

COSA Education Law Conference

December 4, 2015

**School Discipline Reform in Oregon: Leading for
Equity Through Policy and Practice**

John English, JD

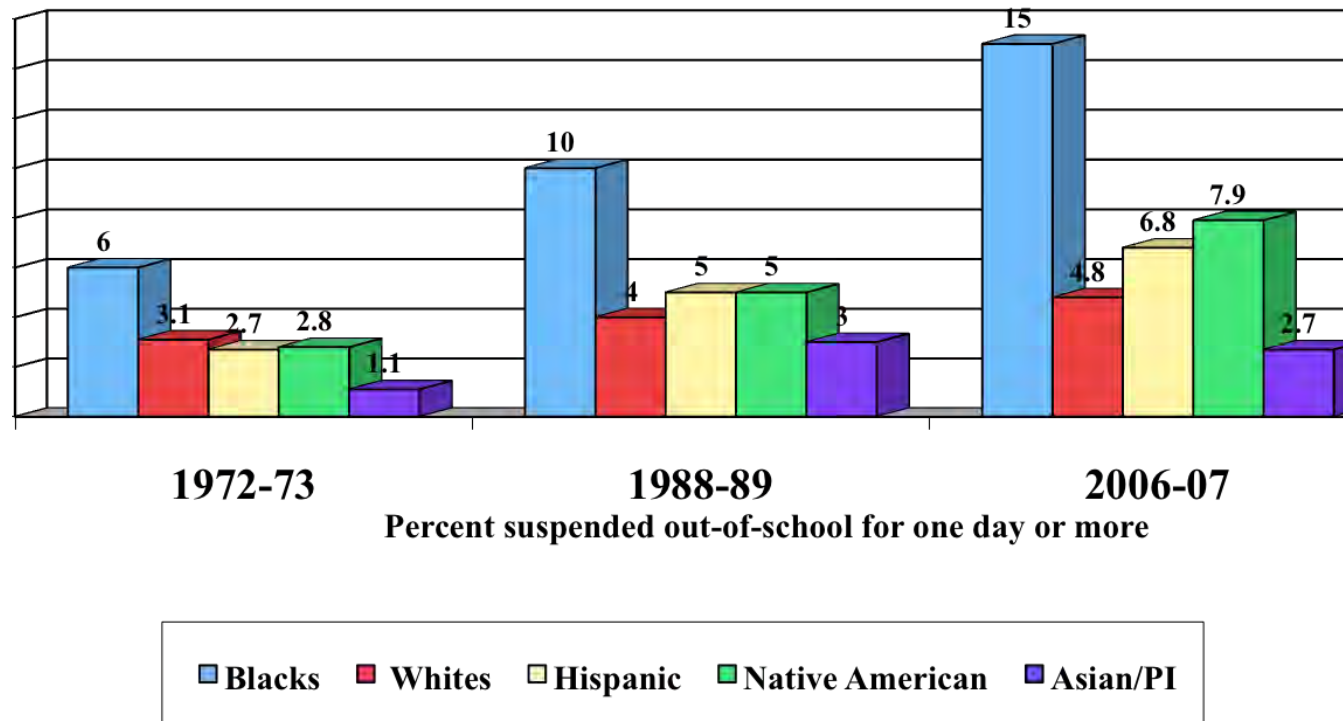
Overview

- History and policy rationale behind changes to Oregon's school discipline law
- Policy and practice implications
- Resources & opportunities for equity leadership through policy & practice

History of disciplinary inequity

A national view

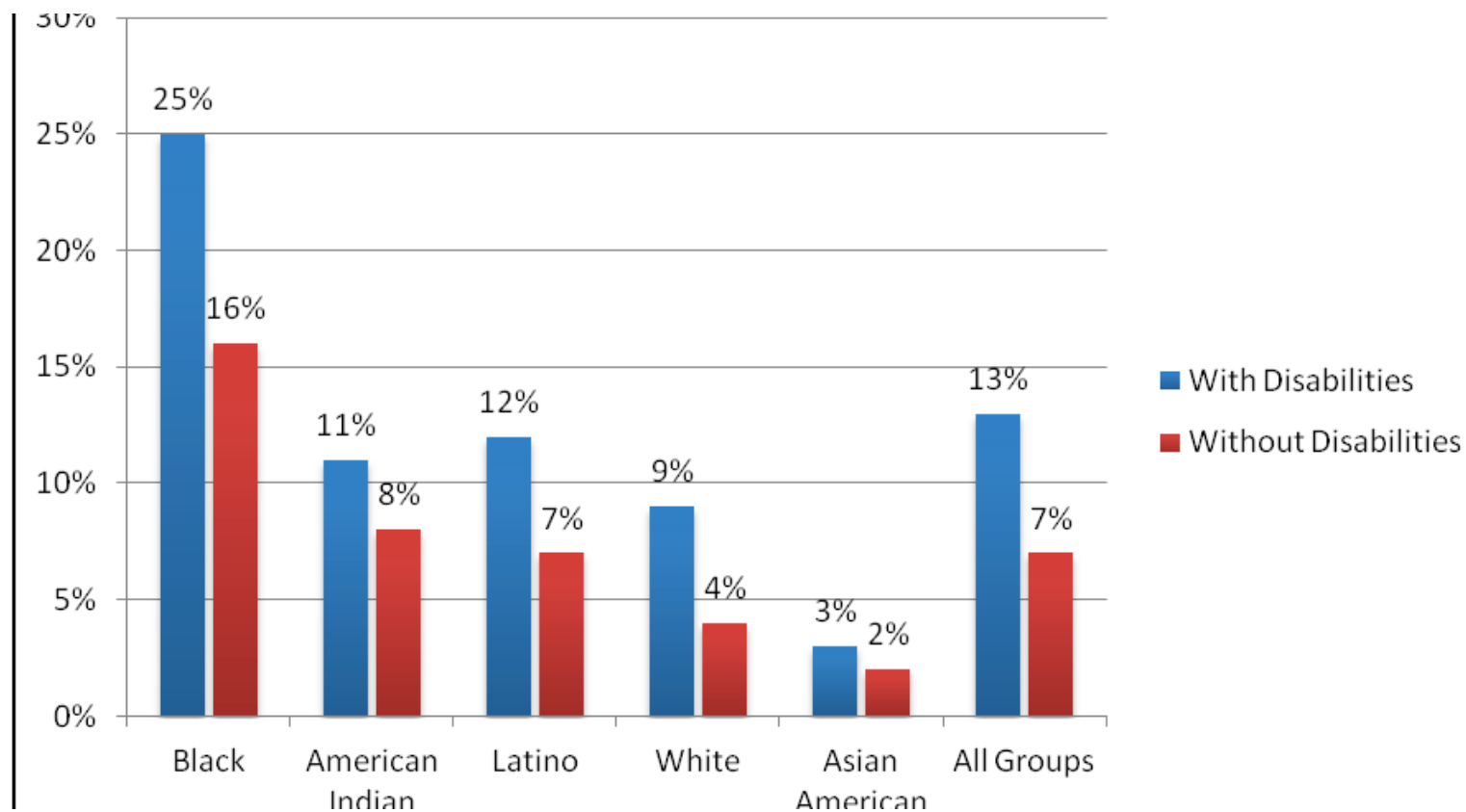
Suspension as Percent of Enrollment By Race



Source: U.S. Department of Education-Office for Civil Rights; 1972-3 data is OCR data, but taken from Children's Defense Fund, *School Suspensions; Are They Helping Children?* Cambridge, MA: Washington Research Project, 1975.

Figure 2. Impact by race and disability of the use of out-of-school suspensions, 2009-2010

Source: Losen & Gillespie, *Opportunities Suspended: The Disparate Impact of Disciplinary Exclusion from School* (2012). (Data from CRDC 09/10 SY).



Discipline Gap: Framing the Issue

“One of the most consistent findings of modern education research is the strong positive relationship between time engaged in academic learning and student achievement (Brophy, 1988; Fisher et al., 1981; Greenwood, Horton, & Utley, 2002). *The school disciplinary practices used most widely throughout the United States may be contributing to lowered academic performance among the group of students in greatest need of improvement.*”

Source: The Achievement Gap and the Discipline Gap : Two Sides of the Same Coin? Anne Gregory, Russell J. Skiba and Pedro A. Noguera EDUCATIONAL RESEARCHER 2010 39: 59DOI: 10.3102/0013189X09357621

“Research on the frequent use of school suspension has indicated that, after controlling for race and poverty, higher rates of out-of-school suspension correlate with lower achievement scores, or showed no academic benefits as measured by test scores and were predictors of higher dropout rates.”

Source: Losen, J (2012)-*Sound Discipline Policy for Successful Schools*, citing Skiba & Rausch (2006); and Fabelo et al., (2011)

Emerging studies suggest that being suspended even once in ninth grade is associated with a twofold increase in the likelihood of dropping out, from 16% for those not suspended to 32% for those suspended just once.

Balfanz (2013)

How do we look in Oregon?

