.

Whether or not one shares the perspective of civil rights advocates, there is general agreement that the data on referrals to law enforcement and students arrested for school-related misconduct are often inaccurate or missing entirely, as well as a broad consensus that parents and policymakers should know this type of information. Underreporting necessarily means that the data collected and reported by the U.S. Department of Education (DoED) are usually too low.

The text of this report highlighted what we could learn from available data about the Black secondary students who were arrested. In Table E1, we present additional data from large districts across the nation that reported at least one referral and at least one school-related arrest. Although it is possible that some large districts reporting some referrals and zero students arrested actually had zero arrests, by describing the districts that report both referrals and arrests, we can provide some additional information on large districts that did report their data. Before calculating the student rates of arrest and of referral to law enforcement we rounded off both the enrollment data and the counts of referrals and arrests to the nearest 5.

Table E1: 25 Large-District Rates for Referral to Law Enforcement and School-Related Arrest at the Secondary Level (2015–16)

State	District	Enrollment	Referral Rates	Arrest Rates
PA	Philadelphia City School District	44,880	6.9%	0.6%
TX	Austin ISD	36,250	5.9%	2.0%
RI	Providence School District	12,000	4.8%	0.9%
TX	San Antonio ISD	21,880	3.5%	0.1%
NV	Washoe County School District	30,750	3.2%	2.4%
GA	Bibb County School District	11,190	3.0%	1.2%
GA	Paulding County School District	15,755	3.0%	0.5%
TX	Lubbock ISD	13,030	3.0%	3.0%
LA	Bossier Parish School District	11,080	2.8%	1.6%
WI	Madison Metropolitan School District	12,540	2.5%	0.6%
TX	Corpus Christi ISD	18,850	2.4%	0.6%
MN	Minneapolis Public School District	15,050	2.4%	0.2%
GA	Douglas County School District	14,145	2.3%	1.1%

State	District	Enrollment	Referral Rates	Arrest Rates
WI	Milwaukee School District	21,590	2.2%	0.4%
CA	San Bernardino City Unified School District	20,480	2.2%	0.9%
TX	Ector County ISD	15,210	2.2%	0.5%
AZ	Phoenix Union High School District	26,520	2.0%	0.1%
MD	Prince George's County Public Schools	60,665	2.0%	0.3%
KS	Wichita School District	22,055	2.0%	0.5%
SC	Dorchester 02 School District	13,410	2.0%	1.2%
OK	Moore School District	10,415	2.0%	1.7%
FL	Escambia School District	18,850	2.0%	0.2%
MO	Ft. Zumwalt R-II School District	10,245	2.0%	0.7%
NC	Wake County Schools	83,160	1.9%	0.1%
GA	Henry County School District	23,480	1.8%	1.9%

Note: Districts with a minimum of 10,000 students were considered. The national average for student referrals to law enforcement at the secondary level was 0.7% and the national average for school-related student arrests at the secondary level was 0.2%.

Source: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015–16.

Philadelphia City School District referred nearly 7% of all enrolled students. However, districts from Texas and Georgia made up nearly half of the 20 highest districts on this measure.

Invisible Children: Are School Police Arresting Children for Behavior in School?

Recently, the ACLU provided a fairly comprehensive descriptive report, with racially disaggregated data at the state level on the use of referrals to law enforcement and school-related arrests. The report, called *Cops, No Counselors*, did not include a district-level analysis, nor did the report break down the data for secondary school students. Readers should note that although we provide this information on every district in the nation, for many districts, the complete information on this topic was not available. As the ACLU's report described, "Districts often do not keep track of this information because they see it as the police department's responsibility. This misconception is flawed, and police departments rarely keep records that accurately reflect information about school policing."[171]

Most incident data, however, are kept by the school authorities but not necessarily with the details on whether the student was subsequently arrested. One would think that given the severity of an arrest, if it occurred for school-related behavior, all school districts would keep track of these facts. Since 2009–10, all have been required to collect and report these data, but many do not comply. These data are also required annual report card data points pursuant to the federal Every Student Succeeds Act (ESSA) public reporting requirements.[172] Therefore, it is important to raise awareness of this widespread noncompliance with both the ESSA and the CRDC requirements. Those failing to report their school-related arrest data failed to comply with Title VI of the Civil Rights Act of 1964.

Our concern that many districts are out of compliance with the reporting requirements complicates our efforts to report on the data from the districts that are providing some information. In fact, based upon many discussions with juvenile defenders, CCRR has concerns that many districts among those that do report their data do not report all the referred and arrested students that the juvenile defenders wind up representing. On the other hand, school district superintendents certify to DoED that their data are accurate.

Therefore, while our reporting concentrates only on the nation's largest districts that did actually report some data, we do not provide state or national averages. To further highlight the substantive problem of referring students to law enforcement but not reporting the outcomes, we report in Table E2 on large districts (at least 10,000 secondary students) that reported referrals but zero students arrested.

Table E2: 25 Largest Districts Reporting Student Referrals to Law Enforcement but Zero School-Related Arrest Rates at the Secondary Level

State	District	Enrollment	Referral Rates
NY	New York City Public Schools	467,385	0.6%
CA	Los Angeles Unified School District	231,260	2.8%
FL	Orange School District	96,450	0.7%
FL	Pinellas School District	48,760	1.2%
FL	Polk School District	48,365	4.1%
VA	Loudoun County Public Schools	40,300	1.3%
CO	Jefferson County School District No. R-1	36,680	2.2%
VA	Beach City Public Schools	35,760	1.3%
TX	Conroe ISD	33,475	1.2%
NC	Winston-Salem/Forsyth County Schools	28,430	1.0%
CA	Capistrano Unified School District	28,225	1.1%
NC	Cumberland County Schools	24,080	0.8%
UT	Jordan School District	23,555	0.7%
FL	Manatee School District	23,000	1.3%
WA	Seattle Public Schools	22,815	1.2%
FL	Lake School District	21,160	1.3%
TN	Williamson County Schools	19,895	0.6%
CA	Riverside Unified School District	19,440	1.8%
FL	Sarasota School District	18,860	0.6%
TX	Spring ISD	17,955	1.1%

State	District	Enrollment	Referral Rates
MS	Desoto County School District	17,940	0.5%
TX	Irving ISD	17,420	0.7%
CO	Adams 12 Five Star Schools	17,290	2.7%
MN	St. Paul Public School District	16,335	3.7%
IA	Des Moines Independent Community School District	15,540	1.2%

Note: Districts with a minimum of 10,000 secondary students were considered. The national average for referrals to law enforcement at the secondary level was 0.7% (using only data from districts that reported some referrals).

Source: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015–16.

Of these 25 districts, 12 came from just three states: Florida (6), Texas (3), and California (3). Another noticeable aspect of the list above is the broad range, even among these higher-than-average large districts. Polk School District in Florida, at 4%, is over 5 times the national average. Unfortunately, not one of these listed districts reported a single arrest.

The school-to-deportation pipeline: Both ESSA and the CRDC require collection and reporting of these same data for English learners. We expanded the analysis to cover districts with at least 500 secondary students and at least 200 Latinx students enrolled. We focus on these subgroups because the Trump administration has engaged in abusive and disturbing practices toward immigrants from Spanish-speaking countries seeking entry at our southern border.[173] The data we analyzed, however, come from 2015–16, before the current administration took office.

Each of the following districts reported over 8.5% of their enrolled Latinx students to law enforcement and an even higher referral rate for English learners as follows:

- Etiwanda, CA: 27% of enrolled English learners referred to law enforcement
- Fenton, IL: 25% of enrolled English learners referred to law enforcement
- Leyden, IL: 17 % of enrolled English learners referred to law enforcement
- Holyoke, MA: 14% of enrolled English learners referred to law enforcement
- Beaver Dam Unified, Sparta and Appleton, WI: Each district had at least 10% of enrolled English learners referred to law enforcement

Besides the increased risk of students winding up in prison for misconduct that has traditionally been handled by school officials, police involvement with English learners raises the additional concern. Because local police sometimes communicate information to the Department of Homeland Security, the involvement of local police also increases the risk for deportation because of the greater likelihood that non-English speakers are either undocumented themselves or are the children of undocumented parents. One recent example of minor misconduct leading to deportation happened in Boston and led to the resignation of the Boston Public Schools superintendent, who had vowed not to assist police in rounding up undocumented schoolchildren. In that example, a scuffle between two students at a Boston high school was broken up, the conflict was de-escalated, and no suspensions were issued. However, one of the two students was deported after a school resource officer included in an incident report shared with local police that he thought one of the students could possibly be affiliated with a gang.[174]

Endnotes

1. To find the raw data, readers should go to Civil Rights Data Collection (n.d.). https://ocrdata.ed.gov/ (accessed 08/11/20), click on "State and National Estimations" on the left, click "2015–16 state and national estimations," click "Discipline" in the last category on the page, and then click "Days missed due to out-of-school suspensions." To calculate the years of lost instruction, we divided the total number by 182 days, which is the typical length of a school year. In some cases in this report, our data on total days lost were slightly lower than the numbers provided by OCR's estimates due to additional data cleaning to eliminate schools and districts with errors in their data and to exclude schools serving students in the juvenile justice system. Most of the rates of lost instruction calculated for this report are for secondary students at the state and district levels. OCR does not report any rates of lost instruction. However, all the rates of lost instruction described in this report can be duplicated, including the elementary and secondary level rates, by following our methods, including data cleaning procedures, as described in Appendix A under "Procedure."

2. This data set does not include days lost due to expulsion, school-related arrests, involuntary transfers, or other exclusions from the mainstream classroom.

3. Minke, K. (2020, May 6). The pandemic is causing widespread emotional trauma: Schools must be ready to help. *Education Week*. https://www.edweek.org/ew/articles/2020/05/07/thepandemic-is-causing-widespread-emotional-trauma.html.

4. The calculation is simple. The total of days lost due to out-of-school suspensions, which were collected and reported publicly, is divided by the corresponding total enrollment, and the result is multiplied by 100 to create the rate of lost instruction.

5. The Leadership Conference Education Fund. (2020). *Civil Rights Principles for Safe, Healthy, and Inclusive School Climates.* Washington, DC: The Leadership Conference Education Fund. http://civilrightsdocs.info/pdf/education/School-Climate-Principles.pdf.

6. Pearman, F. A., Curran, F. C., Fisher, B., & Gardella, J. (2019). Are achievement gaps related to discipline gaps? Evidence from national data. *AERA Open, 5*(4). https://doi.org/10.1177/2332858419875440; Mittleman, J. (2018). A downward spiral? Childhood suspension and the path to juvenile arrest. *Sociology of Education, 91*(3), 183–204. https://doi.org/10.1177/0038040718784603

7. Fabelo, T., Thompson, M. D., Plotkin, M., Carmichael, D., Marchbanks, M. P., III, & Booth, E. A. (2011). *Breaking schools' rules: A statewide study of how school discipline relates to students' success and juvenile justice involvement.* New York, NY: Council of State Governments Justice Center and Public Policy Research Institute. https://knowledgecenter.csg.org/kc/system/files/Breaking_School_Rules.pdf.

