



Dignity in Schools Campaign (DSC)

April 16, 2009

Mr. Arne Duncan
U.S. Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Re: Using the American Recovery and Reinvestment Act to Improve School Climate, School Discipline, and Student Engagement

Dear Secretary Duncan,

The American Recovery and Reinvestment Act (ARRA) provides unprecedented federal funding to invigorate our classrooms and close the achievement gap. Unsafe and hostile school climates harm both students and teachers and widen the achievement gap; as a result, we urge the US Department of Education (the Department) to encourage states and school districts to invest in efforts that improve both school climate and student engagement. Among other opportunities, the forthcoming “smart list” and remaining ARRA guidance should continue to highlight Positive Behavior Supports (PBS) and incentivize efforts to reduce pervasive disparities in discipline so that all students may benefit from Congress’s wise investment in our future.

Maintaining a safe and healthy instructional climate is a critical responsibility of schools in the 21st century. Behavioral issues and academic achievement are inseparable, and safer schools are higher achieving schools. Unfortunately, many schools use only one set of tools—suspension and expulsion—to maintain school discipline and safety. Although there are instances when a student threatens the safety of a school and must be removed from the instructional setting, the overuse of school suspension and expulsion poses serious risks. Removal from school reduces the amount of time students spend receiving instruction, which has been shown to be the strongest predictor of school achievement, and leaves students at home or on the streets, which increases their risk for contact with the juvenile justice system. Equally important, studies by the American Psychological Association and others failed to find any evidence that the use of zero tolerance, suspension, and expulsion leads to improvements in student behavior or school climate.

While exclusionary practices negatively impact all students, students of color, students with disabilities, students residing in areas of concentrated poverty, and English language learners are highly over-represented in the use of suspension and expulsion, and thus at increased risk for their accompanying negative consequences. Teachers are also negatively affected by school climate issues. A 2005 survey found that 44% of teachers exiting the profession cited discipline as a reason for leaving. Helping schools find alternatives to ineffective discipline is critical to ensuring that all students have the right to full development and that students and teachers are in safe and productive classrooms.

Schools must be provided disciplinary options that are demonstrably effective in improving student behavior, school climate, and academic achievement. By highlighting positive behavioral supports in its IDEA Recovery Fact Sheet, the Department took a significant step toward improving school climate

through evidence-based approaches. PBS is a data-driven framework proven to reduce disciplinary incidents, increase a school's sense of safety, and support improved academic outcomes. For these reasons, then-Senator Obama introduced the Positive Behavior for Effective Schools Act to expand PBS and approaches like it. Restorative practices, modeled on restorative justice principles in other contexts, are similarly successful at improving discipline.

The ARRA presents a tremendous opportunity to implement policies that truly improve school safety, teaching, and learning for all students. We look forward to working with the Department both as it develops additional guidance on ARRA matters and thereafter.

Suggested Additions to the US Department of Education's ARRA Grant Guidance

We encourage the Department of Education to take these and other actions to ensure that all students have the right to full development in safe and engaging classrooms:

1. Highlight Positive Behavior Supports, restorative practices, and the ability to improve school climate in the list of "smart" uses for ARRA funds

As the Department prepares its "smart list" of uses for ARRA funds, it should once again include positive behavioral supports as a suggested use of ARRA funds. The "smart list" should also include restorative practices and encourage school districts to use ARRA Funds, including Title I Recovery Funds and Title I School Improvement Recovery Funds, to improve school climate. As with academic achievement, the Department should highlight the need to use these funds in ways that address the disparities in discipline related to race, poverty, language, and disability status, as well as the importance of involving students, parents, and communities in improving school climate and student engagement. Implementing these approaches will improve both the amount and quality of instruction students receive.

2. Provide innovation awards to entities that model best practices for improving school climate and supporting student engagement

The ARRA contains \$650M in innovation awards for school districts and other entities successfully improving academic achievement and closing the achievement gap. As instructional time is a major predictor of student achievement, the Department should make awards to entities that make significant gains in achievement while reducing the removal of students from instruction. As school exclusion disproportionately impacts students of color, students with disabilities, students residing in areas of concentrated poverty, and English language learners, the Department should make awards to entities that reduce both the achievement gap and disparities in discipline related to race, poverty, language, and disability status.

The Department should encourage entities to apply for innovation awards if they have improved both student achievement and school climate in a culturally responsive manner. For example, the Department should reward entities implementing improvement efforts that involve students' families and communities and take account of corresponding cultural values.

The Department should require entities applying for innovation awards to submit disciplinary data for all students using the disciplinary categories listed in section 618 of the Individuals with

Disabilities Education Act (20 U.S.C. § 1418(a)) (IDEA disciplinary categories) and disaggregate the data by the subgroups of students identified in section 1111(b)(2) of the No Child Left Behind Act (20 U.S.C. § 6311(b)(2)) (NCLB subgroups). The Department of Education should review the disciplinary data for increases or decreases in disciplinary actions and weigh any fluctuation as a factor in determining whether to reward an entity's efforts. Reviewing the disciplinary data will help the Department ensure that all students are truly benefitting from an innovative practice prior to replication.

3. Consider states' disciplinary data in rewarding ARRA incentive grants

The ARRA contains up to \$4.35B in discretionary grants to states who are successfully fulfilling the ARRA's assurances or who need assistance in doing so. As part of its incentive grant applications, The Department should require states to submit disciplinary data for all students using the IDEA disciplinary categories, disaggregated by NCLB subgroups. If the Department awards an incentive grant to a state in order to help it meet the ARRA's school improvement and/or teacher effectiveness assurances, the Department should review the state's disciplinary data and, if warranted, encourage it to improve school climate through implementing PBS, restorative practices, or other evidence-based frameworks. The Department should also encourage that state to approach improving school climate in a manner that is culturally responsive to the students' communities and addresses disparities in discipline related to race, poverty, language, and disability status.