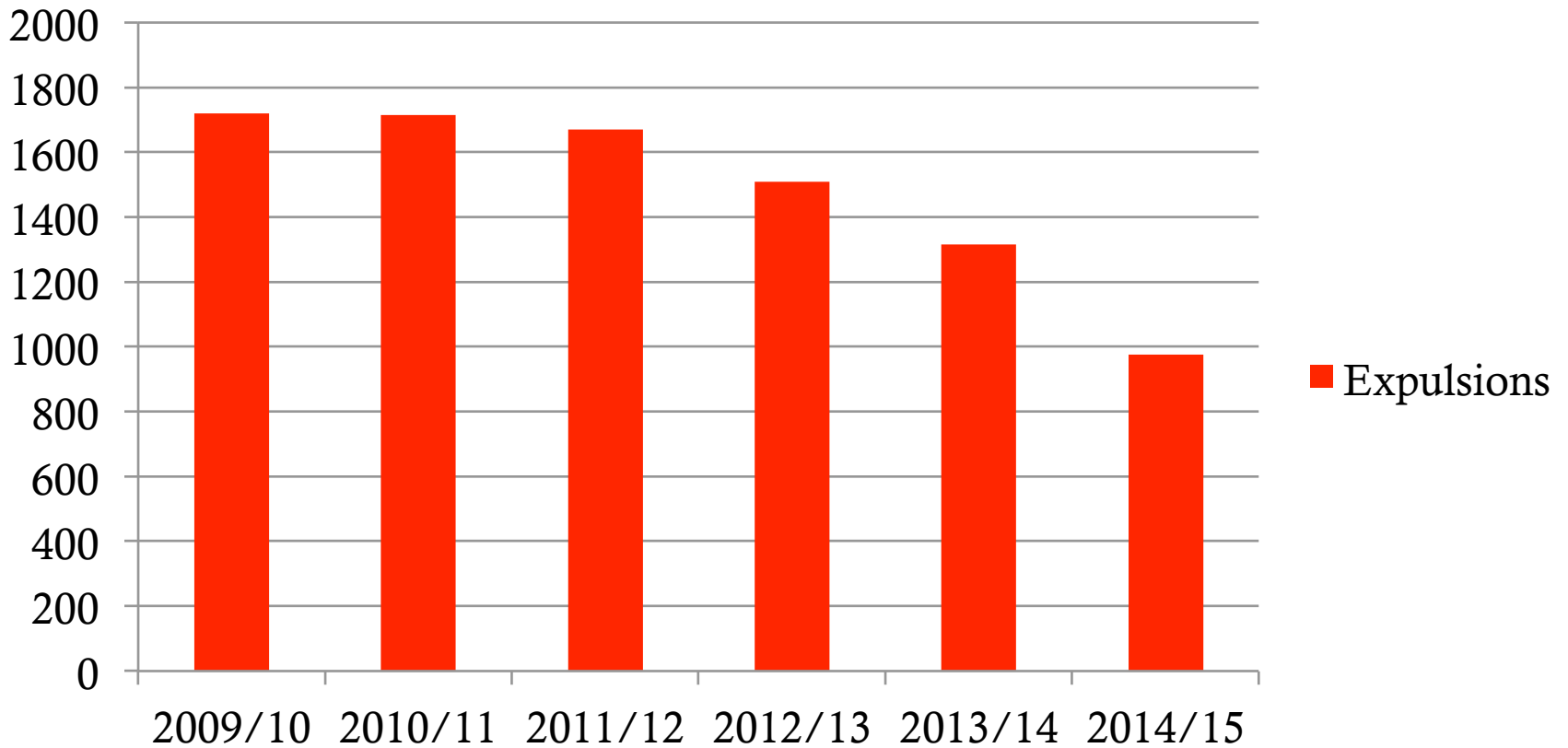
First, the good news....

Oregon Statewide Data

Expulsions

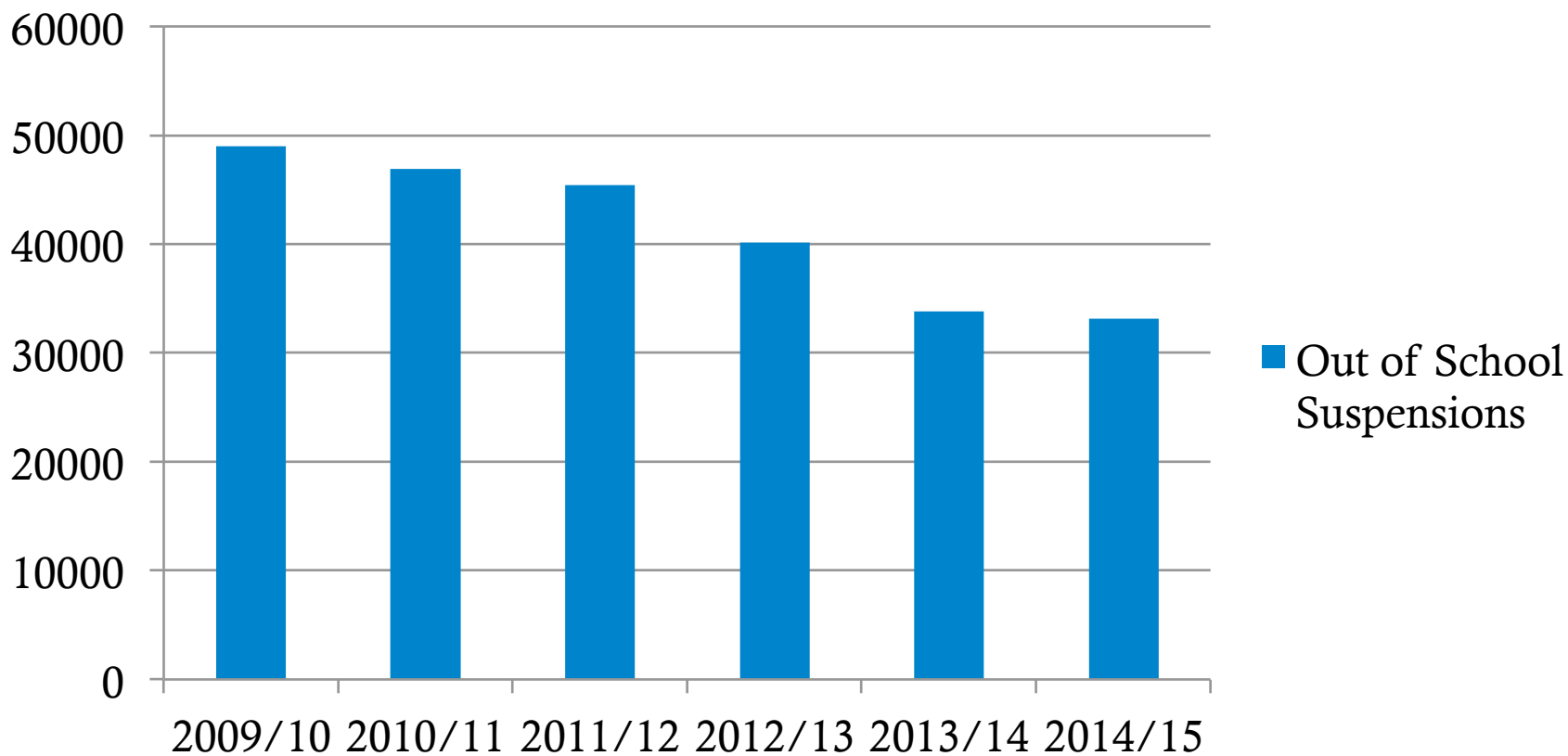
2009-2014

Expulsions



Oregon Statewide Data Suspension/Expulsion 2009-2014

Out of School Suspensions



But much work remains ...

OREGON'S

School-to-Prison PIPELINE



Oregon's school-to-prison pipeline is an urgent civil rights challenge in Oregon. Mirroring a national trend, the school-to-prison-pipeline in Oregon refers to the disproportionate punishment of students of color that begins with more serious punishment than their white peers in school and a greater likelihood of intervention by juvenile justice authorities. There is also ample evidence of disproportionate representation of people of color in the adult criminal justice system.

Current Oregon data shows a trend of criminalizing, rather than educating our state's children. It encompasses the growing use of zero-tolerance discipline, disciplinary alternative schools and juvenile arrests that marginalize our most at-risk youth and deny them access to education. With zero tolerance, behavior problems and infractions that used to be handled by teachers and school administrators are now effectively pushing students out of school and entangling many of them in the juvenile justice system.

Students of color are disproportionately represented at every stage of Oregon's school-to-prison pipeline. Data shows that children of color are more likely than their white peers to be subjected to harsher punishment and the effects are amplified the further up the justice system they move. Nationally, African-American students are far more likely than their white peers to be suspended or expelled for the same kind of conduct at school.¹ Although they represent 3% of the youth population in Oregon (age 10-17), African Americans make up 13% of those held in "close custody" in Oregon juvenile detention facilities. On the other hand, their white peers represent 76% of the same population and 56% of those held in close custody.²

In 1992, the Oregon Supreme Court established a task force on racial/ethnic issues in the judicial system. The task force, chaired by former Chief Justice Edwin J. Peterson, issued a



comprehensive report in May 1994 demonstrating that "racial minorities are at a disadvantage in virtually all aspects of the Oregon court system."³ In Oregon's juvenile justice system, the report concluded that, in comparable cases, children of color were more likely to be (1) arrested than their white peers, (2) charged with delinquent acts, (3) removed from their family's care and custody, (4) remanded for trial as adults, (5) found guilty of delinquent acts and (6) incarcerated.⁴

Recent data from the Oregon Department of Education⁵ and Oregon Youth Authority illuminates a parallel disadvantage that students of color face in Oregon's schools.

1 Russell J. Skiba, *Zero Tolerance, Zero Evidence* (2000), pp. 11-12; The Advancement Project & The Civil Rights Project, *Opportunities Suspended: The Devastating Consequences of Zero Tolerance and School Discipline Policies* (June 2000), pp. 7-9; Russell J. Skiba, et al., *The Color of Discipline: Sources of Racial and Gender Disproportionality in School Punishment* (2000)

