



DIGNITY IN SCHOOLS CAMPAIGN | INFO@DIGNITYINSCHOOLS.ORG | WWW.DIGNITYINSCHOOLS.ORG

January 21, 2016

Ms. Deborah Spitz
U.S. Department of Education
400 Maryland Avenue, SW, Room 3E306
Washington, DC 20202

RE: Dignity in School Campaign (DSC) Comments on **Docket ID ED-2015-OESE-0130**

Dear Ms. Spitz,

As a coalition of 100 organizations from 25 states committed to reforming overly punitive discipline policies and practices that disproportionately impact students of color, students with disabilities, and LGBTQ students, we welcome the opportunity to comment on priorities for the Department of Education (the “Department”) to regulate under Title I of the *Every Student Succeeds Act* (ESSA). As you know, DSC opposed the ESSA because we are deeply concerned about any unnecessary restrictions on the Department’s oversight authority or ability to intervene to assist students in failing schools. However, we believe that, through the issuance of regulations and guidance, as well as the provision of technical assistance to states and LEAs, the Department can—and we believe should—act to help states and districts reform overly punitive discipline policies and practices and promote positive and inclusive school climates.

Specifically, we urge the Department to provide assistance to states to help implement Title I’s provisions related to: school climate and safety as an indicator of school quality and student success; parent and family engagement and inclusion; state and LEA plan reporting on discipline; and the re-integration of system-involved students into the educational system.

- I. The Department should issue guidance or regulations providing examples of evidence-based best practices and methods for measuring improvements in school climate to help states implement school climate and safety as an indicator of school quality and student success.**

First, we urge the Department to issue regulations providing methods for states to measure improvements in school climate and safety. Positive and inclusive school climates are environments where all students can thrive and learn. The ESSA allows states to choose from a

menu of five options to measure school quality and student success, including school climate and safety.¹ School climate and safety is a significant measure of overall school quality and student success. Students simply cannot learn if they are not in school—yet, nearly 3.5 million public school students received at least one out-of-school suspension in the 2011-2012 school year.² National data indicate the students most impacted by exclusionary and punitive discipline practices, such as expulsions and school-based arrests, are students of color, students with disabilities, and LGBTQ students.³ These impacted students suffer from compromised educational and life outcomes, including greater likelihood of dropping out of school, being retained a grade, or early involvement with the juvenile justice system.

In addition to these individual consequences, schools with high discipline rates suffer from poor outcomes—contributing to achievement gaps along racial and other lines.⁴ Therefore, in order to help states and local educational agencies (LEAs) improve overall school performance, we urge the Department, through regulations or technical assistance, to provide states and LEAs with examples of evidence-based best practices for reforming discipline practices. This will help states that choose school climate and safety as an indicator of overall school quality and student success under ESSA to implement reforms and document progress. To help states make progress on this indicator, we urge the Department to detail how states and LEAs can reduce reliance on exclusionary practices, such as through implementation of alternative discipline programs funded under ESSA, like restorative practices. This would build upon the Department’s discipline reform work, including the issuance of Guidance on the Non-Discriminatory Administration of School Discipline in 2014 and the #Rethink Discipline convening in 2015. We believe that positive school climate is fundamental to students’ ability to learn and thrive. Therefore, support and assistance from the Department will equip states and LEAs with the necessary tools to foster positive and inclusive school climates.

¹ P.L.114-95, Sec. 1111(B).

² “To put this in perspective, the number of students suspended in just one school year could fill all of the stadium seats for nearly all the Super Bowls ever played . . .” Losen, Dan, et al., *Are We Closing the Discipline Gap?*, Executive Summary, 2015, available at <http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/are-we-closing-the-school-discipline-gap/losen-are-we-closing-discipline-gap-2015-summary.pdf>, at 1.