8. U.S. Department of Education. (2014, January 8). Rethinking school discipline: Remarks of U.S. Secretary of Education Arne Duncan at the release of the joint DOJ-ED school discipline guidance package [Press release]. https://www.ed.gov/news/speeches/rethinking-school-discipline.

9. Losen, D., & Martinez, P. (2020). *Is California doing enough to close the school discipline gap?* Los Angeles, CA: UCLA Center for Civil Rights Remedies at the Civil Rights Project/Proyecto Derechos Civiles. https://www.civilrightsproject.ucla.edu/research/k-12-education/school-discipline/is-california-doing-enough-to-close-the-school-discipline-gap/ (accessed 08/10/20).

10. Bacher-Hicks, A., Billings, S. B., & Deming, D. J. (2019). *The school to prison pipeline: Long-run impacts of school suspensions on adult crime* [NBER Working Paper 26257]. Cambridge, MA: National Bureau of Economic Research. https://www.nber.org/papers/w26257.

11. Fabelo, T., Thompson, M. D., Plotkin, M., Carmichael, D., Marchbanks, M. P., III, & Booth, E. A. (2011). *Breaking schools' rules: A statewide study of how school discipline relates to students' success and juvenile justice involvement.* New York, NY: Council of State Governments Justice Center and Public Policy Research Institute. https://knowledgecenter.csg.org/kc/system/files/Breaking_School_Rules.pdf.

12. Marchbanks, M. P., III, Blake, J., Booth, E., Carmichael, D., Seibert, A., & Fabelo, T. (2015). "The Economic Effects of Exclusionary Discipline on Grade Retention and High School Dropout" in Losen, D. J. (Ed.). *Closing the School Discipline Gap: Equitable Remedies for Excessive Exclusion* (pp. 59–74). New York, NY: Teachers College Press.

13. Rosenbaum, J. (2020). Educational and criminal justice outcomes 12 years after school suspension. *Youth & Society, 52*(4), 515–547.

14. Mittleman, J. (2018). A downward spiral? Childhood suspension and the path to juvenile arrest. *Sociology of Education, 91*(3), 183–204.

15. Balfanz, R., Byrnes, V., & Fox, J. (2015). "Sent Home and Put Off Track: The Antecedents, Disproportionalities, and Consequences of Being Suspended in the 9th Grade" in Losen, D. J. (Ed.). *Closing the School Discipline Gap: Equitable Remedies for Excessive Exclusion* (pp. 17–30). New York, NY: Teachers College Press; Rumberger, R. W., & Losen, D. J. (2017). *The hidden costs of California's harsh school discipline: And the localized economic benefits from suspending fewer high school students.* Los Angeles/Santa Barbara, CA: UCLA Center for Civil Rights Remedies at the Civil Rights Project/Proyecto Derechos Civiles and UC Santa Barbara California Dropout Research Project. https://www.civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/summary-reports/the-hidden-cost-of-californias-harsh-discipline/CostofSuspensionReportFinal-corrected-030917.pdf.

16. As described in two recent economic analyses conducted by Dr. Russell Rumberger, when school administrators suspended a student from school, that action increased the risk for dropping out. Using individual student data and advanced statistical methods, Dr. Rumberger produced conservative estimates of how much the use of suspension was lowering graduation rates nationally, as well as for several states, including California. Once Dr. Rumberger quantified the impact of suspensions on graduation rates, he was able to use the established economic research on the costs associated with not graduating high school to estimate what the costs savings would be if we suspended far fewer students. Dr. Rumberger found that suspensions lowered the graduation rate by approximately 7 percentage points, nationwide, for just one cohort, and the economic impact in social and governmental costs over the lifetime of one cohort of non-graduates is an estimated $35 billion. See: Rumberger, R. W., & Losen, D. J. (2016). *The high cost of harsh discipline and its disparate impact.* Los Angeles, CA: UCLA Center for Civil Rights Remedies at the Civil Rights Project/Proyecto Derechos Civiles. https://www.civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/the-high-cost-of-harsh-discipline-and-its-disparate-impact/UCLA_HighCost_6-2_948.pdf.

17. U.S. Government Accountability Office. (2018). *Discipline disparities for Black students, boys, and students with disabilities*. Washington, DC: Author. https://www.gao.gov/assets/700/690828.pdf.

18. Rumberger, R. W., & Losen, D. J. (2017). *The hidden costs of California's harsh school discipline: And the localized economic benefits from suspending fewer high school students*. Los Angeles/Santa Barbara, CA: UCLA Center for Civil Rights Remedies at the Civil Rights Project/Proyecto Derechos Civiles and UC Santa Barbara California Dropout Research Project. https://www.civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/summary-reports/the-hidden-cost-of-californias-harsh-discipline/CostofSuspensionReportFinal-corrected-030917.pdf.

19. The CRDC is a federally mandated biennial data collection effort containing a wide range of school-level indicators for U.S. public schools. From the CRDC, this report uses information on student enrollment, demographics, and discipline data. It is important to note that while the CRDC has data that goes as far back as the 1970s, the primary variable of interest was first collected in 2015–16, which was days lost of instruction due to out-of-school suspensions. The 2015–16 CRDC includes data from every public school district and public school in the nation (approximately 17,300 school districts, 96,300 schools, and 50.6 million students). The response rate for the 2015–16 collection was 99.8%. See U.S. Department of Education Office for Civil Rights. (2017). *Civil Rights Data Collection 2015–16 data notes*. Washington, DC: Author. https://ocrdata.ed.gov/Downloads/Data-Notes-2015-16-CRDC.pdf.

20. In addition, the data reported are not estimates but represent the actual number of days lost.

21. Losen, D. J., & Whitaker, A. (2018). *11 million days lost: Race, discipline, and safety at U.S. public schools (Part 1)*. Los Angeles, CA: UCLA Center for Civil Rights Remedies at the Civil Rights Project/Proyecto Derechos Civiles and the American Civil Liberties Union. https://www.aclu.org/sites/default/files/field_document/final_11-million-days_ucla_aclu.pdf.

22. Marchbanks, M. III, Blake, J., Booth, E., Carmichael, D., Seibert, A., & Fabelo, T. (2015). "The Economic Effects of Exclusionary Discipline on Grade Retention and High School Dropout" in Losen, D. J. (Ed.). *Closing the School Discipline Gap: Equitable Remedies for Excessive Exclusion* (pp. 59–74). New York, NY: Teachers College Press.

23. Ginsburg, A., Jordan, P., & Chang, H. (2014). *Absences add up: How school attendance influences student success.* San Francisco, CA: Attendance Works. https://www.attendanceworks.org/wp-content/uploads/2017/05/Absenses-Add-Up_September-3rd-2014.pdf.

24. Pearman, F. A., Curran, F. C., Fisher, B., & Gardella, J. (2019). Are achievement gaps related to discipline gaps? Evidence from national data. *AERA Open*, *5*(4). https://doi.org/10.1177/2332858419875440.

25. Morris, E. W., & Perry, B. L. (2016). The punishment gap: School suspension and racial disparities in achievement. *Social Problems*, *63*(1), 68–86. https://academic.oup.com/socpro/article/63/1/68/1844875.

26. Noltemeyer, A. L., Ward, R. M., & Mcloughlin, C. (2015). Relationship between school suspension and student outcomes: A meta-analysis. *School Psychology Review*, *44*(2), 224–240. https://www.tandfonline.com/doi/full/10.17105/spr-14-0008.1.

27. Whisman, A., & Hammer, P. C. (2014). *The association between school discipline and mathematics performance: A case for positive discipline approaches*. Charleston, WV: West Virginia Department of Education. https://files.eric.ed.gov/fulltext/ED569903.pdf.

28. Bauer, L., Liu, P., Schanzenbach, D. W., & Shambaugh, J. (2018). *Reducing chronic absenteeism under the Every Student Succeeds Act*. Washington, DC: The Hamilton Project, Brookings Institution. https://www.attendanceworks.org/wp-content/uploads/2018/04/Hamilton_project_-reducing_chronic_absenteeism_under_the_every_student_succeeds_act.pdf.

29. On information and belief, California is perhaps the only state that makes suspension rates one of the statewide accountability indicators.

30. In several states, these data are collected and can be examined more closely. In states like California, the state provides counts of suspensions but not duration. In such states, the data from this report can provide a reasonable basis for a sound estimate. Several other states report data suitable for forming estimates independently. For example, see Losen, D., Sun, W., & Keith, M. (2017). *Suspended education in Massachusetts: Using days of lost instruction due to suspension to evaluate our schools*. Los Angeles, CA: UCLA Center for Civil Rights Remedies at the Civil Rights Project/Proyecto Derechos Civiles. https://files.eric.ed.gov/fulltext/ED573327.pdf (accessed 08/10/20).

31. Losen, D. J., Hodson, C., Keith, M. A., II, Morrison, K., & Belway, S. (2015). *Are we closing the school discipline gap?* Los Angeles, CA: UCLA Center for Civil Rights Remedies at the Civil Rights Project/Proyecto Derechos Civiles. https://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/are-we-closing-the-school-discipline-gap/AreWeClosingTheSchoolDisciplineGap_FINAL221.pdf (accessed 08/10/20). In this national report, we examined the CRDC data from 2011–12 and the distribution of suspension rates at both the elementary and secondary levels. Table 1 shows that, for most districts, the risk for suspension for Black elementary students was below 2.5% in 58% of the districts. For the other racial/ethnic groups, rates fell below 2.5% in 80%–98% of the districts. A similar analysis of secondary rates in Table 6 on page 22 showed that the suspension risk for Black students was equal to or below 10% in 40% of all the districts that enrolled at least 10 Black students. Each of the other groups experienced a risk below 10% in anywhere between 67% and 97% of the districts.

32. The Center for Civil Rights Remedies has published several studies of discipline disparities in California focusing on the "catchall" category known as "Disruption or Willful Defiance" found in the state's code of conduct at 48900(k)(2), available at https://www.cde.ca.gov/ds/sd/sd/fssd.asp. In our first coverage of the contribution of this category in California, we found that it alone accounted for over 40% of all suspensions. See Losen, D., Keith, M., Hodson, C., Martinez, T., & Belway, S. (2015). *Closing the school discipline gap in California: Signs of progress*. Los Angeles, CA: UCLA Center for Civil Rights Remedies at the Civil Rights Project/Proyecto Derechos Civiles. https://escholarship.org/uc/item/65wok9tm. In Massachusetts, we studied the catchall category that is labeled "category 18" and covers all nonviolent, noncriminal, and non–drug-related misconduct not already covered in the first 17 categories. In Massachusetts, this general category accounted for over 50% of all lost instruction due to out-of-school suspensions. See Losen, D., Sun, W., & Keith, M. (2017). *Suspended education in Massachusetts: Using days of lost instruction due to suspension to evaluate our schools*. Los Angeles, CA: UCLA Center for Civil Rights Remedies at the Civil Rights Project/Proyecto Derechos Civiles. https://files.eric.ed.gov/fulltext/ED573327.pdf (accessed 08/10/20).