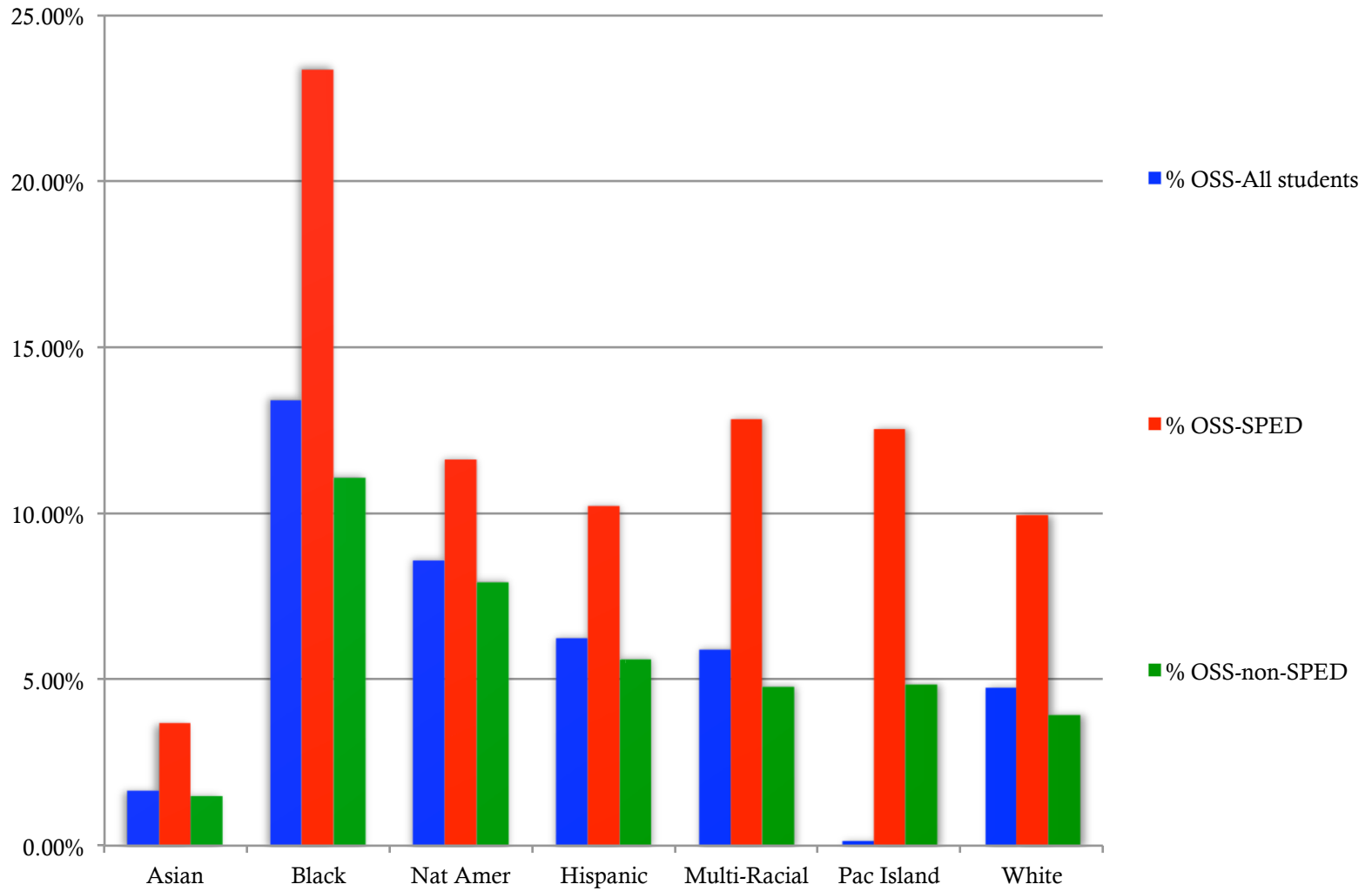
2 Oregon Youth Authority Quick Facts July 2009

3 Report of the Oregon Supreme Court Task Force on Racial/Ethnic Issues in the Judicial System May 1994, p.2.

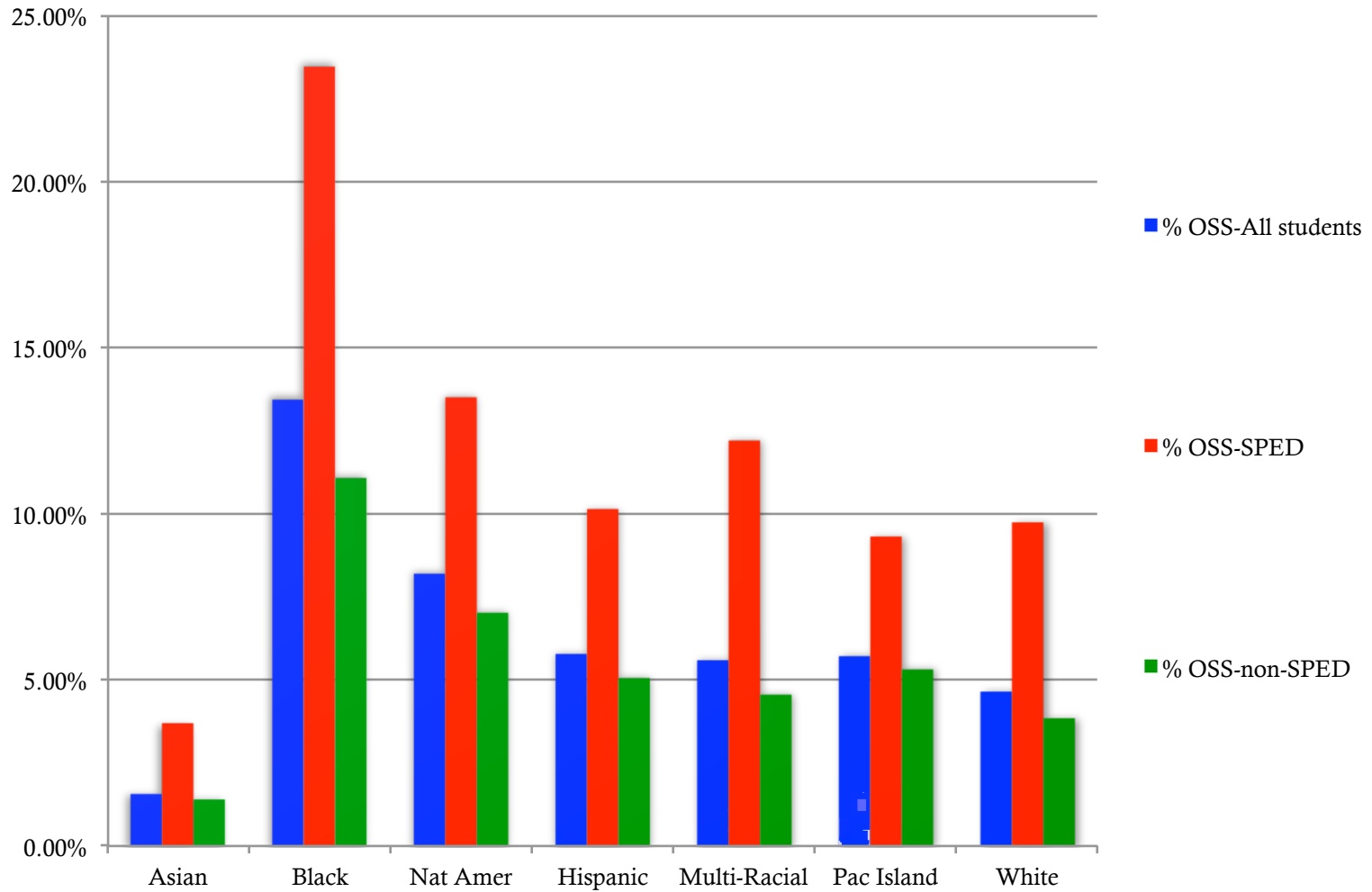
4 *Id.* at 3.