If a state applies for an incentive grant upon successfully fulfilling the ARRA's assurances, the Department should review the state's disciplinary data for increases or decreases in disciplinary actions and weigh any fluctuation as a factor in determining whether to award the state with an incentive grant. The Department should also encourage states receiving incentive grants to use their grant to address deficiencies in school climate and/or expand the state's successful, evidence-based approaches to improving school discipline.

4. Require states to develop longitudinal data systems that collect disciplinary data

The ARRA requires states receiving State Fiscal Stabilization Funds to establish longitudinal data systems that include the elements described in section 6401(e)(2)(D) of the America COMPETES Act (20 U.S.C. § 9871(e)(2)(D)). The ARRA also provides \$250M to the Institute for Education Sciences to award grants to states to develop longitudinal data systems. To better track national trends in school discipline, the Department of Education should require states receiving Stabilization Funds and/or Institute of Education Sciences grants to develop data systems that collect disciplinary data on all students using the IDEA disciplinary categories, disaggregated by NCLB subgroups. State grantees should be required to report their collected disciplinary data in their annual ARRA reports.

We greatly appreciate your efforts to use these funds to bring innovative, lasting changes to our schools and look forward to working with the Department both as it develops additional guidance on ARRA matters and thereafter. If you have any questions, please contact Matthew Cregor with the Dignity in Schools Campaign by phone at 334-328-7580 or by email at matthew.cregor@splcenter.org.

Sincerely,

Dignity in Schools Campaign

Advocates for Children
American Psychological Association
American Civil Liberties Union
American Civil Liberties Union of Massachusetts
Bazelon Center for Mental Health Law
Center for Community Alternatives
Charles Hamilton Houston Institute
Children's Defense Fund
Citizens for Public Schools
Community Asset Development Re-defining Education (CADRE)
Connecticut Legal Services, Inc.
Council for Children with Behavioral Disorders
Education Law Center - Pennsylvania
International Institute for Restorative Practices
JustChildren - the Legal Aid Justice Center
Keys for Networking
Learning Rights Law Center
Massachusetts Advocates for Children
Mental Health Advocacy Services, Inc.
Mississippi Youth Justice Project
NAACP Legal Defense and Educational Fund, Inc.
National Association of School Psychologists
National Economic and Social Rights Initiative
Public Counsel
Southern Poverty Law Center
Teachers Unite

The following individuals are listed with their affiliations for identification purposes only:

Jane Bolgatz, Ph.D., Fordham University
Steven Brion-Meisels, Ph.D., Adjunct Faculty, Lesley University, Director, Peace Games Institute
Melaine Chopko
Allison Forth, MSW, Gateway Alternative Program
Sue Fothergill, Executive Director, EducationRISING LLC
Margery Freeman, The People's Institute for Survival and Beyond
John Gardner, Illinois PBIS Network
Lisa Guisbond, Parent and Advocate for students with disabilities
Willis D. Hawley, Ph.D., Professor Emeritus of Education and Public Policy, University of Maryland
Rosa K. Hirji, RKH Law Office
Veronika Kot
Anna Lambertson, Advocate
Daniel J. Losen, Senior Education Law and Policy Associate, UCLA Civil Rights Project
Maura Malarcher
Monty Neill, Deputy Director, Fair Test
Gaylon James Nettles, Esq.
Janiece Peeples
Michelle Perry, Executive Assistant, Seattle Presbytery
Nancy Polin, Board of Directors Member, Education Not Incarceration
Ellen Raider, Independent Commission on Public Education

Dr. Augustina Reyes, Professor, University of Houston
Carlton Richardson, Community Education Council Member for District 18 - New York City
Michael Roona, Principal Research Analyst, Institutional Planning & Analysis,
University of California, Merced
Therese Sandomierski
Laura Shapiro, Ph.D.
Rodney Skager, Ph.D., Professor Emeritus, Graduate School of Education,
University of California at Los Angeles
Russell Skiba, Ph.D., Director, Equity Project, Center for Evaluation & Education Policy,
Indiana University
Chris Troy, President, Boston Urban Youth Foundation
Lori Turner, ACLU of Illinois
Angelica Vargas, Esq., Staff Attorney, Clubhouse Family Legal Support Project
Elisa Villa, Supervisory Asst. Public Defender, Connecticut Division of Public Defender Services
Anita K. Wadhwa, MFA, Culture, Communities, and Education, Harvard Graduate School of Education
Julie K. Waterstone, Director, Children's Rights Clinic, Southwestern Law School
Margot A. Welch, Ed.D. Boston Full Service Schools Roundtable Steering Committee, Writer
Carolyn F. Wells, Interim Coordinator, New Orleans Healing Justice Program,
American Friends Service Committee

For the Dignity in Schools Campaign, please contact:

Matthew Cregor
Staff Attorney
Southern Poverty Law Center
400 Washington Avenue
Montgomery, AL 36104
334-328-7580
matthew.cregor@splcenter.org

Elizabeth Sullivan
Human Right to Education Program Director
National Economic and Social Rights Initiative (NESRI)
90 John Street Suite 308
New York, NY 10038
646-342-0541
liz@nesri.org