33. Fabelo, T., Thompson, M. D., Plotkin, M., Carmichael, D., Marchbanks, M. P., III, & Booth, E. A. (2011). *Breaking schools' rules: A statewide study of how school discipline relates to students' success and juvenile justice involvement.* New York, NY: Council of State Governments Justice Center and Public Policy Research Institute. https://knowledgecenter.csg.org/kc/system/files/Breaking_School_Rules.pdf (accessed 08/11/20); Skiba, R. J., Trachok, M., Chung, C. G., Baker, T., Sheya, A., & Hughes, R. (2015). "Where Should We Intervene? Contributions of Behavior, Student, and School Characteristics to Suspension and Expulsion" in Losen, D. J. (Ed.). *Closing the School Discipline Gap: Equitable Remedies for Excessive Exclusion* (pp. 132–146). New York, NY: Teachers College Press.

34. To the contrary, research suggests that the use of exclusionary discipline practices, such as suspensions, is not effective at deterring misbehavior. See Raffaele Mendez, L. M. (2003). Predictors of suspension and negative school outcomes: A longitudinal investigation. *New Directions for Youth Development*, *99*, 17–33. https://onlinelibrary.wiley.com/doi/abs/10.1002/yd.52. Further, similarly situated schools, serving high-crime neighborhoods, that reported a high level of trust in teacher–parent and teacher–student relationships had higher safety ratings and relied on out-of-school suspensions less often than similar schools with lower safety ratings and lower levels of trust. See: Steinberg, M., Allensworth, E., & Johnson, D. (2015). "What Conditions Support Safety in Urban Schools? The Influence of School Organizational Practices on Student and Teacher Reports on Safety in Chicago" in Losen, D. J. (Ed.). *Closing the School Discipline Gap: Equitable Remedies for Excessive Exclusion* (pp. 118–131). New York, NY: Teachers College Press.

35. In an important recently published study that tracked every individual student in the state of Arkansas, the authors wrote, "Using 10 years of student-level demographic, achievement, and disciplinary data … we find that exclusionary consequences are related to worse academic outcomes (e.g., test scores and grade retention) than less exclusionary consequences, controlling for type of behavioral infraction." See Anderson, K. P., Ritter, G. W., & Zamarro, G. (2019). Understanding a vicious cycle: the relationship between student discipline and academic outcomes. *Educational Researcher*, *48*(5), 251–262. https://doi.org/10.3102/0013189X19848720. Importantly, the more exclusionary the consequence, the greater the negative impact on test scores. In other words, expulsions, referrals to an alternative learning environment, out-of-school suspensions, and in-school suspensions were each independently associated with negative achievement impact and greater risk for grade retention, but the more exclusionary the consequence, the greater the harm. The study authors also found that "less exclusionary consequences (e.g., warnings, Saturday school) have a weaker association with negative academic outcomes" (p. 256).

36. There are not many studies that focus on in-school suspensions distinctly from out-of-school suspensions. In one study of Cleveland, OH, in-school suspensions were redefined as requiring that students attend "learning centers." Rather than a form of punishment, these centers were designed to be used to support students behaviorally and academically. However, even in this study, the intention of the district to staff the learning centers with certified teachers and behavior specialists could not be fulfilled in most of the schools due to a district budget shortfall. Osher, D. M., Poirier, J. M., & Jarjoura, G. R. (2015). "Avoid Quick Fixes: Lessons Learned From a Comprehensive Districtwide Approach to Improve Conditions for Learning" in Losen, D. J. (Ed.). *Closing the School Discipline Gap: Equitable Remedies for Excessive Exclusion* (pp. 192–206). New York, NY: Teachers College Press. Many advocates and educators raise concerns about the quality of education provided when students are given an in-school suspension. However, in theory, they do hold some potential to serve as a place where educators support students. A complete assessment of the quality of in-school suspensions is beyond the scope of this report.

37. Fabelo, T., Thompson, M. D., Plotkin, M., Carmichael, D., Marchbanks, M. P., III, & Booth, E. A. (2011). *Breaking schools' rules: A statewide study of how school discipline relates to students' success and juvenile justice involvement.* New York, NY: Council of State Governments Justice Center and Public Policy Research Institute. https://knowledgecenter.csg.org/kc/system/files/Breaking_School_Rules.pdf (accessed 08/11/20).

38. Skiba, R. J., Trachok, M., Chung, C. G., Baker, T., Sheya, A., & Hughes, R. (2015). "Where Should We Intervene? Contributions of Behavior, Student, and School Characteristics to Suspension and Expulsion" in Losen, D. J. (Ed.). *Closing the School Discipline Gap: Equitable Remedies for Excessive Exclusion* (pp. 132–146). New York, NY: Teachers College Press.

39. The results are multiplied by 100 to produce uniform rates. Because the rates account for differences in enrollment, they can be compared, apples to apples. They are not estimates. However, the days lost are limited to out-of-school suspensions. Days lost due to expulsions, transfers to alternative schools, and in-school suspensions are not included in these rates.

40. The days of lost instruction first became a required part of the CRDC in 2015–16. The data from the 2017–18 school year have not yet been reported to the public. Readers can look up the information on any individual school or district at the Civil Rights Data Collection website at https://ocrdata.ed.gov/. The website includes each school, but CCRR is the only source for the secondary-level and elementary-level analyses broken down for each district and state and the nation. Along with the districts featured in this report, we also provide Excel spreadsheets with all the district-level information.

41. In addition, the data reported are not estimates but represent the actual number of days lost.

42. Moreover, because the data are presented as counts of days lost due to out-of-school suspensions, and not the number of unduplicated students suspended, the actual unrounded numbers are publicly reported because there is no risk of revealing personally identifiable information. Thus, concerns about inaccuracy due to rounding are greatly diminished.

43. Oddly, when the Trump administration gave a summary of the CRDC's most recent information, it did not even mention that this brand-new data set was available. See DeVos, B., Nielsen, K. M., Azar, A. M., & Whitaker, M. (2018). *Final report of the Federal Commission on School Safety*. Washington, DC: Federal Commission on School Safety. https://files.eric.ed.gov/fulltext/ED590823.pdf. This report was presented to the president of the United States.

44. Given that there is only one collection year currently available, it is not yet possible to use the days lost data as a measure of progress. Even once the newer data come out, it will remain important to review the unduplicated student suspension rates (both in-school and out-of-school) at the elementary and secondary levels and to track changes in those student suspension rates over time.

45. These CRDC data are sometimes referred to as OCR data because they are reported to the Office for Civil Rights. Although federal disability law, the IDEA, has required schools and districts to collect data on the duration of suspensions since 2004, the required data were not available on the school or district level.

46. Readers interested in the trend for a particular district can find this information in our spreadsheets released with this report.

47. Moreover, the data that are reported to the public by OCR are rounded off at the school level, and those rounded data are aggregated to the district level, which can distort the results. The days of lost instruction are not rounded off by OCR, but the counts of individual students suspended once and two or more times are each rounded off. In contrast, this report used a researcher's version of the data set with the actual reported enrollment and the actual counts of students suspended and then rounded off the results following the Institute of Education Sciences (IES) distinct set of rounding rules, and the results have been reviewed and approved by the IES. See Institute of Education Sciences (IES). (n.d.). https://nces.ed.gov/statprog/2002/std5_3.asp (accessed 08/11/20). The methods used create less distortion at the district and state levels.

48. See Losen, D. J., & Whitaker, A. (2018). *11 million days lost: Race, discipline, and safety at U.S. public schools (Part 1)*. Los Angeles, CA: UCLA Center for Civil Rights Remedies at the Civil Rights Project/ Proyecto Derechos Civiles and the American Civil Liberties Union. https://www.aclu.org/sites/default/files/field_document/final_11-million-days_ucla_aclu.pdf. This report relied on the raw totals of days lost as reported to the public on OCR's website, which are reported on a k–12 aggregate rate at the district level. OCR reported student suspension rates, which sometimes, as OCR presents them, might seem as if they are based on counts of suspensions, but they are calculated based on the unduplicated number of students suspended just once, combined with the unduplicated number suspended two or more times. Most district- and state-level discipline reports, including those on OCR's website, report on a k–12 aggregate rate. However, k–12 schools are uncommon. Although k–8 schools are growing in popularity, CCRR started reporting out the data further disaggregated by elementary and secondary levels because most schools are either elementary schools, middle schools, or high schools and because lumping together all the grades had the effect of obscuring some of the highest rates and largest racial differences.

49. Readers should note that the k–12 rates are slightly lower in the report we co-authored. See Losen, D. J., & Whitaker, A. (2018). *11 million days lost: Race, discipline, and safety at U.S. public schools (Part 1)*. Los Angeles, CA: UCLA Center for Civil Rights Remedies at the Civil Rights Project/Proyecto Derechos Civiles and the American Civil Liberties Union. https://www.aclu.org/sites/default/files/field_document/final_11-million-days_ucla_aclu.pdf. This is likely due to additional data cleaning. All the rates are within 1–2 days lost of the k–12 values published in the March 2018 joint report.

50. The OCR database does not contain grade-by-grade data but does provide grade configurations for each school. Therefore, we are able to pull all the secondary schools that had no students below grade 5, but we could not pull out secondary students if they attended a k–8 school. The k–8 schools are captured in our k–12 all-school analyses. For more details on our methods, see Appendix A.

51. Losen, D. J., Hodson, C., Keith M. A., II, Morrison, K., & Belway, S. (2015). *Are we closing the school discipline gap?* Los Angeles, CA: UCLA Center for Civil Rights Remedies at the Civil Rights Project/Proyecto Derechos Civiles. https://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/are-we-closing-the-school-discipline-gap/AreWeClosingTheSchoolDisciplineGap_FINAL221.pdf; see also: U.S. Government Accountability Office. (2018). *Discipline disparities for Black students, boys, and students with disabilities*. Washington, DC: Author. https://www.gao.gov/assets/700/690828.pdf. Note that the gender disparities are well documented in every report issued by the U.S. Department of Education. One can find those data online at the Civil Rights Data Collection website at https://ocrdata.ed.gov/.

52. Epstein, R., Blake, J., & González, T. (2017). *Girlhood interrupted: The erasure of Black girls' childhood*. Rochester, NY: SSRN. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3000695.

53. Given the history of racial/ethnic discrimination in America, White students are the comparison group for all of our gap comparisons because they are least likely to be racially discriminated against, although they typically are suspended at rates that are slightly higher than Asian American students.