5 The Oregon Department of Education is the source for all data in this report related to school discipline.

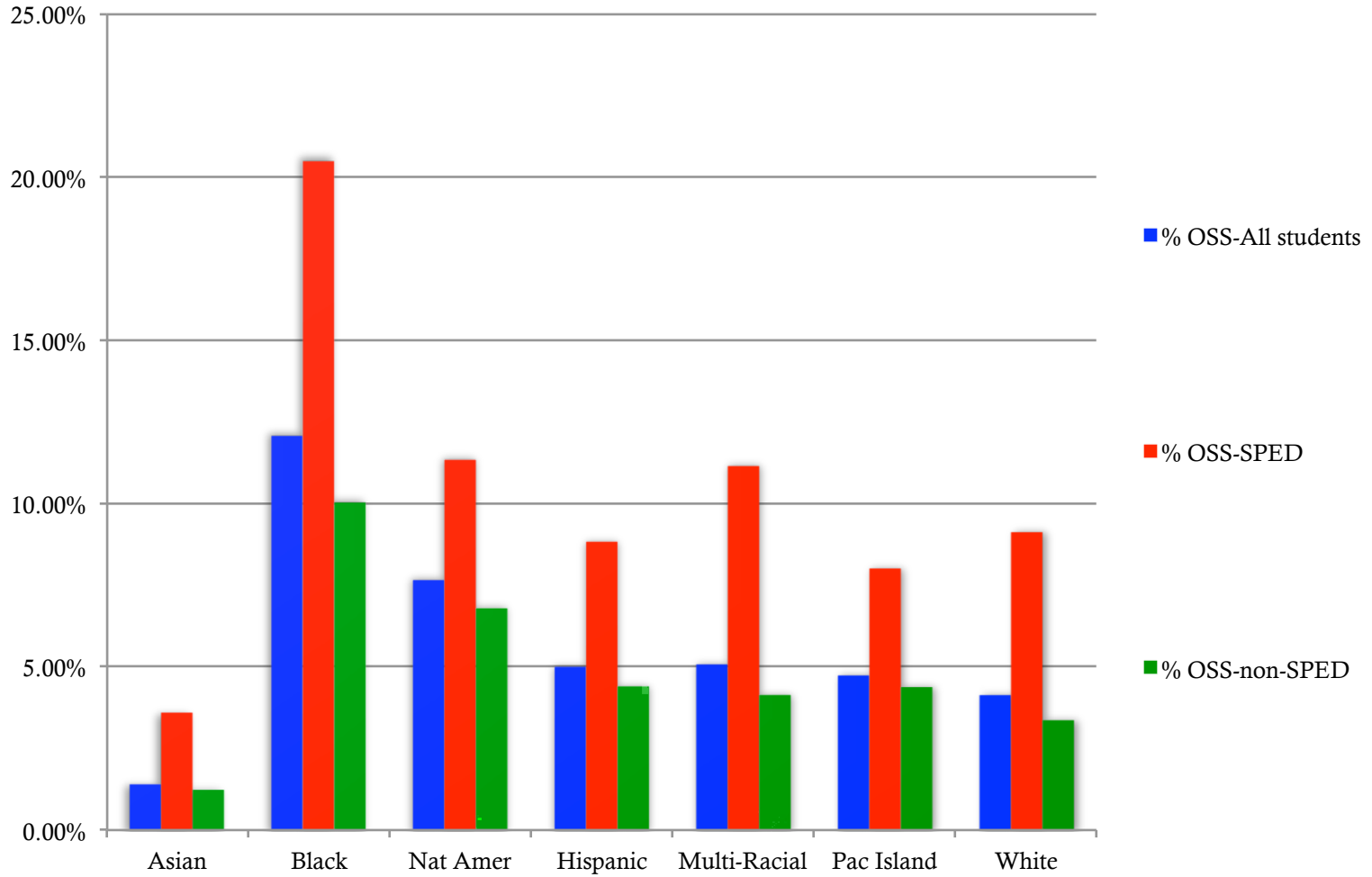
OREGON SY 10/11-OSS



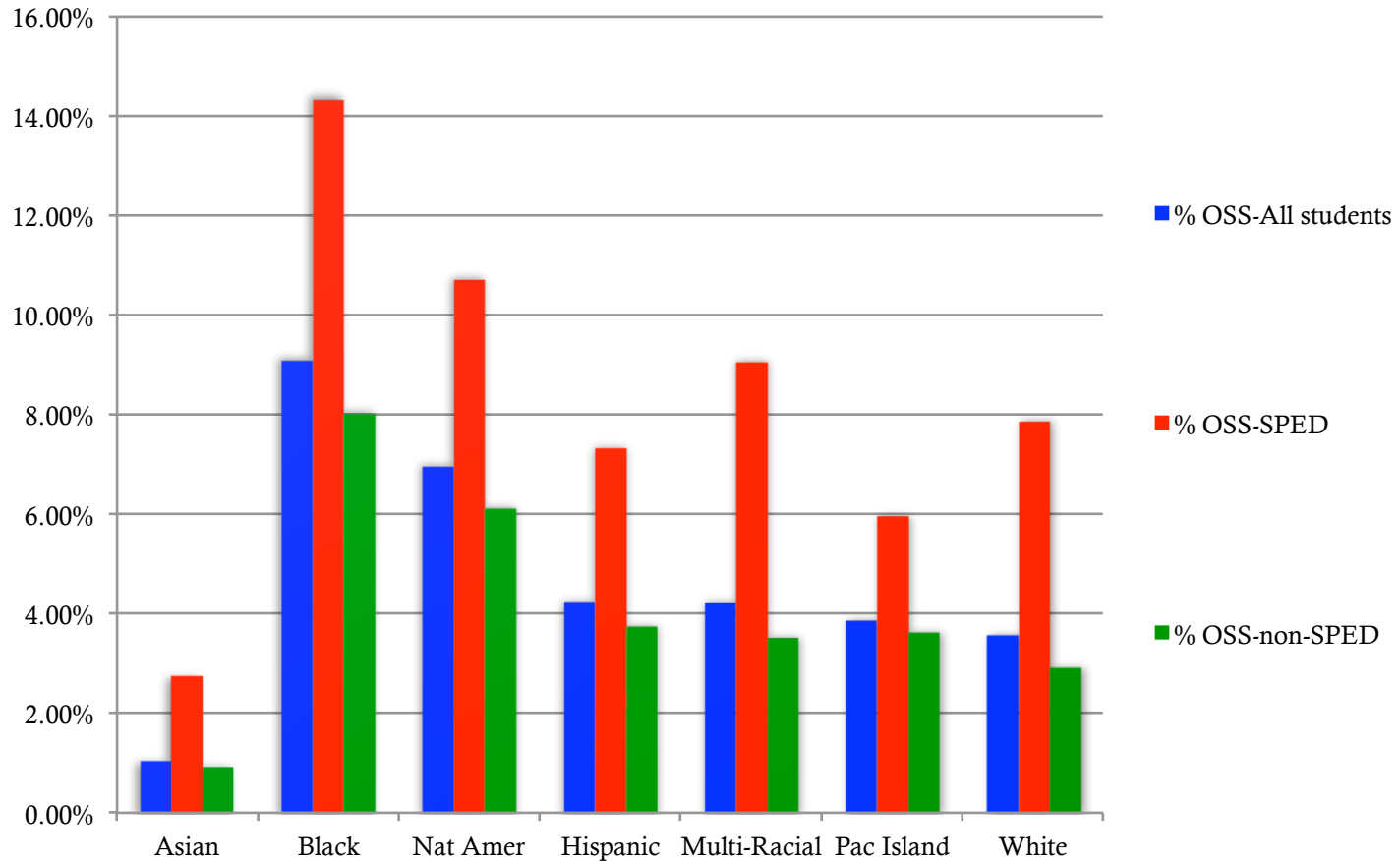
OREGON SY 11/12-OSS



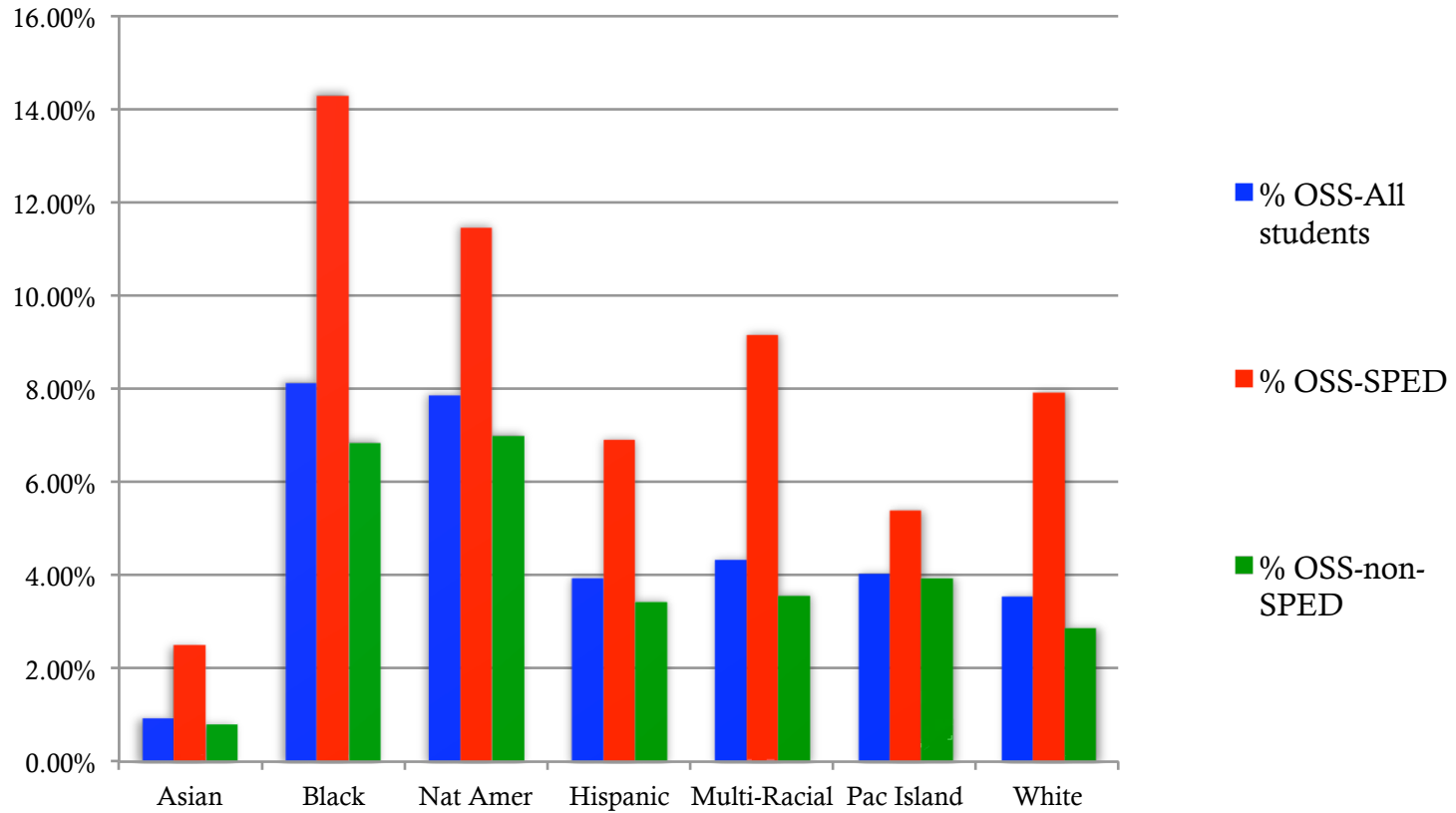
OREGON SY 12/13-OSS



OREGON SY 13/14-OSS

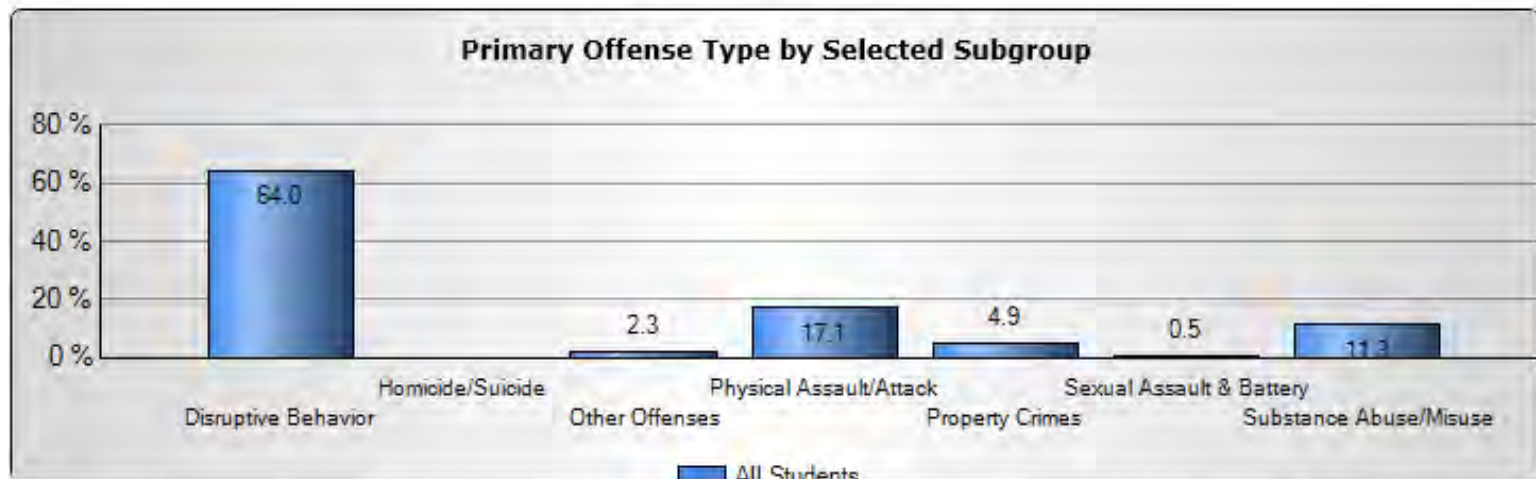


OREGON SY 2014/15-OSS



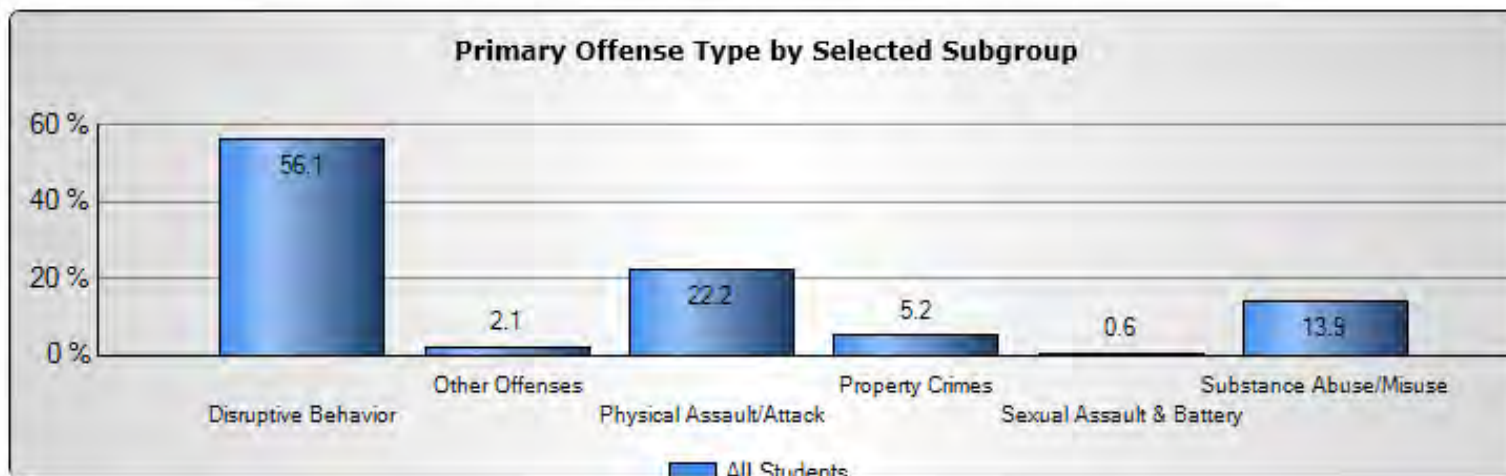
Why are students being pushed out of school?

