



# DIGNITY IN SCHOOLS

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April 14, 2015

Chairman Lamar Alexander  
Ranking Member Patty Murray  
U.S. Senate Health, Education, Labor, and Pensions (HELP) Committee  
428 Senate Dirksen Office Building  
Washington, DC 20510

RE: Addressing positive school climate and inclusive school discipline practices in the *Every Child Achieves Act of 2015*

Dear Chairman Alexander and Ranking Member Murray,

The Dignity in Schools Campaign (DSC) is a coalition of 95 organizations from 24 states, including students, parents, educators, researchers, LGBTQ, civil rights, youth advocacy, and education organizations, dedicated to ending punitive school discipline practices that push students out of school. While we support the bipartisan effort of the *Every Child Achieves Act*, we urge your consideration of the concerns outlined herein to ensure that the bill meaningfully holds states, districts, and schools accountable for eliminating overly punitive discipline practices, promoting positive and inclusive school climates, and ending the School-to-Prison Pipeline.

As community-based advocates, parents, students, and caregivers, we believe that the ESEA bill must include meaningful accountability for discipline reform and improved school climates and a mechanism for federal support and intervention in cases of persistent discipline disparities—otherwise the academic and life outcomes of many students will continue to be compromised. Whether through early involvement with the juvenile justice system or compromised educational outcomes due to loss of valuable instruction time—the consequences of discriminatory discipline practices in our nation’s public schools are severe. Every day in the U.S., 16, 244 public school students are suspended, and 6,191 of those students are African American.<sup>1</sup> Nationally, 3.5

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<sup>1</sup> The Children’s Defense Fund, the State of America’s Children, *available at* <http://www.childrensdefense.org/library/state-of-americas-children/2014-soac.pdf>, at 12, 14.

million students were suspended.<sup>2</sup> This is despite research showing that, although African American students do not misbehave more frequently than their white peers, they are punished more frequently and more severely.<sup>3</sup> Students with disabilities represent only 13 percent of student enrollment nationally, but comprised one-quarter of students arrested and referred to law enforcement during the 2011-2012 school year. In addition, one in five LGBTQ students of color report being bullied.<sup>4</sup> Research shows that exclusionary and overly punitive discipline practices, like suspensions, expulsions, and increased presence of police in schools negatively impact student achievement.<sup>5</sup> Further, data show no attendant increases in school safety due to such practices.<sup>6</sup> The American Academy of Pediatrics, the American Psychological Association, and the Council of State Governments, have all identified links between exclusionary discipline and lower academic achievement, higher dropout rates, and disengagement from the learning environment.<sup>7</sup> Therefore, unless we have meaningful accountability to ensure that states reform discriminatory discipline practices and improve school climates, we will continue to see compromised student outcomes, persistent achievement gaps, and increased involvement with the juvenile justice system.

We support the bill's provisions that promote community and parental engagement and involvement in discipline reform and school climate improvement. For instance, the bill requires LEAs receiving Title IV funds to conduct needs assessments that involve parents, teachers, principals, school leaders, specialized instructional support personnel, early childhood educators, students, and community-based organizations, among other relevant individuals. As a coalition of community-based organizations working for discipline reform, DSC supports this provision and the bill's recognition that parents and caregivers, as well as community-based organizations,

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<sup>2</sup> U.S. Department of Education Office for Civil Rights, Civil Rights Data Collection Data Snapshot: School Discipline, March 2014, *available at* <http://ocrdata.ed.gov/Downloads/CRDC-School-Discipline-Snapshot.pdf>.

<sup>3</sup> 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; Rudd, Tom, *Racial Disproportionality in School Discipline: Implicit Bias is Heavily Implicated*, Kirwan Institute Issue Brief, Kirwan Institute for the Study of Race and Ethnicity, The Ohio State University, February 2014.

<sup>4</sup> Russell, S. T., Clarke, T. J., & Laub, C. (2009). Understanding School Safety and the Intersections of Race, Ethnicity, and Sexual Orientation. (California Safe Schools Coalition Research Brief No. 10). San Francisco, CA: CSSC; "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>.

<sup>5</sup> American Psychological Association Zero Tolerance Task Force, *Are Zero Tolerance Policies Effective in Schools?*, *available at* <http://www.apa.org/pubs/info/reports/zero-tolerance.pdf>.

<sup>6</sup> NAACP Legal Defense and Educational Fund, Inc., et. al, *Police in Schools Are Not the Answer to the Newtown Shooting*, January 2013, *available at* <http://www.naacpldf.org/files/publications/Police%20in%20Schools%20are%20Not%20the%20Answer%20to%20the%20Newtown%20Shooting%20-%20Jan.%202013.pdf>.