54. Hawaii was removed from the 50-state comparison of rates of lost instruction but not from the national analyses for the following reasons. Hawaii had the highest overall rate of lost instruction for all students, and for students with disabilities, but the latter conflicted with other federal data from the same year. For students with disabilities, the rate came to 177 days lost per 100 students enrolled. In a CCRR published report using actual reported data from 2015–16 (as well as 2014–15), CCRR found that the k–12 lost instruction rate in Hawaii was just under 19 days per 100 enrolled. See Losen, D. J. (2018). *Disabling punishment: The need for remedies to the disparate loss of instruction experienced by Black students with disabilities.* Los Angeles, CA: UCLA Center for Civil Rights Remedies at the Civil Rights Project/Proyecto Derechos Civiles. The *Disabling Punishment* report used data collected and reported by the U.S. Department of Education's Office of Special Education Programs. The days of lost instruction included expulsions and involuntary transfers. A comparison of each of the other states' estimated days of lost instruction per 100 students with disabilities showed that among the states reporting, the CRDC secondary-level data tended to by higher by approximately 12 days per 100, or 21% over what we estimated for k–12. Given that elementary rates are universally lower, one would expect the secondary rates to be higher than k–12 rates since only the latter includes elementary-level data. Yet while states varied, in no other state besides Hawaii was the CRDC data more than double the estimated lost instruction rate for students with disabilities. Moreover, CCRR excluded Hawaii in prior years after confirming that the state had made errors in its reporting. In this case, we found conflicting data but could not confirm the error. Another example of conflicting data for this collection is that we found that Hawaii's unduplicated counts of students suspended were inconsistent with their reported data on lost instruction. For these reasons, we removed Hawaii from our state rankings on days of lost instruction. Otherwise, the highly suspect data would wind up being featured as the state with the highest rate of lost instruction, both overall and for students with disabilities. However, a close look at the data on days lost from each individual middle and high school did not reveal a clear error. Therefore, without being able to confirm the error, we opted not to remove the state's data from our aggregate national calculations.

55. In addition, it may take several years of full implementation for the impact of a policy change to be realized. According to the National Conference of State Legislatures' report *New State Approaches to Student Discipline* by Joellen Kralik, published in January 2016, "Nine states—Arkansas, California, Connecticut, Louisiana, Nevada, New Mexico, North Carolina, Rhode Island and Oregon—and the District of Columbia have passed legislation to limit the grades in which out-of-school suspension and expulsion can be used and prohibit school districts from using exclusionary discipline in response to certain

nonviolent, nondrug-related infractions. Legislators in an additional three states—Georgia, Minnesota and Oklahoma—introduced comparable legislation limiting exclusionary discipline during their 2015 sessions.

"Some states have focused on limiting exclusionary discipline based on students' grade levels. Connecticut prohibits school districts from using out-of-school suspension and expulsion to discipline students in prekindergarten through grade two, with exceptions including infractions related to violence, weapons and drugs. The District of Columbia prohibits suspending or expelling prekindergarten students except for those who commit violent infractions. In those exceptions, the District of Columbia allows suspensions to be no longer than three days for any particular incident. Oregon limits using out-of-school suspensions and expulsions for students in kindergarten through fifth grade; they may be used only to address violent infractions." See Kralik, J. (2016). *New state approaches to student discipline.* Washington, DC: National Conference of State Legislatures. https://www.ncsl.org/research/education/new-state-approaches-to-student-discipline.aspx.

Other states, such as Massachusetts, amended the state law to conduct their own review of district disparities. In passing a combination of laws and regulation that called for intervening to address wide disparities, several districts received technical assistance to address the disparities. See Massachusetts Department of Elementary and Secondary Education. (2016, June 13). Massachusetts school districts team up to address suspensions and expulsions [Press release]. http://www.doe.mass.edu/news/news.aspx?id=21719.

The Maryland State Board of Education approved of regulations that called for a similar review and an elimination of discipline disparities. See Maryland State Board of Education. (2014). The Maryland guidelines of a state code of discipline. Boston, MA: Author. http://marylandpublicschools.org/about/Documents/DSFSS/SSSP/MDGuidelinesforStateCodeDiscipline08072014.pdf. For more on Maryland's ongoing efforts, see Maryland Advisory Committee to the U.S. Commission on Civil Rights. (2019). Disparities in school discipline in Maryland. Washington, DC: Author. https://www.usccr.gov/pubs/2020/01-14-MD-SAC-School-Discipline-Report.pdf.

56. There is another federal data collection pursuant to the requirements of the IDEA that does provide a clear sense of the racial disparities among students with disabilities, but that report provides the days lost with less precision than the CRDC and contains no district-level information.

57. Losen, D. J. (2018). *Disabling punishment: The need for remedies to the disparate loss of instruction experienced by Black students with disabilities.* Los Angeles, CA: UCLA Center for Civil Rights Remedies at the Civil Rights Project/Proyecto Derechos Civiles. http://www.schooldisciplinedata.org/ccrr/docs/disabling-punishment-report.pdf (accessed 08/11/20).

58. A graph was presented as an example of the wide variation as part of written and oral testimony to the U.S. Congressional Committee on Education and Labor. The U.S. rates have been adjusted in accordance with our final version. See Losen, D. J. (2019). *Written testimony of Daniel Losen before the U.S. Congress House of Representatives, Full Committee on Education and Labor Hearing: "Brown v. Board of Education at 65: A promise unfulfilled."* Los Angeles, CA: UCLA Center for Civil Rights Remedies at the Civil Rights Project/Proyecto Derechos Civiles.

59. Fabelo, T., Thompson, M. D., Plotkin, M., Carmichael, D., Marchbanks, M. P., III, & Booth, E. A. (2011). *Breaking schools' rules: A statewide study of how school discipline relates to students' success and juvenile justice involvement.* New York, NY: Council of State Governments Justice Center and Public Policy Research Institute. https://knowledgecenter.csg.org/kc/system/files/Breaking_School_Rules.pdf (accessed 08/11/20).

60. Skiba, R. J., Chung, C. G., Trachok, M., Baker, T. L., Sheya, A., & Hughes, R. L. (2014). Parsing disciplinary disproportionality: Contributions of infraction, student, and school characteristics to out-of-school suspension and expulsion. *American Educational Research Journal*, *51*(4), 640–670.

61. In preparing this report for publication, we did call several of the school districts on this list. Richmond City Schools told us that even to reconfirm the accuracy of the data, and despite the fact that the data for each school in its district is posted publicly on the federal website, we would have to file a data request under the state's sunshine law.

62. Furthermore, in light of these large disparities, it is especially surprising that there was no mention of the existence of these new data by OCR in the snapshot summary of the 2015–16 data released to the public in 2018.

63. Asian American students are listed at 0% because their exposure was less than one tenth of 1 percent of their total enrollment.

64. Steinberg, M. P., & Lacoe, J. (2017). What do we know about school discipline reform? Assessing the alternatives to suspensions and expulsions. *Education Next*, *17*(1), 44–53; Eden, M. (2017). School discipline reform and disorder: Evidence from New York City public schools, 2012–16. *The Education Digest*, *83*(1), 22; Nussbaum, L. (2017). Realizing restorative justice: Legal rules and standards for school discipline reform. *Hastings Law Journal*, 69, 583.

65. See Finn, C. (2019, May 2). Discipline doves hassle charters, too [Blog post]. https://www.educationnext.org/discipline-doves-hassle-charters/ (accessed 08/12/20).

66. Vanderhaar, J., Pretosko, J., & Muñoz, M. (2015). "Reconsidering the Alternatives: The Relationship Among Suspension, Placement, Subsequent Juvenile Detention, and the Salience of Race" in Losen, D. J. (Ed.). *Closing the School Discipline Gap: Equitable Remedies for Excessive Exclusion* (pp. 222–236). New York, NY: Teachers College Press.

67. The CRDC only has enrollment based on what is reported by each school on a specific day in October. This is commonly referred to as "census" data. In a prior report, CCRR looked closely at alternative schools in California. In that report, we used two different enrollment sources, the census enrollment and the cumulative enrollment, which counted every student who attended during the school year. This is an issue for understanding and comparing the rates of days of lost instruction. The days reported by schools are cumulative. Arguably, rates that are based on census data produce higher rates in schools that serve students on a rotating and temporary basis. For example, an alternative school may have 100 students enrolled on a given date in October, but if most are there on a temporary basis, the cumulative enrollment may be three times as high. We caution readers of our prior reports not to assume that using the cumulative data is fairer. After all, if a student is only in attendance for 2 months, his or her risk for being suspended and his or her possible contribution to the number of days is limited to the student's total days of attendance. The maximum number of days lost is equal to the number of days the student was considered enrolled in the school. As long as the total enrollment on any given day is the same as it is on the census "attendance" day, the use of a much larger cumulative enrollment would artificially depress the days. Where the problem lies is if an alternative school is designed to educate 200 students when at capacity, it may be far below capacity on the day the census "attendance" is taken.

68. In our Excel spreadsheets released alongside the report, we include every district in the nation and provide a further 2015–16 gender breakdown of the out-of-school suspension rates for each racial/ethnic group, as well as for students with disabilities.

69. We do not provide a trend analysis for days of lost instruction because 2015–16 was the first time the CRDC included this data point as a required element. We do not provide trend analyses of school-related arrest rates or referrals to law enforcement because, even in 2015–16, we have found several states and large districts that failed to comply with the data collection. At the district level, many large districts, including New York City and Los Angeles, reported zero arrests. Many other districts, and some entire states, failed to report their referral data accurately. We discuss the missing data in great detail in Part III.

70. Balfanz, R., Byrnes, V., & Fox, J. (2015). "Sent Home and Put Off Track: The Antecedents, Disproportionalities, and Consequences of Being Suspended in the 9th Grade" in Losen, D. J. (Ed.). *Closing the School Discipline Gap: Equitable Remedies for Excessive Exclusion* (pp. 17–30). New York, NY: Teachers College Press; Pearman, F. A., Curran, F. C., Fisher, B., & Gardella, J. (2019). Are achievement gaps related to discipline gaps? Evidence from national data. *AERA Open, 5*(4). https://doi.org/10.1177/2332858419875440

71. There are several ways in which the data reporting of racial/ethnic groups has changed over time, and these explain why most of the student groups not represented in this trend graph were left out. One reason we originally excluded Native Americans and Asian Americans was because we decided for the trend analysis to focus just on those racial/ethnic groups that individually made up at least 5% of the total enrollment in the United States each year. This makes the trend data going that far back more reliable. Further, in our 20 years of experience, we have noticed that the data on Native American students are often inconsistent. One reason is that schools run by the Bureau of Indian Affairs and located on reservations often have missing or incomplete data. Another reason to exclude the smaller racial/ethnic groups is

that the data from all the years before 2000–01 were sampled. OCR applied a set of statistical weights to estimate the national numbers, including for Native American students. We believe these measures were carefully applied, but they are not as accurate as data from years in which every public school district was required to report. The universal data collection years (non-sampled) are 2000–01, 2009–10, 2011–12, and 2015–16. Data from 2017–18 are not yet available, but they will also be from a universal collection. Further, and perhaps even more important, the definitions of the categories for the racial/ethnic groups have changed over time. This means that for some groups, an apples-to-apples comparison was not possible. The categories were expanded from five to seven categories. Prior to 2005–06, which was a transition year, there were only five categories: Asian, American Indian, White, Black, and Hispanic. The biggest change was to the Asian American category, which used to include Hawaiian/Pacific Islanders. These groups are now reported distinctly. The "two or more" racial group category did exist as a CRDC collection category prior to 2009–10. It has grown in size in the last 5 years. If we could know more about the different combinations, we believe we would likely see very different compositions in Alaska than in New York. We left the "two or more" category out of our analyses because its racial composition can vary dramatically by jurisdiction. We did not include students with disabilities because they did not exist as a federally mandated category in 1972–73 because that was before the IDEA (passed in 1975). When data was collected on students with disabilities from the late 1970s until 2009–10, OCR only published the long-term student suspension numbers for students with disabilities. These were suspensions of over 10 days and are a tiny fraction of all suspensions. That did not change until 2009–10. Therefore, one cannot calculate the risk for all out-of-school suspension for students with disabilities before that date using the CRDC data.