Oregon SY 13/14 All Offense Types

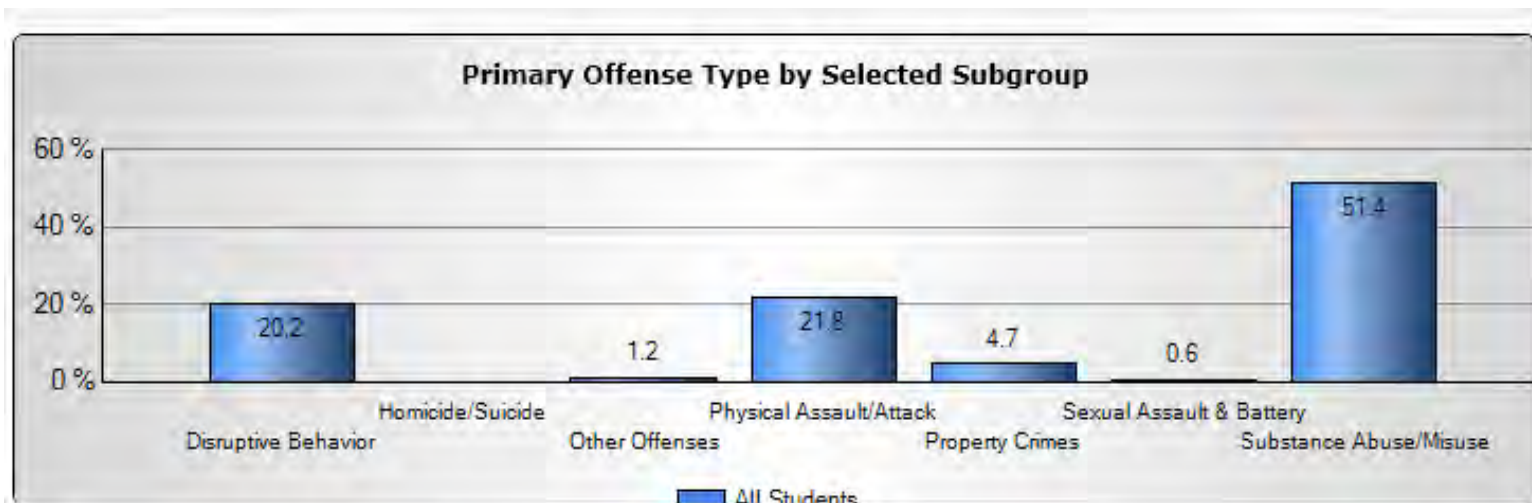


* Information is suppressed if five or fewer students are represented to protect student confidentiality.

Oregon SY 13/14 OSS



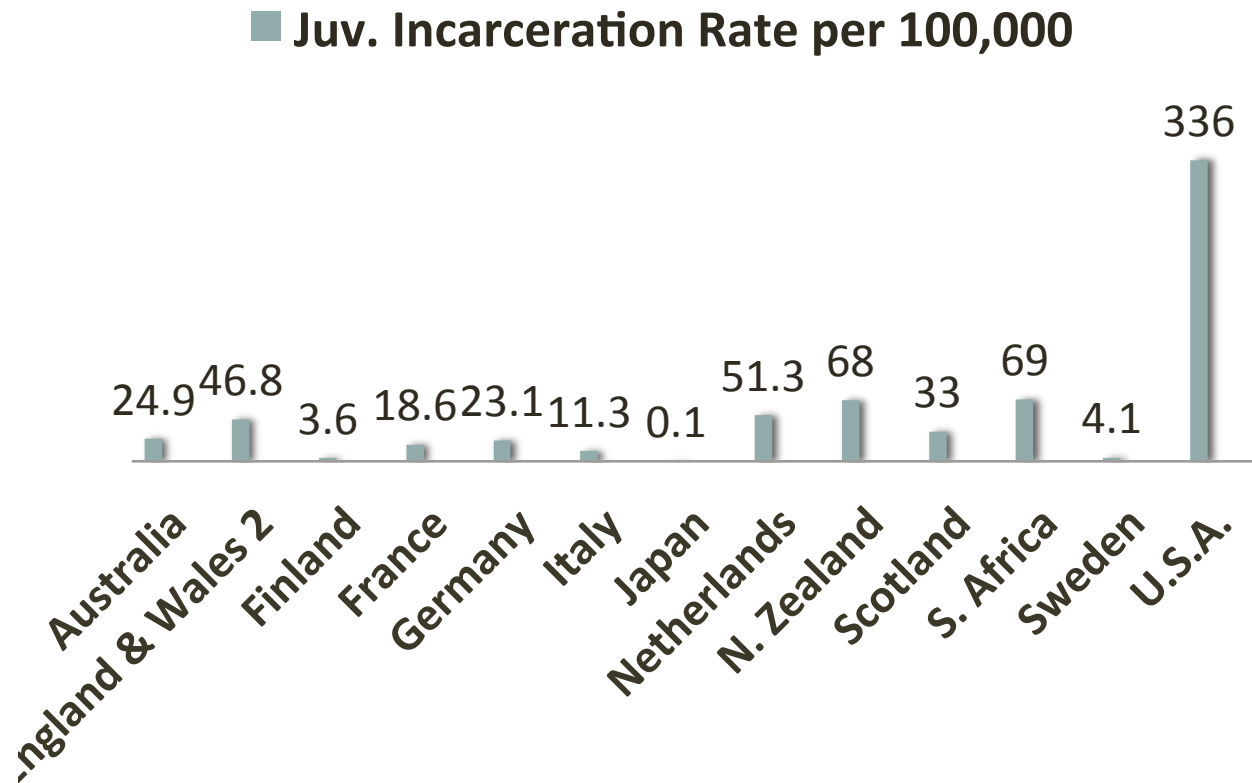
Oregon SY 13/14 Expulsion



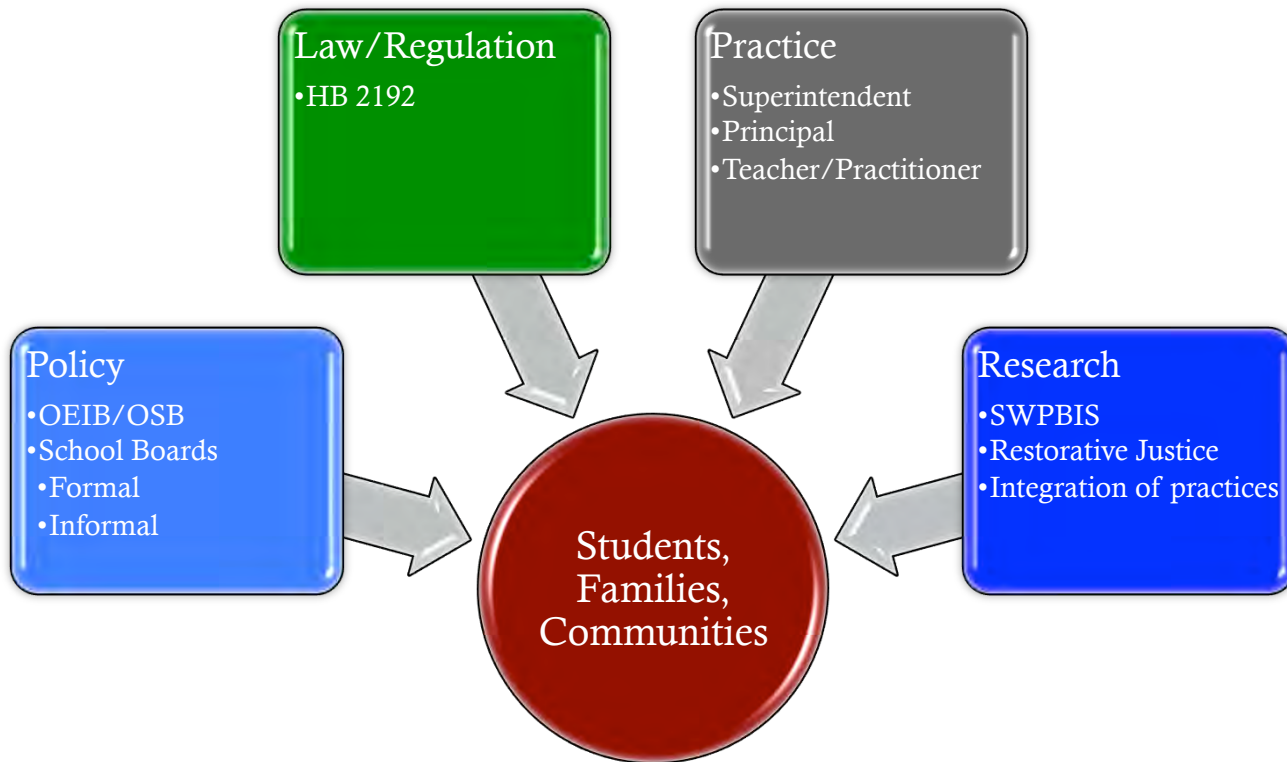
**What are the long term consequences of school
pushout?**

JUVENILE INCARCERATION: AN INTERNATIONAL COMPARISON

Source: Hazel, Neal, *Cross-National Comparison of Youth Justice*, London: Youth Justice Board, 2008.