³ U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, Data Snapshot: School Discipline, available at <http://ocrdata.ed.gov/Downloads/CRDC-School-Discipline-Snapshot.pdf>. Skiba, Russell, et al., *The Color of Discipline: Sources of Racial and Gender Disproportionality in School Punishment, Policy Research Report #SRS1* (June 2000), the Indiana Education Policy Center. “Research shows that LGBTQ youth of color in particular face persistent and frequent harassment and bias-based bullying from peers and school staff as well as increased surveillance and policing, relatively greater incidents of harsh school discipline, and consistent blame for their own victimization.” Burdge, Hilary, et. al, Gay-Straight Alliance Network (GSA Network), LGBTQ Youth of Color: Discipline Disparities, School Push-out, and the School-to-Prison Pipeline, available at, <http://www.gsanetwork.org/Pushout-Report>.

⁴ See “One of the most consistent findings of modern education research is the strong positive relationship between time engaged in academic learning and student achievement.” Gregory, Anne, et al., *The Achievement Gap and the Discipline Gap: Two Sides of the Same Coin?* (February 2010), available at <http://www.indiana.edu/~atlantic/wp-content/uploads/2011/11/Gregory-et-al.-The-Achievement-Gap-and-the-Discipline-Gap-Two-Sides-of-the-Same-Coin.pdf>.

II. The Department should issue regulations outlining what constitutes meaningful parent and community stakeholder engagement in implementation of the law and decision-making, including by defining meaningful “consultation.”

We also urge the Department to work with states and LEAs to meaningfully engage parents and families in the implementation of the ESSA. The ESSA requires that LEAs conduct comprehensive “needs assessments” to identify and design interventions for low-performing schools prior to receipt of federal funding from the state.⁵ The law provides that this needs assessment include consultation with stakeholders, such as parents and community-based organizations.⁶ We urge the Department, through regulations, to detail ways that LEAs can meaningfully involve stakeholders in conducting these needs assessments. To ensure that “consultation” with stakeholders is meaningful, we recommend that the Department detail what “consultation” could entail to ensure that it is inclusive and meaningful, such as listening sessions with stakeholders, consistent communication with families, and incorporation of stakeholder input in interventions.

Further, because the needs assessments would assess “school conditions for student learning in order to create a safe and healthy school environment,”⁷ we recommend that the Department provide evidence-based examples of positive and inclusive school climates—for instance, schools where restorative practices are used instead of suspensions or where ongoing professional development in classroom management is offered.⁸ We also recommend that the Department provide guidance for including examination of the following areas in the needs assessment: 1) Reducing the presence of police in schools; 2) Reducing suspension and expulsion rates; and 3) Addressing disproportionality in discipline across race, gender, and disability.

III. The Department should ensure that multi-disciplinary peer review teams include a cross-section of stakeholders, including parents and community representatives.

We also urge the Department, as it establishes multi-disciplinary peer review teams to develop state plans,⁹ to ensure that parents and community stakeholders are represented and meaningfully involved in these peer review teams. We recommend that the Department do this

⁵ P.L.114-95, Sec. 4106.

⁶ *Id.*

⁷ *Id.*

⁸ Department of Education, Joint Discipline Guidance, “Dear Colleague Letter on Nondiscriminatory Administration of School Discipline,” January 2014, *available at* <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.html>; Department of Education, Guiding Principles: A Resource Guide for Improving School Climate and Discipline, *available at* <http://www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf>.

⁹ P.L.114-95, Sec. 1111(A).

by reaching out to geographically diverse parents and community stakeholders to identify peer review team participants and that the Department define “meaningful involvement” in regulation.

IV. The Department should provide any needed technical assistance to states in the annual reporting of school discipline and climate indicators.