72. Rumberger, R. W., & Losen, D. J. (2017). *The hidden costs of California's harsh school discipline: And the localized economic benefits from suspending fewer high school students*. Los Angeles/Santa Barbara, CA: UCLA Center for Civil Rights Remedies at the Civil Rights Project/Proyecto Derechos Civiles and UC Santa Barbara California Dropout Research Project. https://www.civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/summary-reports/the-hidden-cost-of-californias-harsh-discipline/CostofSuspensionReportFinal-corrected-030917.pdf; Pearman, F. A., Curran, F. C., Fisher, B., & Gardella, J. (2019). Are achievement gaps related to discipline gaps? Evidence from national data. *AERA Open*, *5*(4). https://doi.org/10.1177/2332858419875440

73. In other words, if a student received two in-school suspensions for tardiness and later received an out-of-school suspension for repeated tardiness, he or she would be counted once for the in-school suspension rate and once for the out-of-school suspension rate.

74. Unfortunately, some have evaluated changes over time without examining the direction or magnitude of the underlying changes or whether the absolute difference has narrowed. Risk ratios are an example of a relative measure. If the ratio of the decline does not exceed the starting ratio, the new ratio will be the same or larger than the original ratio. For a fuller explanation, please see Appendix A.

75. See subsection "The Reason This Report Focuses on Absolute Differences to Measure Disparities and Their Changes Over Time" in Appendix A.

76. Whitaker, A., Torres-Guillén, S., Morton, M., Jordan, H., Coyle, S., Mann, A., & Sun, W. L. (2019). *Cops and no counselors: How the lack of school mental health staff is harming students.* New York, NY: American Civil Liberties Union. https://www.aclu.org/sites/default/files/field_document/030419-acluschooldisciplinereport.pdf; see also: Juszczak, L., Melinkovich, P., & Kaplan, D. (2003). Use of health and mental health services by adolescents across multiple delivery sites. *Journal of Adolescent Health*, *32*(6), 108–403. https://www.sciencedirect.com/science/article/abs/pii/S1054139X03000739.

77. This is well established in *PARC v. Commonwealth of Pennsylvania* (334 F.Supp. 1257 (E.D. PA 1971)) https://www.clearinghouse.net/chDocs/public/ED-PA-0002-0001.pdf and *Mills v. Board of Education of District of Columbia*, 348 F. Supp. 866 (D.D.C. 1972). https://law.justia.com/cases/federal/district-courts/FSupp/348/866/2010674/, which led to the federal law known today as the Individuals With Disabilities Education Act; see also: Kim, C., Losen, D., & Hewitt, D. (2010). "Students with Disabilities" in *The School-to-Prison Pipeline* (pp. 51-77). New York, NY: New York University Press.

78. *Honig v. Doe*, 484 U.S. 305. (1988). https://supreme.justia.com/cases/federal/us/484/305/.

79. Any intentional denial of a free appropriate public education on the basis of disability is unlawful discrimination. Technically, the structure of the IDEA's procedural protections would make it difficult to hold a school district liable for suspensions of less than 10 days with regard to any individual student. As the Supreme Court discussed in *Honig v. Doe*, 484 U.S. 305 (1988). https://supreme.justia.com/cases/federal/us/484/305/, the 10 days are meant to provide the schools and the parent(s) time to discuss a

possible change of placement. However, if a district routinely suspended students for behavior caused by their disability, ignoring their own knowledge, this systemic discriminatory treatment would likely be challengeable as a denial of free appropriate public education. See *Mills v. Board of Education of District of Columbia*, 348 F. Supp. 866 (D.D.C. 1972). https://law.justia.com/cases/federal/district-courts/FSupp/348/866/2010674/.

80. U.S. Department of Education Office of Special Education and Rehabilitative Services (OSERS). (2016). *Dear colleague*. Washington, DC: Author. https://sites.ed.gov/idea/files/dcl-on-pbis-inieps-08-01-2016.pdf. In this August 2016 letter, the OSERS issued guidance on the legal obligations of educators to provide behavioral supports and services, including behavioral improvement plans for students with disabilities. The letter lists many examples, such as described in the following excerpt: "A set of circumstances that may indicate that the child's IEP is not reasonably calculated to provide a meaningful educational benefit include, but are not limited to, the following:

    · The child is displaying a pattern of behaviors that impede his or her learning or that of others and is not receiving any behavioral supports;

    · The child experiences a series of disciplinary removals from the current placement of 10 days or fewer (which do not constitute a disciplinary change in placement) for separate incidents of misconduct that impede the child's learning or that of others, and the need for behavioral supports is not considered or addressed by the IEP Team; or

    · The child experiences a lack of expected progress toward the annual goals that is related to his or her disciplinary removals or the lack of behavioral supports, and the child's IEP is neither reviewed nor revised."

81. Losen, D., & Martinez, P. (2020). *Is California doing enough to close the school discipline gap?* Los Angeles, CA: UCLA Center for Civil Rights Remedies at the Civil Rights Project/Proyecto Derechos Civiles. https://www.civilrightsproject.ucla.edu/research/k-12-education/school-discipline/is-california-doing-enough-to-close-the-school-discipline-gap/ (accessed 08/10/20).

82. Borg, L. (2016, June 29). Law limits school suspensions for minor infractions. *Providence Journal.* https://www.providencejournal.com/news/20160629/law-limits-school-suspensions-for-minor-infractions.

83. The National Conference of State Legislatures reported on school discipline laws in January 2016, stating "Nine states—Arkansas, California, Connecticut, Louisiana, Nevada, New Mexico, North Carolina, Rhode Island and Oregon—and the District of Columbia have passed legislation to limit the grades in which out-of-school suspension and expulsion can be used and prohibit school districts from using exclusionary discipline in response to certain nonviolent, nondrug-related infractions." See Kralik, J. (2016). *New state approaches to student discipline*. Washington, DC: National Conference of State Legislatures. https://www.ncsl.org/research/education/new-state-approaches-to-student-discipline.aspx. Readers interested in state laws limiting school discipline should know that the U.S. Department of Education provides a compendium of state laws and regulations pertaining to school discipline through its National Center on Safe Supportive Learning Environments: https://safesupportivelearning.ed.gov/. The website provides several search choices. One option is to choose the state and receive the "full compendium" of relevant state laws. Each state compendium report includes school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The reports were last updated in April 2019. For Texas, on page 19 of the compendium report, one can find the following statutory limitation on the use of suspensions pursuant to Section 37.005 (c) "A student who is enrolled in a grade level below grade three may not be placed in out-of-school suspension…."; page 9 of the Ohio state report describes limitations and cites Ohio law at ORC 3313.66 at Section C2: "A pupil in any of grades pre-kindergarten through three may be removed pursuant to division (C)(1) of this section only for the remainder of the school day and shall be permitted to return to curricular and extracurricular activities on the school day following the day in which the student was removed."

84. Florida is one of the few states in which districts report their CRDC data to the state, which reviews the data and sends it on to OCR on the district's behalf. In 2009–10, we discovered large errors in Florida's data and could not report out its suspension rates for any Florida districts. However, we discovered no obvious errors in the 2015–16 data, and strong discipline reform efforts in the Broward and Miami-Dade districts that began before 2015 may explain the decline.

85. We discovered and confirmed with OCR that the state had made errors in its baseline enrollment data, which resulted in reporting rates that were far too high, especially for students with disabilities. We believe these were eventually corrected, and we substituted the state's own independent enrollment data for the data reported to the CRDC. See: Losen, D., Hodson, C., Keith II, M. A., Morrison, K., & Belway, S. (2015). *Are we closing the school discipline gap?* Los Angeles, CA: UCLA Center for Civil Rights Remedies at the Civil Rights Project/Proyecto Derechos Civiles. http://www.schooldisciplinedata.org/ccrr/docs/AreWeClosingSchoolDisciplineGap_UCLA_219.pdf. In an earlier report covering the 2009–10 data from every state, we also discovered and confirmed a similar problem that was not corrected. See: Losen, D. J., & Gillespie, J. (2012). *Opportunities suspended: The disparate impact of disciplinary exclusion from school.* Los Angeles, CA: UCLA Center for Civil Rights Remedies at the Civil Rights Project/Proyecto Derechos Civiles. https://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/upcoming-ccrr-research/losen-gillespie-opportunity-suspended-2012.pdf. We did not publish data on the states of Florida, New York, or Hawaii in that report.

86. See, for example: O'Connor, J. (2015, July 29). Miami-Dade schools eliminating out-of-school suspensions [Press release]. *StateImpact Florida*. https://stateimpact.npr.org/florida/2015/07/29/miami-dade-schools-eliminating-out-of-school-suspensions/ (accessed 08/12/20).

87. Taylor, J., & Cregor, M. (2018). *Unfinished business: Assessing our progress on school discipline under Massachusetts Chapter* 222, p. 23. Boston, MA: Lawyers' Committee for Civil Rights and Economic Justice. http://lawyersforcivilrights.org/wp-content/uploads/2019/01/Unfinished-Business-PDF.pdf.

88. Goldstein, D. (2020, June 12). Do police officers make schools safer or more dangerous? *The New York Times*. https://www.nytimes.com/2020/06/12/us/schools-police-resource-officers.html.

89. U.S. Department of Education Office for Civil Rights. (2017). *U.S. Department of Education 2015–2016 Civil Rights Data Collection*. Washington, DC: Author. https://ocrdata.ed.gov/Downloads/2015-16-Public-Use-Data-File-Manual.pdf.

90. See Every Student Succeeds Act. (2015). 20 U.S.C. Section 6311(h). https://www.law.cornell.edu/uscode/text/20/6311.

91. Fisher, B. W., & Hennessy, E. A. (2016). School resource officers and exclusionary discipline in U.S. high schools: A systematic review and meta-analysis. *Adolescent Research Review*, *1*, 217–233; Weisburst, E. (2018). Patrolling public schools: The impact of funding for school police on student discipline and long-term education outcomes. *Journal of Policy and Management*, *38*, 338–365.