What are we doing about the problem in Oregon?



Oregon School Discipline Advisory Council (OSDAC)

Statement of Purpose

The purpose of the Oregon School Discipline Advisory Council (OSDAC) is to advise, consult, support, and make recommendations to ODE and education partners on policies and practices that promote and maintain the inclusion and engagement of students in a healthy learning environment. We strive to eliminate exclusionary discipline practices and replace them with inclusive, culturally responsive approaches that foster social-emotional learning, educational equity, and successful outcomes for each and every student.

OSDAC

Objectives

- **Recommend policies that identify discipline disparities directly, and make recommendations for the use of promising and evidence-based practices.**
- **Address manifestations of institutional racism and bias that result in disproportionate suspension, expulsion, and exclusion.**
- **Recommend professional development and training to empower and support education professionals.**
- **Include and empower parents and students throughout the educational decision-making and policy-making process.**
- **Ensure disciplinary decisions are based on individualized student assessment and the promotion of positive learning environments.**
- **Reduce exclusionary discipline in accordance with Oregon Department of Education's key performance measures.**

OSDAC Membership

Oregon Department of Education	Oregon Youth Authority
Youth, Rights & Justice	Oregon First
Resolutions Northwest	Lenssen & Associates
University of Oregon	Washington County Juvenile Department
Willamette University	Clackamas County Juvenile Dept.
Coalition of Communities of Color	Tigard-Tualatin School District
Center for Prevention and Health Promotion	Portland Parent Union
Lane Education Service District	Education Northwest
Oregon Technical Assistance Center	Center for Dialogue and Resolution
Oregon Education Association	Oregon State Board of Education (Liaison Charles Martinez)

OSDAC

Tools & Resources

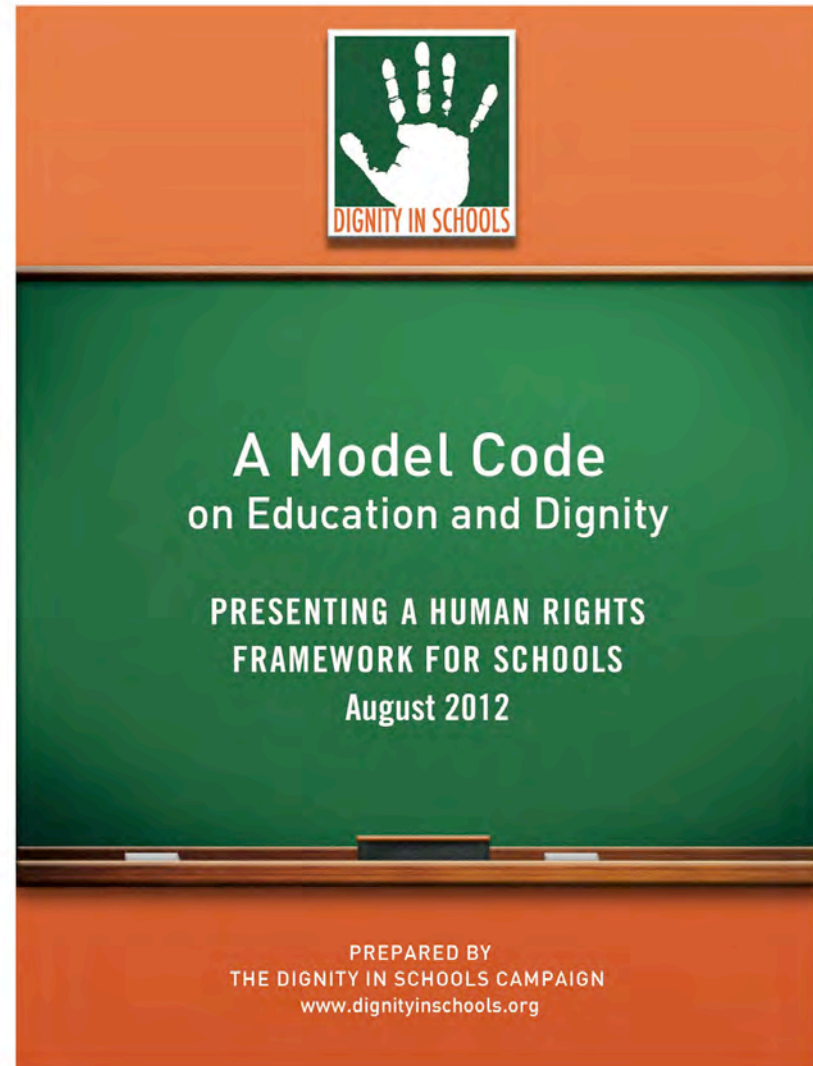
[http://www.ode.state.or.us/search/
results/?id=107](http://www.ode.state.or.us/search/results/?id=107)

What are some policy resources to guide districts in this work?

STRUCTURE OF THE MODEL CODE

The Model Code is organized into five chapters: 1) Education, 2) Participation, 3) Dignity, 4) Freedom from Discrimination and 5) Monitoring and Accountability.

Each of these chapters addresses a different key component of providing a quality education and reflects core human rights principles and values. Each chapter includes recommended policies for states, districts and schools.



CONTENTS

1. Background
2. Questions Local Policymakers Should Ask
3. 10 Action Steps to Prevent the Use of Out-Of-School Suspensions
4. Game-Changing Community Strategies
5. Research
6. Resources



ADDRESSING THE OUT-OF-SCHOOL SUSPENSION CRISIS: **A Policy Guide for School Board Members**

APRIL 2013



CONTENTS

1. Introduction
2. Using Disciplinary Interventions
3. Description of Inappropriate and Disruptive Behaviors and Consequences
4. Procedures
5. Data Collection & Monitoring
6. Glossary of Disciplinary Interventions or Responses



Model School Discipline Policy

(Based on actual policies from Denver Public Schools, Baltimore City Public Schools, Los Angeles Unified Public Schools, San Francisco Unified School District, New Orleans Recovery School District, and Chicago Public Schools)

NOTE:

This policy does not take into account local and state laws that may be applicable. We recommend that a lawyer be consulted for assurance that all policies are drafted in compliance with the law in your jurisdiction.

10 Key Components

1. Emphasize Prevention
2. Limit Suspensions & Expulsions
3. Limit Reliance on Law Enforcement
4. Focus on Eliminating Racial Disparities
5. Focus on Protecting Students with Disabilities
6. Strong Due Process Protections
7. No Academic Penalties During Removal
8. Limit Suspensions for Off-Campus Conduct
9. Parent/Community Outreach
10. Data Collection & Monitoring



INTRODUCTION

KEY COMPONENTS OF A MODEL DISCIPLINE POLICY

Across the country, school systems are shutting the doors of academic opportunity on students and funneling them into the juvenile and criminal justice systems. The combination of overly harsh school policies and an increased role of law enforcement in schools has created a "schoolhouse-to-jailhouse track," in which punitive measures such as suspensions, expulsions, and school-based arrests are increasingly used to deal with student misbehavior, and huge numbers of youth are pushed out of school and into prisons and jails. In many communities, this transforms schools from places of learning to dangerous gateways into juvenile court. This is more than an education crisis; it is a racial justice crisis, because the students pushed out through harsh discipline are disproportionately students of color.

There is an urgent need to intervene in this devastating cycle by reforming the school policies and practices that result in excessive suspensions, expulsions, and arrests of students. Indeed, there is no credible evidence that these punitive measures are an effective means for changing student behavior. Rather, research has shown that they are associated with lower academic achievement, graduation rates, and worse student behavior schoolwide.

Alternatively, there are a variety of effective prevention and intervention techniques that have been proven to help create a positive school environment, support academic achievement, promote school safety, and protect the rights of parents and students. Many school districts have taken important steps in revising their discipline policies to focus more on these less punitive measures. From these policies, we have identified ten components of a successful discipline policy. In school districts where students are being pushed out of school by excessively punitive policies and practices, these ten components can serve as a roadmap for a more just and effective method of handling school discipline.

Below are descriptions of those ten elements and examples of each from actual school discipline policies.

Non-Punitive Approach, Emphasizing Prevention & Effective Intervention

DSC Model Code Toolkit and Comparison Tool

A comparison tool that allows students, parents, and educators a process to compare their current student Code of Conduct to provisions of the DSC Model Code related to suspensions, expulsions, and due process protections.

DSC Model Code Comparison Tool – Discipline Policies in Your District Discipline Code

