

Protecting Student Civil Rights

The Federal Role in School Discipline

May 1, 2019

#SafeInclusiveSchools

@LPI_Learning





Overview

History of the federal role

Impact of zero-tolerance disciplinary policies

Federal guidance on school discipline

Research-based best practices to create safe and inclusive learning environments

The federal government services a critical role in addressing educational inequities

The Departments of Justice and Education can use investigation and litigation to address disparities in treatment and violations of students' civil rights caused by and unresolved by states and districts.

- Civil Rights Act of 1964
- Elementary and Secondary Education Act of 1965

Administrations have several tools to ameliorate educational inequities

These include:

- issuing federal guidance
- issuing regulations
- statements of administration policy
- investigative powers
- data collection and dissemination
- budgetary requests

Exclusionary discipline practices often resulted from zero-tolerance policies

- **Apply strong punishments for particular infractions such as removing students through suspensions and expulsions**
- **Over time applied to nonviolent and subjective offenses, such as:**
 - willful defiance
 - talking in class
 - tardiness
 - truancy

Impact of zero-tolerance policies

- Students lose instructional time, tend to have lower academic success, higher rates of grade retention, lower graduation rates, and are more likely to become involved in the juvenile justice system.
- A student who is suspended or expelled for a discretionary violation is “twice as likely to repeat his or her grade compared to a student with the same characteristics, attending a similar school, who had not been suspended or expelled.”
- A student’s associated odds of dropping out of school double with their first suspension.

The impact is disproportionate

African American male students:

8% of students enrolled and
25% of students suspended

African American female students:

8% of students enrolled and
14% of students suspended

African American students:

15% of students enrolled and
31% of students referred to law enforcement or arrested

African American girls are **5.5 times** more likely and **Native American girls** are **3 times** more likely to be suspended than **White girls**.

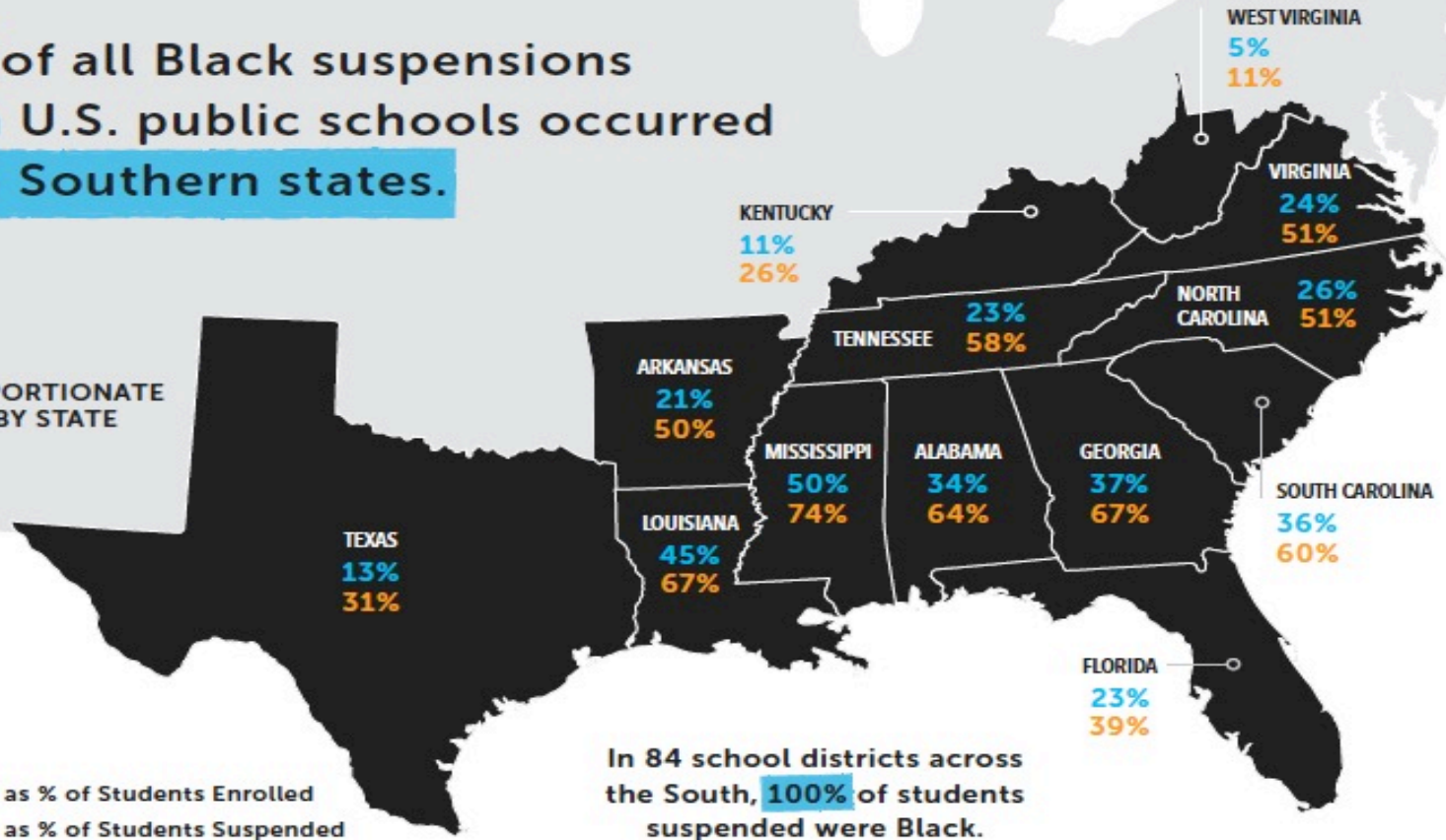
LGBTQ students are **more likely** to be suspended than their **non-LGBTQ peers**.