92. U.S. Department of Justice & U.S. Department of Education. (2014). *Dear colleague letter on the nondiscriminatory administration of school discipline.* Washington, DC: Authors. https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.html (accessed 08/12/20). Rhetoric used by the Trump administration to justify rescinding the federal school discipline guidance is relevant to understand the contours of the policy change debate. Without providing any empirical evidence, the Trump administration reiterated an implausible connection—which was included in a report from the Federal Commission on School Safety report and widely criticized by researchers—that the school discipline guidance was somehow responsible for a White male student's murderous rampage at Marjory Stoneman Douglas High School. See: DeVos, B., Nielsen, K. M., Azar, A. M., & Whitaker, M. (2018). *Final report of the Federal Commission on School Safety*. Washington, DC: Federal Commission on School Safety. https://files.eric.ed.gov/fulltext/ED590823.pdf. This report was presented to the president of the United States. The Federal Commission on School Safety's report prompted a review by Jon Valant and Michael Hansen that was very critical of the poor logic driving the School Safety Commission's conclusions. See Valant, J., & Hansen, M. (2018, December 21). School Safety Commission's report uses tenuous logic to walk back guidance on school discipline [Blog post]. https://www.brookings.edu/blog/brown-center-chalkboard/2018/12/21/school-safety-commissions-report-uses-tenuous-logic-to-walk-back-guidance-on-school-discipline/ (accessed 08/12/20).

93. Kim, C., Losen, D., & Hewitt, D. (2010). "Criminalizing School Misconduct" in *The School-to-Prison Pipeline: Structural Legal Reform* (pp. 112–127). New York, NY: New York University Press.

94. Salmon, K. B., Sumpter, W. I., Hogan, L., Lawson, S. A., Gable, M. L., Sallee, W. J., & Brown, M. L. (2019). *Maryland Public Schools arrest data.* Baltimore, MD: Maryland State Department of Education. http://marylandpublicschools.org/stateboard/Documents/2020/0623/MarylandPublicSchoolsArrestData20182019.pdf.

95. Tucker, J. (2020, June 23). Movement to sever ties with school police builds cross California. *San Francisco Chronicle*. https://www.sfchronicle.com/education/article/Movement-to-sever-ties-with-school-police-builds-15355931.php.

96. Higgins, E. (2020, June 25). Movement to remove police from schools gains momentum as Seattle and Oakland boards sever ties with departments. *Common Dreams*. https://www.commondreams.org/news/2020/06/25/movement-remove-police-schools-gains-momentum-seattle-and-oakland-boards-sever-ties.

97. Howard, B. (2020, June 23). LAUSD votes against proposal to defund school police and can't agree on reform plans. *Los Angeles Times*. https://www.latimes.com/california/story/2020-06-23/lausd-defund-police-meeting.

98. Specifically, the Trump administration provided more than $32 million in federal funds to districts to add security, including hiring more school police officers. At least eight California districts received between $240,000 and $500,000 in federal funds in 2019, and it is likely that other districts received state or federal grants in prior years. The districts receiving the federal funds in 2019 were Baldwin Park School Police Department, Chawanakee USD, Corono Norco USD, El Rancho USD, Pasadena USD Police Department, San Joaquin County Office of Education, San Juan USD, and Santa Ana USD Police Department. See: U.S. Department of Justice Office of Community Oriented Policing Services. (n.d.). School Violence Prevention Program 2019 Awardees. https://cops.usdoj.gov/svpp-award (accessed 08/12/20); U.S Department of Justice Office of Community Oriented Policing Services. (2019). *2019 COPS School Violence Prevention Program.* Washington, DC: Author. https://cops.usdoj.gov/pdf/2019AwardDocs/svpp/Award_List.pdf; U.S Department of Justice Office of Community Oriented Policing Services. (2018). *Fact sheet*. Washington, DC: Author. https://cops.usdoj.gov/pdf/2018AwardDocs/svpp/Post_Award_Fact_Sheet.pdf where it provides a summary of "most common elements of awarded projects." It should be noted that before the Obama administration produced the discipline guidance in 2016, it convened the Safe and Supportive School Discipline Initiative, which first met in 2014 and included leading police chiefs, representatives of SROs, school administrators, union leaders, juvenile judges, and civil rights advocates. The initiative released a consensus report that highlighted many promising practices from across the nation but did not call for adding police to schools. See: Morgan, E., Salomon, N., Plotkin, M., & Cohen, R. (2014). *The School Discipline Consensus Report: Strategies from the field to keep students engaged in school and out of the juvenile justice system.* New York, NY: The Council of State Governments Justice Center. http://knowledgecenter.csg.org/kc/system/files/The_School_Discipline_Consensus_Report.pdf.

99. National Center for Education Statistics. (2019). Digest of Education Statistics: Table 233.70b. U.S. Department of Education, Washington, DC. https://nces.ed.gov/programs/digest/d19/tables/dt19_233.70b.asp?current=yes (accessed 08/12/20).

100. See, for example, Eckholm, E. (2013, April 12). With police in schools, more children in court. *The New York Times*. https://www.nytimes.com/2013/04/12/education/with-police-in-schools-more-children-in-court.html.

101. See Yablon, A. (2019, April 6). Do armed guards prevent school shootings? *The Trace*. https://www.thetrace.org/2019/04/guns-armed-guards-school-shootings/.

102. Kupchik, A. (2010). *Homeroom Security: School Discipline in an Age of Fear*. New York, NY: New York University Press; Kupchik, A. (2016). *The Real School Safety Problem: The Long-Term Consequences of Harsh School Punishment*. Oakland, CA: University of California Press.

103. Osher and his co-authors found that expenditures for "hard" security did not yield the anticipated benefits. The study specifically reports that after a school principal was shot in Cleveland, the district invested in more police, security cameras, and metal detectors. A year later, members of the school community reported that their sense of safety had not improved and that incidents of serious misconduct continued at the same high level. However, after the Cleveland School District subsequently changed some of its policies, invested in teaching social and emotional learning, and created learning centers to replace in-school suspension rooms, the school environment improved and suspensions declined. Unfortunately, the Cleveland district lacked the resources to hire the full-time certified teachers that the learning centers were designed to have. Osher and colleagues argue that the statistically significant reduction in misbehavior and improved school climate might have been greater if the learning centers had been staffed by fully certified, experienced teachers. Osher, D. M., Poirier, J. M., & Jarjoura, G. R.

(2015). "Avoid Quick Fixes: Lessons Learned From a Comprehensive Districtwide Approach to Improve Conditions for Learning" in Losen, D. J. (Ed.). *Closing the School Discipline Gap: Equitable Remedies for Excessive Exclusion* (pp. 192–206). New York, NY: Teachers College Press.

104. Osher, D. M., Poirier, J. M., & Jarjoura, G. R. (2015). "Avoid Quick Fixes: Lessons Learned From a Comprehensive Districtwide Approach to Improve Conditions for Learning" in Losen, D. J. (Ed.). *Closing the School Discipline Gap: Equitable Remedies for Excessive Exclusion* (pp. 192–206). New York, NY: Teachers College Press.

105. Finn, J. D., & Servoss, T. J. (2015). "Security Measures and Discipline in American High Schools" in Losen, D. J. (Ed.). *Closing the School Discipline Gap: Equitable Remedies for Excessive Exclusion* (pp. 44–58). New York, NY: Teachers College Press.

106. Servoss, T. (2018). School racial/ethnic composition and school security [unpublished PowerPoint slides]. Presented at the University at Buffalo School Security Conference. Washington, DC.

107. Weisburst, E. (2018). *Patrolling public schools: The impact of funding for school police on student discipline and long-term education outcomes*. Austin, TX: UT Austin, Education Research Center. https://texaserc.utexas.edu/wp-content/uploads/2018/11/21-UTA034-Brief-BPCAB-11.1.18.pdf.

108. Rosniak, J. (2020). "Mobile" or "assigned"? Pros and cons of two different models of deploying SROs. *Translational Criminology*. Spring 2020, 20–21.

109. Hirschfield, P. J. (2008). Preparing for prison? The criminalization of school discipline in the USA. *Theoretical Criminology, 12*(1), 79–101; Kupchik, A. (2010). *Homeroom Security: School Discipline in an Age of Fear*. New York, NY: New York University Press.

110. Kastner, J. (2018, March 14). Exclusive: SDPD officer blows whistle on "rewards for arrests" program. *10 News San Diego*. https://www.10news.com/news/team-10/san-diego-police-officer-blows-whistle-on-rewards-for-arrests-program.

111. Several successful lawsuits have been filed against school districts and school security officers after videos went viral in South Carolina and elsewhere. See, for example, Helm, P. (2018, October 10). Former students at Pittsburgh-area high school settle lawsuit alleging physical abuse and tasing by school resource officers. *The Root*. https://www.theroot.com/former-students-at-pittsburgh-area-high-school-settle-l-1829658922; Lee, J. (2015, July 14). Chokeholds, brain injuries, beatings: When school cops go bad. *Mother Jones*. https://www.motherjones.com/politics/2015/07/police-school-resource-officers-k-12-misconduct-violence/.

112. Rios, V. M. (2011). *Punished: Policing the Lives of Black and Latino Boys*. New York, NY: New York University Press; Daley, B. (2020, June 5). The good-guy image police present to students often clashes with students' reality. *The Conversation*. https://theconversation.com/the-good-guy-image-police-present-to-students-often-clashes-with-students-reality-139821.

113. See the following three video clips: *Police body cam video shows arrest of 6-year-old at Florida school*. (2020, February 27). https://www.nytimes.com/video/us/100000007002916/police-body-cam-video-shows-arrest-of-6-year-old-at-florida-school.html; *Video shows resource officer slam child to the ground*. (2019, December 15). https://www.cnn.com/videos/us/2019/12/15/north-carolina-body-slam-resource-officer-vpx.cnn; Lockhart, P. R. (2019, October 24). Police officer resigns after video shows him using excessive force on an 11-year-old girl. *Vox.* https://www.vox.com/identities/2019/10/24/20929397/police-officer-excessive-force-school-11-year-old-girl-new-mexico. See also: Goldstein, D. (2020, June 12). Do police officers make schools safer or more dangerous? *The New York Times*. https://www.nytimes.com/2020/06/12/us/schools-police-resource-officers.html.

114. Advancement Project. (2020). *We Came to Learn: A Call to Action for Police-Free Schools*. Washington, DC: Author.

115. Eckholm, E. (2013, April 12). With police in schools, more children in court. *The New York Times*. https://www.nytimes.com/2013/04/12/education/with-police-in-schools-more-children-in-court.html.

116. Teske, S. C. (2012). Ending the School to Prison Pipeline. Testimony before the Senate Subcommittee on the Constitution, Civil Rights, and Human Rights. https://www.judiciary.senate.gov/imo/media/doc/12-12-12TeskeTestimony.pdf; see also: Teske, S. C., Huff, B., & Graves, C. (2013). Collaborative role of courts in promoting outcomes for students: The relationship between arrests, graduation rates, and school safety. *Family Court Review*, *51*(3), 418–426.