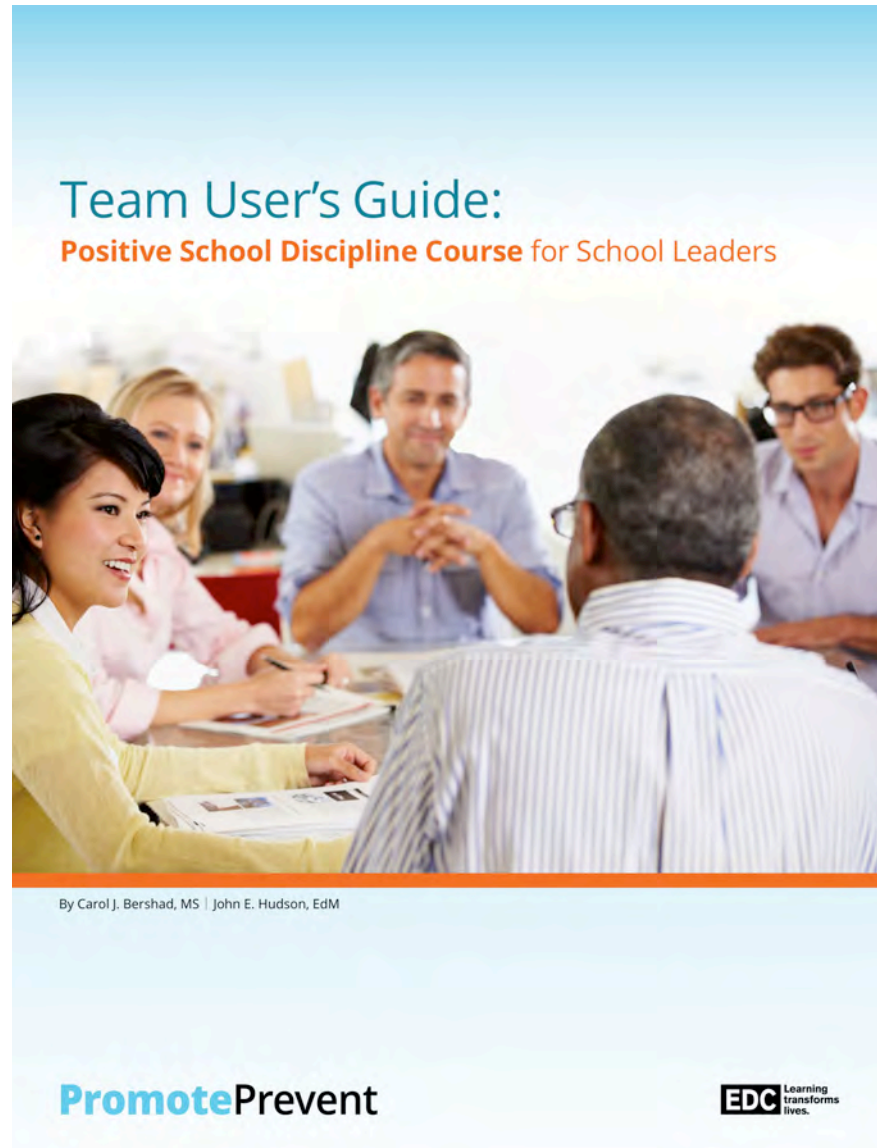
Questions about what is in your local Code of Conduct:	Is the Code followed?	What does the DSC Model Code say about it?	Follow-up questions/changes you want
1. Can you easily get a copy of your District's Code of Conduct? Is it available on-line? Do students and parents receive a copy at the start of the school year?		Districts and schools must ensure that students, parents or guardians, and teachers know and understand all of the school norms, expectations, rules and disciplinary processes. (Pg.22 3.1.a.D.2)	
Guidelines for Suspensions and Expulsions			
2. Are there guidelines for when a school can and cannot suspend or expel a student? Are suspensions and expulsions limited to only serious and dangerous offenses?		Suspension or expulsion may only be considered for the most serious and dangerous offenses and only if absolutely necessary to protect the safety of the school community.(Pg. 32 3.1.c.B)	
3. Does your district list alternatives to suspension? Does your district require that alternatives be used before suspension/expulsion?		Suspensions or expulsions may only be used after non-exclusionary discipline alternatives (like counseling, mediation, etc.) have been carefully considered, tried and documented.(Pg. 32 3.1.c.B.1.a)	
4. Can a student be expelled or suspended for a first time offense?		No student can be suspended or expelled for a first-time offense (unless required by federal or state law or in an emergency). (Pg. 33 3.1.c.D.1)	
5. Are there different rules for students of different ages or grade levels? (For example, different suspension policies for elementary and middle school students vs. high school?)		No student under the age of 10 may be excluded from school for disciplinary reasons.(Pg. 33 3.1.c.D.2) No student under the age of 15 may receive a suspension of more than 3 days.(Pg. 33 3.1.c.D.3)	

Practice

What are some resources to guide best practice?

Education Development Center

Online 6 module school Positive School Discipline Course for School Leaders



Education Development Center

Team User Guide

Table of Contents

- 5 Introduction to the Team User's Guide**
- 5 Framework for Comprehensive Positive School Discipline**
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- 10 Module 2:** Castle Hill Community: Dealing with Discipline
- 12 Module 3:** Build Collaborative Partnerships
- 15 Module 4:** Gather and Analyze Data
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- 22 Tools and Resources:** Team User's Guide

Module 1

- 22** Statements About School Discipline
- 23** Scenarios of Three Students: Renee, Samantha, and DeSean
- 26** Framework for Comprehensive School Discipline

Linked Resources

- [School Discipline—What the Research Tells Us: Myths and Facts](#)

Module 2

- 27** The Shocking Suspension Rate of Black and Hispanic Students Comes Under Fire
- 28** True/False Questions for Suspended Education: Urban Middle Schools in Crisis

Linked Resources

- [Suspended Education: Urban Middle Schools in Crisis](#)
- [Breaking Schools' Rules: A Statewide Study of How School Discipline Relates to Students' Success and Juvenile Justice Involvement](#)

Discipline Disparities Briefing Papers

The Discipline Disparities Research to Practice Collaborative, within a national context of troubling disparities and promising solutions, has used information from stakeholder groups, as well as knowledge of the current status of research in the field, to craft this series of informational briefs and supplementary research papers with targeted recommendations customized for different audiences.

- Interventions
- Policy Recommendations
- New Research
- Supplementary

Discipline Disparities Series Executive Summary

Discipline Disparities:

A Research-to-Practice Collaborative

Supported by:



DISCIPLINE DISPARITIES SERIES:

KEY FINDINGS

MARCH 2014

Disparities in school discipline are a serious problem. Frequent use of disciplinary removal from school is associated with a range of negative student outcomes, including lower academic achievement, increased risk of dropout, and increased contact with the juvenile justice system. Over 40 years of research has consistently found that particular student groups—especially Black males—have disproportionately received exclusionary discipline, placing them at increased risk of experiencing those negative outcomes. Disciplinary disparities have also been documented for girls of color; students with disabilities; Hispanic/Latino students; and students who identify as lesbian, gay, bisexual, transgender, and gender non-conforming. Disproportionality in discipline cannot be fully explained by higher rates of student misbehavior or the challenges associated with poverty. Hence, a more complete understanding of where and why disparities occur and developing approaches that effectively reduce both overall use of exclusionary discipline and the discipline gap, is an urgent national priority. Yet reducing the use of exclusionary discipline and eliminating disparities is possible and is beginning to happen in many places across the country.

In order to support the work of disparity reduction, the Discipline Disparities Collaborative (Collaborative)—an inter-disciplinary, multi-state, and highly diverse group of nationally recognized researchers, advocates, funders, content experts, and practitioners—engaged stakeholders across the country on both the problem of and solutions to disparities in discipline. Through meeting face-to-face with educators, parents, policymakers, researchers, youth service workers, and community-based leaders, and supporting new research, the Collaborative has developed a set of comprehensive briefing papers grounded in research and the lived experiences of stakeholders. The papers describe the problem of disciplinary disparities, and provide guidance on creating more equitable disciplinary systems. A brief description and key findings of those papers are described below.¹

How Educators Can Eradicate Disparities in School Discipline: A Briefing Paper on School-Based Interventions

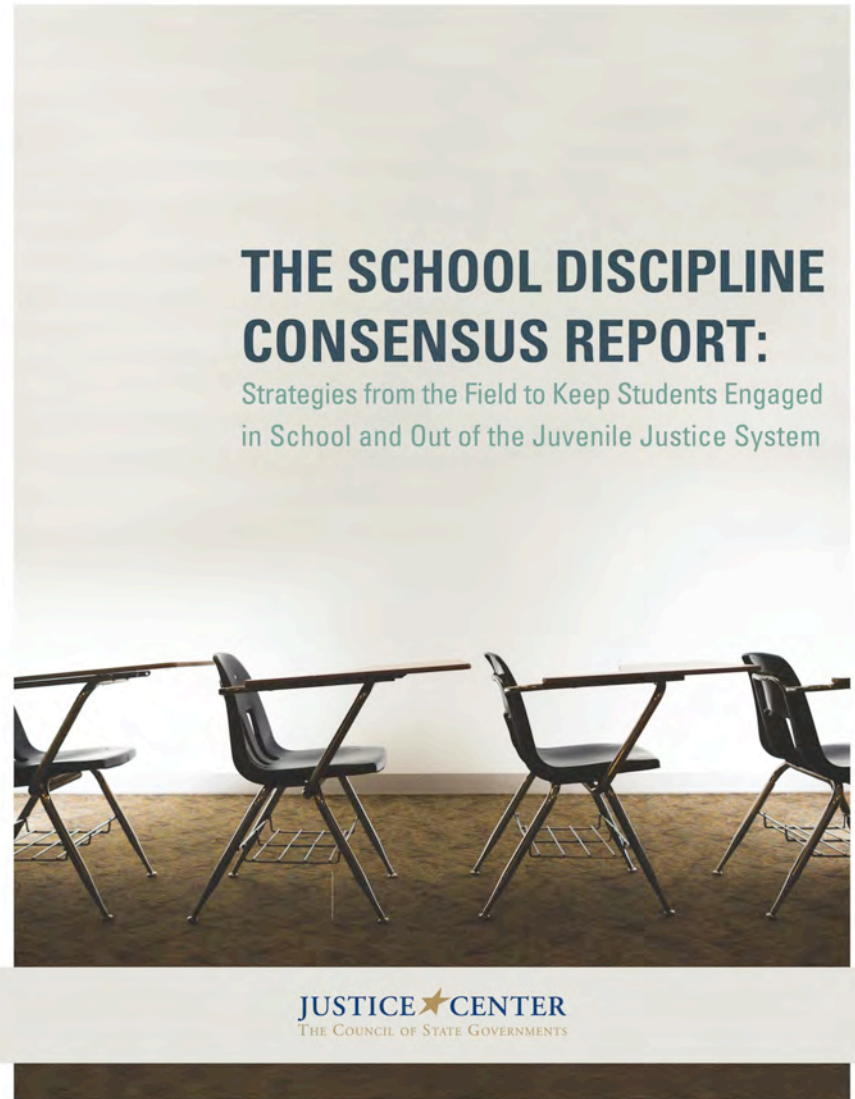
By Anne Gregory, James Bell, and Mica Pollock

Designed primarily for educators, advocates, and others interested in school- and community-based interventions, this briefing paper describes approaches schools and communities are using across the country to reduce disparities.