We are pleased that ESSA continues the data reporting that has shed important light on discipline disparities nationwide and we encourage the Department to provide any needed technical assistance to states to ensure comprehensive and accurate data collection and reporting. This reporting includes reporting on annual state report cards of discipline data (including discipline and school climate indicators of the Civil Rights Data Collection) disaggregated by student sub-group. We urge the Department to ensure accurate annual reporting of this data for state report cards. In addition, because the ESSA requires states to describe how they will assist LEAs in, among other things, reducing the “overuse” of discipline practices that remove students from the classroom (such as suspensions), we urge the Department to define “overuse,” so that states can accurately identify and provide targeted guidance to LEAs to reduce the use of exclusionary practices. Several states have defined “overuse” and could serve as models for a national indicator of “overuse” of punitive discipline practices. Further, because the law also urges states to work with LEAs to reduce the use of “aversive behavioral interventions that compromise student health and safety,” we recommend that the Department clearly define in regulations what constitute “aversive behavioral interventions.” For instance, restraint, seclusion, and hand-cuffing of children could all qualify as “aversive behavioral interventions.” Finally, we urge the Department to act to enforce accurate, transparent, and comprehensive discipline data collection and reporting. This will help to provide a clear picture of school climate and inform targeted interventions and assistance.

V. The Department should assist states in developing systems to ensure that students who become involved in the juvenile justice system are able to receive quality instruction and necessary support to transition back into the educational system.

Data show that many students end up in the juvenile justice system as a result of discriminatory or overly punitive discipline practices, such as referrals to law enforcement for minor infractions. Therefore, we recommend that the Department help states to facilitate their transition back into school by providing states with assistance to improve the quality of coursework offered in facilities and ensure alignment with challenging state academic standards. The ESSA directs states to establish procedures to ensure the timely re-enrollment of students who become involved in the juvenile justice system, including by ensuring opportunities for incarcerated students to take credit-bearing coursework with transferable credits that also leads to a regular high school diploma.¹⁰ We believe that, if properly implemented, this can help states establish procedures and supports to ensure that system-involved students can access the quality instruction needed to continue to learn, re-enroll in school, gain a regular high school diploma, and go on to attain postsecondary credentials. All students, including those who end up in the juvenile justice system due to discriminatory or overly punitive discipline practices, should have an opportunity to succeed.

¹⁰ P.L.114-95, Sec. 1401.

VI. The Department should issue regulations to help states implement methods for equitably distributing qualified educators to ensure that students of color and low-income students are not disproportionately taught by inexperienced instructors.

Lack of teaching experience translates to less experience with classroom management and more reliance on exclusionary discipline methods, such as expulsions or suspensions. Unfortunately, data show that students of color are disproportionately taught by inexperienced or out-of-field educators,¹¹ which contributes to their higher exclusionary discipline rates. The ESSA provides that students of color and low-income students should not be disproportionately taught by inexperienced or out-of-field educators. Therefore, we recommend that the Department issue regulations detailing methods for states to help ensure the equitable distribution of fully-certified, in-field, and experienced educators. We believe that this will not only help to promote equity, but could also help to mitigate the overuse of exclusionary discipline methods.

Finally, we urge the Department to act in partnership with states, LEAs, parents, caregivers, and community stakeholders to promote positive and inclusive school climates through the implementation of ESSA. We believe that all students should be able to learn in schools where parents, caregivers, and community stakeholders are involved in decision-making; where they feel safe and not stigmatized by discipline policies and practices; and where educators and administrators have the ongoing supports and services needed to successfully manage classrooms and foster student learning and success. We look forward to continuing to work with the Department, states, and LEAs to implement the ESSA, so that all students can truly succeed. If you have any questions about the recommendations outlined in this letter, please contact Janel George at jgeorge@naacpldf.org or Liz Sullivan-Yuknis at nesri.org. Thank you for your time and consideration.

Sincerely,

The Dignity in Schools Campaign

¹¹ “Black, Latino, American Indian and Native-Alaskan students attend schools with higher concentrations of first-year teachers at a higher rate (3 to 4%) than white students (1%). English learners also attend these schools at slightly higher rates (3%) than non-English learners (2%).” U.S. Department of Education, Civil Rights Data Collection, Data Snapshot: Teacher Equity, March 2014, *available at* <http://ocrdata.ed.gov/Downloads/CRDC-Teacher-Equity-Snapshot.pdf>.