117. The referral and arrest data are only currently collected and reported for the state and districts in California by the U. S. Department of Education, and 2009–10 was the first year their collection was mandatory. Usually, the first year that data are required there are reporting errors. In the data notes for that year, OCR acknowledges the concern. The notes state, "Additionally, some districts, unable to report complete and accurate data for school-related arrests and referrals to law enforcement, may have reported zero students in these categories. As a result, these data may be underestimated." See: U.S. Department of Education, Civil Rights Data Collection: State and National Estimations Data Notes. https://ocrdata.ed.gov/DataNotes.

118. Note that we focus on secondary-level (middle and high schools) students because they are far more likely to have police in schools and to get arrested. It should be rare that elementary schools have an arrest.

119. We do not have clear enough information to draw a firm conclusion about why the counts of referrals and arrests are identical. It is likely that, in some cases, local police do not distinguish school-related arrests from other arrests and do not provide school districts with the data they need to complete the CRDC. In such cases, districts reporting the total referrals in both columns would be overreporting school-related arrests. However, large school districts, including New York City and Los Angeles, each failed to report their school-related arrests in 2015–16, yet in both cases, the school district employs a large school-police force. Several issues related to enforcement power and accountability, and the desire by administrators to present their schools in a positive light, may contribute to non-reporting or underreporting of arrest data. The U.S. Department of Education is limited in its capacity to ensure appropriate collection by local law enforcement. On the other hand, there are many states and districts that engage in regular sharing of information with local police about students.

120. We found that out of the approximately 1,230 districts at the secondary level that enrolled at least 500 Black students, 61% of the districts reported no arrests, 37% reported no referrals and no arrests, and 9% reported identical numbers for referrals and arrests.

121. Kupchik, A. (2010). *Homeroom Security: School Discipline in an Age of Fear*. New York, NY: New York University Press; Noguera, P. A. (2003). Schools, prisons, and social implications of punishment: Rethinking disciplinary practices. *Theory Into Practice, 42*(4), 341–50; Osher, D. M., Poirier, J. M., & Jarjoura, G. R. (2015). "Avoid Quick Fixes: Lessons Learned From a Comprehensive Districtwide Approach to Improve Conditions for Learning" in Losen, D. J. (Ed.). *Closing the School Discipline Gap: Equitable Remedies for Excessive Exclusion* (pp. 192–206). New York, NY: Teachers College Press.

122. See St. George, D. (2020, June 24). As activists try to get police out of schools, Maryland arrest data shows racial gap. *The Washington Post*. https://www.washingtonpost.com/local/education/as-activists-try-to-get-police-out-of-schools-maryland-arrest-data-shows-racial-gap/2020/06/24/8056414e-b598-11ea-a8da-693df3d7674a_story.html.

123. See Every Student Succeeds Act. (2015). 20 U.S.C. Section 6311(h). https://www.law.cornell.edu/uscode/text/20/6311.

124. For instance, the state of Indiana reported more school-related arrests than referrals to law enforcement. This should not be possible given that the CRDC defines referrals to law enforcement as an action by which a student is reported to any law enforcement agency or official, including a school police unit, for an incident that occurs on school grounds, during school-related events, or while taking school transportation, regardless of whether official action is taken. Citations, tickets, court referrals, and school-related arrests are considered referrals to law enforcement. The CRDC defines school-related arrest as an arrest of a student for any activity conducted on school grounds, during off-campus school activities (including while taking school transportation), or due to a referral by any school official. All school-related arrests are considered referrals to law enforcement, but not all referrals to law enforcement lead to an arrest. We called Indiana's state education data manager and he confirmed that they defined referrals as all calls by the school to the police that led to an off-campus arrest. Given that Indiana created its own definition, the state is not fully compliant, as not all referrals to the police are being reported.

125. See Rhode Island Department of Education. (n.d.). RIDEmap portal. https://www.ride.ri.gov/InformationAccountability/RIDEDataResources/RIDEmapPortal.aspx (accessed 08/12/2020).

126. See Every Student Succeeds Act. (2015). 20 U.S.C. Section 6311(h). https://www.law.cornell.edu/uscode/text/20/6311.

127. See Rhode Island Department of Education. Providence 2018–19 Report Card. (n.d.). https://reportcard.ride.ri.gov/201819/DistrictCRDC?DistCode=28 (accessed 08/12/2020).

128. See Kreighbaum, A. (2018, March 30). As Civil Rights Office gets more money, it limits investigations. *Inside Higher Ed.* https://www.insidehighered.com/news/2018/03/30/more-money-civil-rights-office-comes-it-narrows-its-investigative-work.

129. See Walsh, M. (2018, July 3). Trump withdraws Obama-era guidance on racial diversity in k–12, higher ed [Blog post]. http://blogs.edweek.org/edweek/campaign-k-12/2018/07/trump_to_withdraw_obama-era_gu.html.

130. For example, without any proof, in its discourse on the subject, DoED repeatedly suggested there is a possible connection between the murders of students at Marjory Stoneman Douglas High School in Broward County, FL, and the county's policy of diverting youth offenders into an education program instead of prosecuting them for nonviolent felonies. The diversion policy was developed in collaboration with the state's attorney general to mitigate the high number of Black males who were incarcerated on the basis of school misbehavior. DeVos, B., Nielsen, K. M., Azar, A. M., & Whitaker, M. (2018). *Final report of the Federal Commission on School Safety*. Washington, DC: Federal Commission on School Safety. https://files.eric.ed.gov/fulltext/ED590823.pdf. This report was presented to the president of the United States.

131. Using the shooter's rampage as one of several unsubstantiated justifications, and despite hundreds of letters from children's advocates in opposition, in 2019, DoED rescinded the federal guidance to school districts. DeVos, B., Nielsen, K. M., Azar, A. M., & Whitaker, M. (2018). *Final report of the Federal Commission on School Safety*. Washington, DC: Federal Commission on School Safety. https://files.eric.ed.gov/fulltext/ED590823.pdf. This report was presented to the president of the United States.

132. The U.S. Government Accountability Office released a report that found no empirical research from 2009–19 that directly examined the link between school discipline and school shootings. According to the report, school-targeted shootings were most commonly committed by students or former students; had the highest fatalities per incident; were not suicides, accidents, or immediate responses to grievances; and were more likely to occur in suburban and rural schools serving wealthier students with low minority enrollments. U.S. Government Accountability Office. (2020). *Characteristics of school shootings.* Washington, DC: Author. https://www.gao.gov/assets/710/707469.pdf.

133. DeVos, B., Nielsen, K. M., Azar, A. M., & Whitaker, M. (2018). *Final report of the Federal Commission on School Safety*. Washington, DC: Federal Commission on School Safety. https://files.eric.ed.gov/fulltext/ED590823.pdf. This report was presented to the president of the United States.

134. Finn, J. D., & Servoss, T. J. (2014). Misbehavior, suspensions, and security measures in high school: Racial/ethnic and gender differences. *Journal of Applied Research on Children: Informing Policy for Children at Risk*, *5*(2), 11; Osher, D. M., Poirier, J. M., & Jarjoura, G. R. (2015). "Avoid Quick Fixes: Lessons Learned From a Comprehensive Districtwide Approach to Improve Conditions for Learning" in Losen, D. J. (Ed.). *Closing the School Discipline Gap: Equitable Remedies for Excessive Exclusion* (pp. 192–206). New York, NY: Teachers College Press.

135. Weisburst, E. K. (2019). Patrolling public schools: The impact of funding for school police on student discipline and long-term education outcomes. *Journal of Policy Analysis and Management, 38*(2), 338–365.

136. Steinberg, M. P., & Lacoe, J. (2017). What do we know about school discipline reform? Assessing the alternatives to suspensions and expulsions. *Education Next*, *17*(1), 44–53.

137. Fabelo, T., Thompson, M. D., Plotkin, M., Carmichael, D., Marchbanks, M. P., III, & Booth, E. A. (2011). *Breaking schools' rules: A statewide study of how school discipline relates to students' success and juvenile justice involvement.* New York, NY: Council of State Governments Justice Center and Public Policy Research Institute. https://knowledgecenter.csg.org/kc/system/files/Breaking_School_Rules.pdf (accessed 08/11/20).

138. Shollenberger, T. L. (2015). "Racial Disparities in School Suspension and Subsequent Outcomes: Evidence From the National Longitudinal Survey of Youth" in Losen, D. J. (Ed.). *Closing the School Discipline Gap: Equitable Remedies for Excessive Exclusion* (pp. 31–43). New York, NY: Teachers College Press.

139. Rosenbaum, J. (2020). Educational and criminal justice outcomes 12 years after school suspension. *Youth & Society, 52*(4), 515–547.

140. Mowen, T. J., Brent, J. J., & Boman J. H., IV, (2019). The effect of school discipline on offending across time. *Justice Quarterly*, 1–22.

141. Barrett, N., McEachin, A., Mills, J. N., & Valant, J. (2017). *What are the sources of school discipline disparities by student race and family income?* New Orleans, LA: Education Research Alliance for New Orleans. https://educationresearchalliancenola.org/files/publications/111417-Barrett-McEachin-Mills-Valant-What-Are-the-Sources-of-School-Discipline-Disparities-by-Student-Race-and-Family-Income.pdf.

142. See Morgan, P. L., Farkas, G., Hillemeier, M. M., Wang, Y., Mandel, Z., DeJarnett, C., & Maczuga, S. (2019). Are students with disabilities suspended more frequently than otherwise similar students without disabilities? *Journal of School Psychology*, *72*, 1–13. In their article on students with disabilities, they mention that as part of the same study, they found that Black students were 1.6 times more likely than similarly situated White students to be suspended. However, it should be noted that despite the fact that this research repudiates a nearly identical study (Wright, J. P., Morgan, M. A., Coyne, M. A., Beaver, K. M., & Barnes, J. C. (2014). Prior problem behavior accounts for the racial gap in school suspensions. *Journal of Criminal Justice*, *42*, 257–266), which is often cited to support the argument that Black students are not discriminated against, this Morgan study is deeply flawed in its design, and especially so with regard to students with disabilities. Only a close read reveals the fact that, by design, it labels approximately half of all students with disabilities as "students without disabilities." Therefore, when the researchers claim to have paired similarly situated students except for disability status, in some cases these comparisons could have compared earlier identified students with disabilities to later-identified students with disabilities in their pairing. Unfortunately, the authors fail to mention that the "without" disabilities group had about as many students with disabilities included as the "with" disabilities group had in total. The sample Morgan and colleagues chose to use also excludes most of the suspensions that most students experience because it relied upon the discipline information that parents could recall and not on actual administrative data for discipline. Another flaw is that the study design did not account for the possibility of disability discrimination that occurs when the behavior that was punished was known to be disability-caused, or resulted because of a failure by the district to provide FAPE.