<sup>7</sup> *Id.*

play central roles in designing and addressing the best ways to reform overly punitive discipline practices. Community members often know the interventions that best meet the local schools' needs. However, besides the initial needs assessment and "assurances" from LEAs that the activities funded under Title IV are consistent with the needs assessment and meet locally-developed principles of effectiveness, there is no mechanism for intervention if the school or LEA does not reduce discipline disparities or ineffectively uses Title IV funds.

Most significantly, we urge strong accountability in the bill to ensure that discipline disparities are identified and remedied. The bill outlines how school climate interventions should be based upon "principles of effectiveness," which are locally determined criteria that reflect evidence-based research or best practices in the field to promote safe and positive school climates. However, the only mechanism in the bill to ensure "effectiveness" of school climate and discipline reform interventions is through a periodic third-party evaluation, the results of which are to be used to "refine" or improve the program or activity. The bill does not outline or require progress or results in reducing discipline disparities. In fact, the federal government is explicitly prohibited from weighing in on the substance of the principles of effectiveness or intervening with support when such principles are not met.

In fact, strong enforcement and accountability for the implementation of interventions identified in the community needs assessments or compliance with locally-developed principles of effectiveness to improve school climate is notably absent throughout Title IV of the bill. For instance, the bill requires only reporting of discipline data and an explanation in the state report card of how states plan to address discipline disparities and school climate, but again, includes no meaningful measures to ensure that states or LEAs with persistent discipline disparities affirmatively act to eliminate those disparities or use federal funds to eliminate them. Without strong accountability, real change cannot be effectuated.

The federal accountability that we support does not include the punitive interventions and sanctions of No Child Left Behind—we recognize that sanctions and stigmatizing labels undermine schools' ability to support student achievement. Instead, we support accountability and oversight that ensure that schools have the supports and services needed to improve outcomes. For instance, we recommend that schools with significant discipline disparities receive additional supports, such as school-based mental health services and Social and Emotional Learning curricula.

In addition to strong accountability, we recommend that the bill promote transparency through improvement to its public data reporting requirements. While we support the bill's inclusion in State Educational Agency (SEA) and Local Educational Agency (LEA) report cards of comprehensive school discipline data, such as that collected by the Department of Education's Office for Civil Rights (OCR) in the Civil Rights Data Collection (CRDC), we urge the Committee to ensure timely and accurate public reporting by SEAs and LEAs of this data annually. Currently, only LEAs publicly report this data to OCR every two years, and most LEAs fail to report comprehensive or accurate data. It is important to have the most complete and accurate data possible to ensure an accurate picture of school climate and discipline and to

identify and address discipline disparities. For example, the *Strengthening America's Schools Act*, S. 1094, from the 113<sup>th</sup> Congress, included language that created a comprehensive and data-driven approach to improving school climate. Comprehensive data, including self-reported data from students who identify as LGBTQ, is essential to identifying and addressing discipline disparities, including harassment based upon gender identity or sexual orientation. The Committee should adopt the language of S. 1094 to ensure comprehensive data collection (disaggregated by student subgroup and cross-tabulated by race and gender) and public reporting from schools and districts.

In addition, while the bill details allowable uses of Title IV funds to include programs such as mental health services, trauma-informed practices, and Schoolwide Positive Behavioral Interventions and Supports,<sup>8</sup> it does nothing to require the implementation of such programs for LEAs or schools with demonstrated need (evidenced through persistent discipline disparities) for such services and supports. The bill only relies upon “assurances” by LEAs that Title IV funds are being prioritized for schools with the greatest need identified in a needs assessment, but it includes no redress if that funding is not properly prioritized or targeted toward districts with the most significant disparities.

The *Every Child Achieves Act* falls far short of the meaningful accountability needed to incentivize school discipline reform and foster positive school climate improvements. Therefore, without stronger accountability and a mechanism for federal intervention in the form of supports for those LEAs with persistent discipline disparities, DSC will be unable to support the bill. We are ready and willing to assist with strengthening the language of the bill to ensure that all students can learn and thrive in positive school climates. If you have any questions or if we can be of assistance, please contact Janel George at [jgeorge@naacpldf.org](mailto:jgeorge@naacpldf.org). Thanks for your time and consideration of our concerns outlined herein.

Sincerely,

The Dignity in Schools Campaign

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<sup>8</sup> The bill focuses Schoolwide Positive Behavioral Interventions and Supports (SWPBIS) in the special education context, but we urge its inclusion in the wider context of school climate and school discipline reform, as it SWPBIS have been shown to positively impact school climates.