These trends are particularly pronounced in the South

55% of all Black suspensions from U.S. public schools occurred in **13 Southern states.**

DISPROPORTIONATE IMPACT BY STATE

- Blacks as % of Students Enrolled
- Blacks as % of Students Suspended



In 84 school districts across the South, **100%** of students suspended were Black.

Source: Center for the Study of Race and Equity in Education at the University of Pennsylvania Graduate School of Education

These disparities are NOT due to student behavior

- Racial disparities in discipline rates are a function of the fact that students of color are often treated and punished more harshly when they engage in behaviors similar to those of their White peers.
- Students of color are suspended from school for fairly minor behavior that does not pose a serious threat to safety.
- Studies show that African American students receive harsher suspensions for more subjective and less serious behavior than their White peers.

The Obama administration school discipline guidance

Released in 2014, the Obama administration **guidance package** on school discipline aimed to address the previously described **disproportionate suspension and expulsion** of

- students of color
- students with disabilities
- other historically underserved students

The Guidance provided to states, districts, and schools included:

1. How schools can administer discipline without discriminating against students.
2. Research-based actions to improve school climate and discipline with alternatives to exclusionary discipline.
3. Directory of resources (sample memorandums of understanding, discipline policies, and surveys).
4. Catalogue of state school discipline laws and regulations.

Rescission of the Guidance

This Guidance was rescinded by the Trump Administration using the School Safety Commission Report released in December 2018 as justification. **This report:**

- Disregards the majority of research and reaches conclusions beyond the empirical evidence provided within the report.
- Encourages the criminalization of nonviolent behaviors that will likely disproportionately impact students of color and other historically underserved students.
- Ignores the role of implicit bias and life-changing consequences.

The nation's schools are becoming safer

- The percentages of public schools recording incidents of crime and reporting incidents to the police were lower in 2015–16 than in every prior survey year.
- The percentage of public schools taking at least one serious disciplinary action was lower in 2015–16 than in 2003–04 across all specific offense types.
- The percentage of students in grades 9–12 who reported having been in a physical fight anywhere in the previous 12 months decreased between 2001 and 2017 (from 33 to 24 percent).

Rescinding the Obama administration guidance on school discipline:

- Eliminates the federal focus on preventing discriminatory application of discipline policies.
- Could reverse these trends showing improvement.
- Denies valuable evidence-based resources for states and districts working to change harmful practices.

It does **not eliminate the federal requirement that schools are legally obligated to administer student discipline without discriminating against students on the basis of race, color, national origin, or disability status.**

States should continue to implement the research-based approaches included in the Guidance such as...

- **Replacing** zero-tolerance policies for low-level offenses with strategies teaching social-emotional skills.
- Providing **targeted** support for educators.
- Providing **training** on implicit bias and asset-based youth development.
- Considering ways to **prevent** negative consequences with policies that increase law enforcement presence in schools.
- Creating relationship-centered schools that **support** strong family and community engagement.

State efforts and impact

California

- Between 2011 and 2016, suspensions declined by 33.6%, driven by a 77% decline in suspensions for “willful defiance,” and expulsions dropped by 40.4%.
- School-based firearm incidents, which were well above the national average from 2009–10, were far below the national average by 2015–16, declining by more than 50%.
- Significant decreases also occurred in rates of school-based fights, bullying incidents, and classroom disruptions over that period.
- High school graduation rates is at 82% compared to 74% in 2010.

Additional state efforts

Colorado: Legislature passed a series of laws and policies to reduce the use of exclusionary discipline practices and replace them with restorative justice approaches. Provided funding to support those efforts.

Ohio: Legislature passed a bill banning out-of-school suspensions for minor misbehavior (pre-k–3), requiring specified training and memorandums of understanding for SROs, and provided grant funding for schools.

Michigan: State Board of Education approved model policy providing guidance to schools on creating culture change and addressing behavioral concerns using non-exclusionary methods. Passed bipartisan legislation that changed the state’s previous “mandatory expulsion” requirements.

Moderated Discussion

MODERATOR

Ashley Harrington | @UNCF

Director, National Social Justice Program, UNCF

Lynn Jennings | @EdTrust

Senior Director of National and State Partnerships, The Education Trust

Zakiya Sankara-Jabar | @ZakiyaChinyere @DignityInSchool

National Field Organizer, Dignity in Schools Campaign

Carolyn Quintana | @QBronxdale @bronxdale_hs

Principal, Bronxdale High School

Johanna Molina | @bronxdale_hs

Senior, Bronxdale High School

Closing Remarks

Judith Browne Dianis

Executive Director, Advancement Project National Office

@jbrownedianis @adv_project

Learning Policy Institute Resources



Protecting Students' Civil Rights

The Federal Role in School Discipline

Jessica Cardichon and Linda Darling-Hammond



APRIL 2019

Report

learningpolicyinstitute.org/product/student-civil-rights-school-discipline

Sign up for updates

bit.ly/LPIupdates

Follow LPI on Twitter

@LPI_Learning