143. Okonofua, J. A., & Eberhardt, J. L. (2015). Two strikes: Race and the disciplining of young students. *Psychological Science, 26,* 617–624; Okonofua, J. A., Paunesku, D., & Walton, G. M. (2016). Brief intervention to encourage empathic discipline cuts suspension rates in half among adolescents. *Proceedings of the National Academy of Sciences*, *113*(19), 5221–5226.

144. Gilliam, W. S., Maupin, A. N., Reyes, C. R., Accavitti, M., & Shic, F. (2016). *Do early educators' implicit biases regarding sex and race relate to behavior expectations and recommendations of preschool expulsions and suspensions?* Research Study Brief. New Haven, CT: Yale University, Yale Child Study Center. https://medicine.yale.edu/childstudy/zigler/publications/Preschool%20Implicit%20Bias%20Policy%20Brief_final_9_26_276766_5379_v1.pdf.

145. If all the teachers watched the Black boys most when not one was misbehaving, one can imagine their conclusion about how the experiment would turn out if all the students had misbehaved in equal degrees. If the teachers accurately reported what they saw if all were misbehaving, they would have seen Black boys exhibit more misbehavior simply because they predominantly watched the Black boys. None would realize that the students were all misbehaving in equal amounts. None would report that White girls misbehaved more, which they might have done if they had watched the White girls most of the time. By directing our attention in this manner, our initial racial biases can wind up reinforced with real data without us even knowing that our data collection was skewed. This example is offered not as proof of intentional different treatment but to suggest that implicit racial bias can influence how differently we observe children's behavior. In turn, our biased observations can reinforce negative perceptions, making it more likely they will be triggered again.

146. Kim, C. Y., Losen, D. J., & Hewitt, D. T. (2010). *The School-to-Prison Pipeline: Structuring Legal Reform*. New York, NY: New York University Press.

147. See Darling-Hammond, L. (2019, May 16). Want safe schools? Start with research-based school discipline policies. *Forbes*. https://www.forbes.com/sites/lindadarlinghammond/2019/05/16/want-safe-schools-start-with-research-based-school-discipline-policies/#563030916701.

148. Often, bad policies, like corporal punishment or suspending truant students, can simply be eliminated. In other cases, like the elimination of suspensions as a response to minor disruptive behavior, most agree that teachers should receive training in effective classroom management and in how to respond to disruptive students in ways that help diminish the problem behavior and improve the learning environment.

149. Skiba, R. J., Trachok, M., Chung, C. G., Baker, T., Sheya, A., & Hughes, R. (2015). "Where Should We Intervene? Contributions of Behavior, Student, and School Characteristics to Suspension and Expulsion" in Losen, D. J. (Ed.). *Closing the School Discipline Gap: Equitable Remedies for Excessive Exclusion* (pp. 132–146). New York, NY: Teachers College Press.

150. Whitaker, A., & Losen, D. J. (2019). *The striking outlier: The persistent, painful and problematic practice of corporal punishment in schools*. Los Angeles, CA: UCLA Center for Civil Rights Remedies at the Civil Rights Project/Proyecto Derechos Civiles. https://escholarship.org/content/qt9d19p8wt/qt9d19p8wt.pdf.

151. Losen, D. J., Sun, W. L., & Keith, M. A. (2017). *Suspended education in Massachusetts: Using days of lost instruction due to suspension to evaluate our schools*. Los Angeles, CA: UCLA Center for Civil Rights Remedies at the Civil Rights Project/Proyecto Derechos Civiles. https://files.eric.ed.gov/fulltext/ED573327.pdf (accessed 08/10/20).

152. Losen, D. J., Sun, W. L., & Keith, M. A. (2017). *Suspended education in Massachusetts: Using days of lost instruction due to suspension to evaluate our schools*. Los Angeles, CA: UCLA Center for Civil Rights Remedies at the Civil Rights Project/Proyecto Derechos Civiles. https://files.eric.ed.gov/fulltext/ED573327.pdf (accessed 08/10/20).

153. Skiba, R. J., & Losen, D. J. (2016). From reaction to prevention: Turning the page on school discipline. *American Educator*, *39*(4), 4.

154. See, for example, statements of NEA President Dennis Van Roekel, describing NEA's efforts to "address the school-to-prison national problem" and its support of a toolkit that illustrates how restorative practices can be used more effectively. National Education Association. (2014, March 20). NEA and partners ramping up efforts to end school discipline disparities: New toolkit offers better alternatives to zero-tolerance school discipline policies [Press release]. http://www.gpsnetwork.org/home/58464.htm. The referenced toolkit is called *Restorative Practices: Fostering Healthy Relationships & Promoting Positive Discipline in Schools: A Guide for Educators* and can be found here: http://schottfoundation.org/sites/default/files/restorative-practices-guide.pdf.

155. Gregory, A., Allen, J. P., Mikami, A. Y., Hafen, C. A., & Pianta, R. C. (2015). "The Promise of a Teacher Professional Development Program in Reducing Racial Disparity in Classroom Exclusionary Discipline" in Losen, D. J. (Ed.). *Closing the School Discipline Gap: Equitable Remedies for Excessive Exclusion* (pp. 166–179). New York, NY: Teachers College Press.

156. See Okonofua, J., Paunesku, D., & Walton, G. (2016). Brief intervention to encourage empathic discipline cuts suspension rates in half among adolescents. *Proceedings of the National Academy of Sciences, 113*(19), 5221–5226.

157. An example of this problem can be observed in the way research of restorative justice using different techniques has yielded somewhat different conclusions. A study by González found that the discipline gap narrowed. However, a study by Gregory & Evans concluded that the racial gap in the same district remained unchanged. See: Gregory, A., & Evans, K. R. (2020). *The starts and stumbles of restorative justice in education: Where do we go from here?* Boulder, CO: National Education Policy Center. http://nepc.colorado.edu/publication/Restorative-justice.

    Both studies concluded that, despite the districts' efforts, more needed to be done to close the racial gap. Technically, both conclusions are true because they describe different mathematical phenomena. The contrasting conclusions raise the question of the utility of relying solely on relative gaps that do not reflect declines in the underlying rates and contradict the plainly visible narrowing of the racial divide in absolute terms. The problem with relying on purely relative measures of disparities is described in detail in Appendix C. González, T., (2015). "Socializing Schools: Addressing Racial Disparities in Discipline Through Restorative Justice" in Losen, D. J. (Ed.). *Closing the School Discipline Gap: Equitable Remedies for Excessive Exclusion* (pp. 151–165). New York, NY: Teachers College Press.

158. The Leadership Conference Education Fund. (2020). *Civil Rights Principles for Safe, Healthy, and Inclusive School Climates.* Washington, DC: The Leadership Conference Education Fund. http://civilrightsdocs.info/pdf/education/School-Climate-Principles.pdf.

159. U.S. Department of Education. (2017). *Office for Civil Rights: Master list of 2015–2016 CRDC definitions.* Washington, DC: Author. https://ocrdata.ed.gov/Downloads/Master-List-of-CRDC-Definitions.pdf.

160. U.S. Department of Education. (2017). *Office for Civil Rights: Master list of 2015–2016 CRDC definitions.* Washington, DC: Author. https://ocrdata.ed.gov/Downloads/Master-List-of-CRDC-Definitions.pdf.

161. There are some districts at the secondary level that include in their district names "elementary"; however, given how we categorize the secondary level, the schools who fit that grade-span criteria are kept and reported for that district.

162. Preparation and data cleaning for all spreadsheets were conducted using STATA.

163. Loveless, T. (2017). *The 2017 Brown Center report on American education: How well are American students learning?* Washington, DC: Brown Center on Education Policy at Brookings. https://www.brookings.edu/wp-content/uploads/2017/03/2017-brown-center-report-on-american-education.pdf.

164. Perry, B., & Losen, D. J. (2017). *NEPC review: Understanding a vicious cycle: Do out-of-school suspensions impact student test scores?* Boulder, CO: National Education Policy Center. http://nepc.colorado.edu/thinktank/review-discipline.

165. Mendez, L. R. (2003). "Predictors of Suspension and Negative School Outcomes: A Longitudinal Investigation" in Wald, J. & Losen, D. J. (Eds.). *Deconstructing the School-to-Prison Pipeline: New Directions for Youth Development* (pp. 17–33). San Francisco, CA: Jossey-Bass.

166. Osher, D. M., Poirier, J. M., & Jarjoura, G. R. (2015). "Avoid Quick Fixes: Lessons Learned From a Comprehensive Districtwide Approach to Improve Conditions for Learning" in Losen, D. J. (Ed.). *Closing the School Discipline Gap: Equitable Remedies for Excessive Exclusion* (pp. 192–206). New York, NY: Teachers College Press.

167. Fabelo, T., Thompson, M. D., Plotkin, M., Carmichael, D., Marchbanks, M. P., III, & Booth, E. A. (2011). *Breaking schools' rules: A statewide study of how school discipline relates to students' success and juvenile justice involvement.* New York, NY: Council of State Governments Justice Center and Public Policy Research Institute. https://knowledgecenter.csg.org/kc/system/files/Breaking_School_Rules.pdf (accessed 08/11/20); Skiba, R. J., Trachok, M., Chung, C. G., Baker, T., Sheya, A., & Hughes, R. (2015). "Where Should We Intervene? Contributions of Behavior, Student, and School Characteristics to Suspension and Expulsion" in Losen, D. J. (Ed.). *Closing the School Discipline Gap: Equitable Remedies for Excessive Exclusion* (pp. 132–146). New York, NY: Teachers College Press.

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About the Authors

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About the UCLA Civil Rights Project's Center for Civil Rights Remedies

The UCLA Civil Rights Project's Center for Civil Rights Remedies (CCRR) is dedicated to improving educational opportunities and outcomes for children who have been discriminated against historically due to their race or ethnicity and who are frequently subjected to exclusionary practices, such as disciplinary removal, overrepresentation in special education, and reduced access to a college-prep curriculum. CCRR has issued numerous reports about the use of disciplinary exclusion, including the 2015 report *Are We Closing the School Discipline Gap?*, which was recognized as the best policy report of the year by the American Educators Research Association. Recent reports include *Disabling Punishment: The Need for Remedies to the Disparate Loss of Instruction Experienced by Black Students With Disabilities* (2018) and *Is California Doing Enough to Close the Discipline Gap?* (2020). CCRR also provides technical assistance directly to states, school districts, and civil rights enforcement agencies.

CCRR is an initiative of the UCLA Civil Rights Project/Proyecto Derechos Civiles (CRP), which is co-directed by Gary Orfield and Patricia Gándara, research professors at UCLA. Founded at Harvard in 1996, CRP's mission is to create a new generation of research in social science and law on critical issues of civil rights and equal opportunity for racial and ethnic groups in the United States. CRP has monitored the success of U.S. schools in equalizing opportunity and has been the authoritative source of segregation statistics. CRP has commissioned more than 500 studies, published more than 20 books, and issued numerous reports from authors at universities and research centers across the country.

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