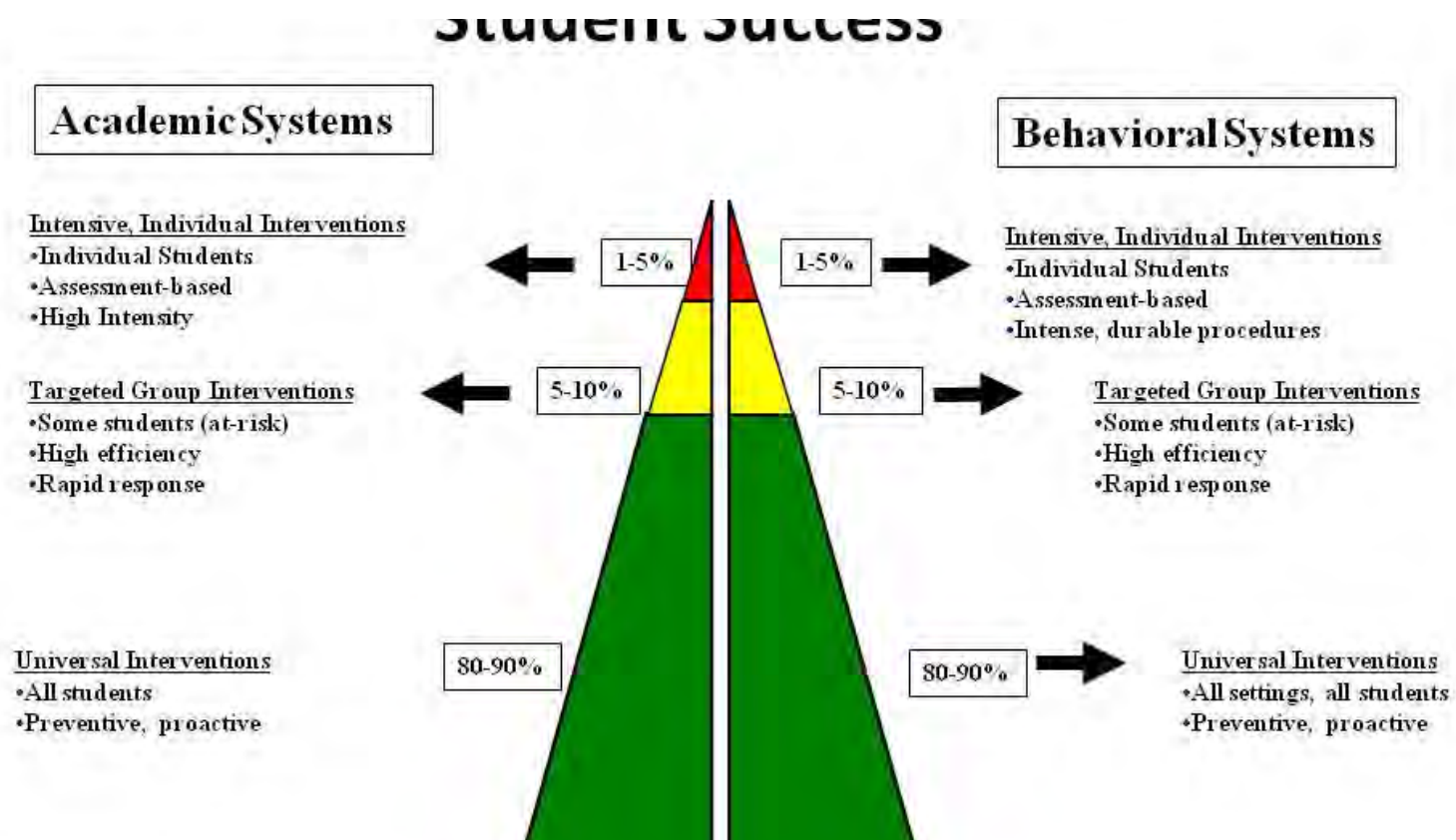
- **Seeing school discipline through an equity lens.** It cannot be assumed that efforts to improve schooling overall will change differential treatment in discipline or change differential access to learning opportunities. Indeed, it is possible to reduce exclusionary discipline without changing disparities. As schools and educators engage in disciplinary reform, reducing disparities must be an explicit goal undergirding the design, implementation, and outcomes of that work.
- **School discipline reform is connected to the rest of schooling.** Under-resourced schools face tremendous challenges in providing an exceptional education for all students. Real barriers to providing such an education for all students exist when schools and students have unequal access to quality teaching, a rigorous and meaningful curriculum, funding, or other factors related to positive student outcomes. Effective schools move away from blaming individual educators for discipline disparities and consider the conditions for learning and the school climate more broadly.

Structure of the Consensus Report

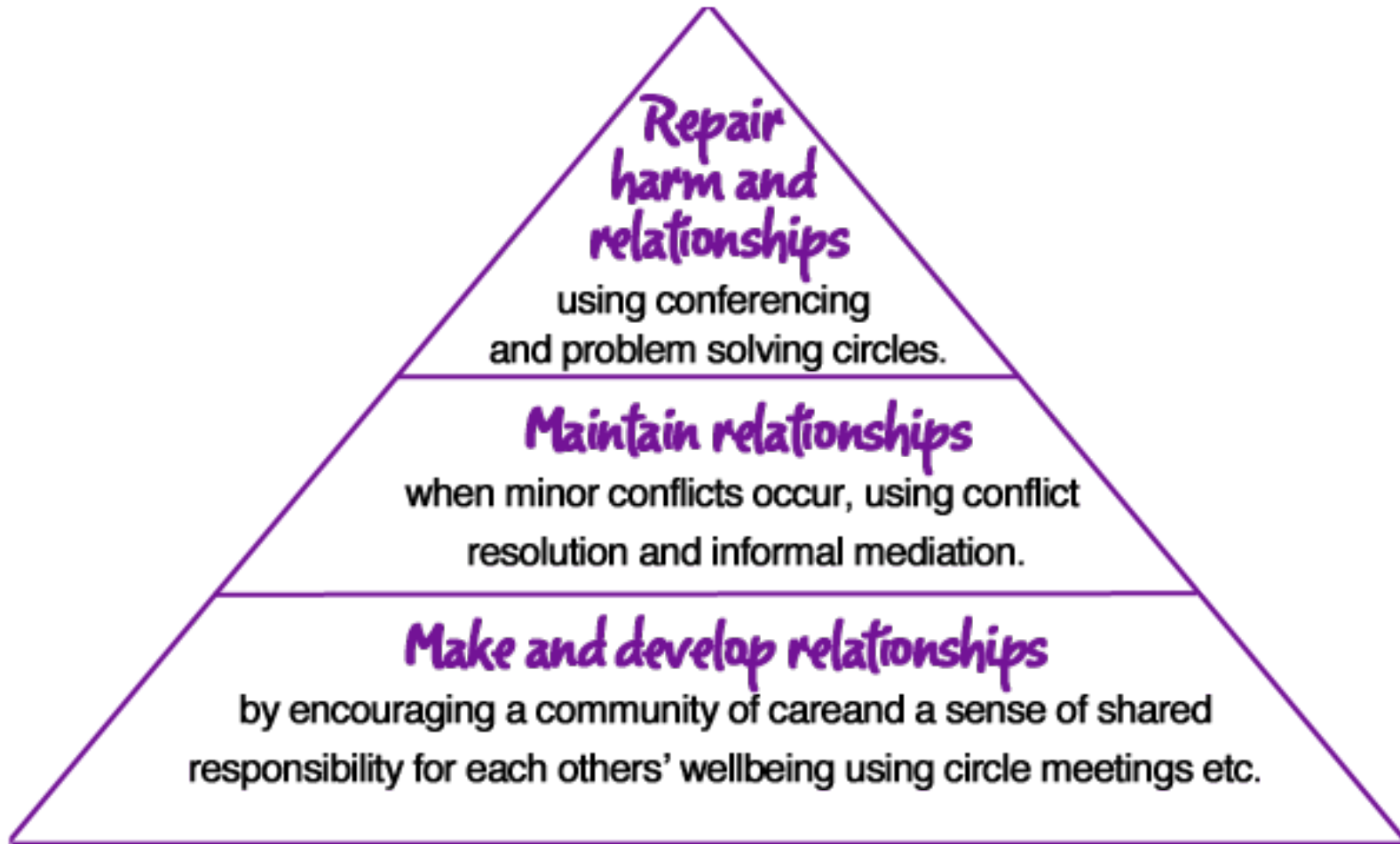
- **Conditions for Learning**
- **Targeted Behavioral Interventions**
- **School-Police Partnerships**
- **Courts & Juvenile Justice**
- **Information Sharing**
- **Data Collection**



Multi-Tiered Systems of Support



Integrating Restorative Practices to Augment MTSS Model in Schools



Restorative MTSS



Restorative
Reintegrative

- Bringing students who have been suspended, expelled, incarcerated back into the school community

Responsive
practices

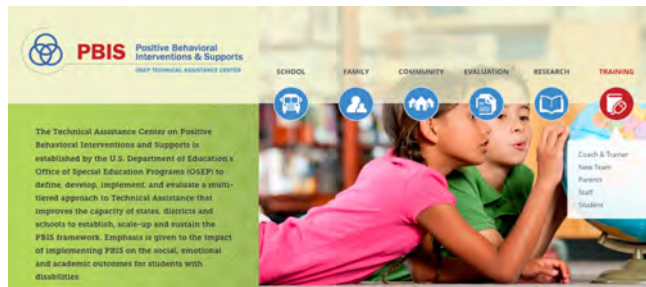
- Office disciplinary referrals
- Bullying
- Truancy
- Alternatives to suspension/expulsion
- Circles to restore/repair in the classroom

Preventive/
Proactive
practices

- Relationship building circles
- Circles to deliver curriculum
- Circles to establish group agreements/behavioral expectations

Practice Resources: SWPBIS

www.pbis.org



The screenshot shows the homepage of the Positive Behavioral Interventions & Supports (PBIS) website. At the top left is the PBIS logo, which includes a stylized 'PBIS' acronym and the text 'Positive Behavioral Interventions & Supports' and 'U.S. DEPARTMENT OF EDUCATION TECHNICAL ASSISTANCE CENTER'. Below the logo is a navigation menu with icons and labels for 'SCHOOL', 'FAMILY', 'COMMUNITY', 'EVALUATION', 'RESEARCH', and 'TRAINING'. The main content area features a large image of two young girls looking at a tablet. To the left of the image is a text block: 'The Technical Assistance Center on Positive Behavioral Interventions and Supports is established by the U.S. Department of Education's Office of Special Education Programs (OSEP) to define, develop, implement, and evaluate a multi-tiered approach to Technical Assistance that improves the capacity of states, districts and schools to establish, scale-up and sustain the PBIS framework. Emphasis is given to the impact of implementing PBIS on the social, emotional and academic outcomes for students with disabilities.' To the right of the image is a list of roles: 'Coach & Trainer', 'New Team', 'Parents', 'Staff', and 'Students'.

pbisnetwork.org



The screenshot shows the homepage of the NorthWest PBIS Network website. At the top left is the logo for the 'NW PBIS Network', which is a green triangle with 'NW PBIS Network' text. To the right of the logo is the tagline 'Creating Safe and effective schools for ALL students'. A navigation menu at the top right includes links for 'Home', 'About PBIS', 'Events', 'News', 'Resources', 'Contact Us', and 'Jobs'. Below the navigation is a green banner with the text 'NorthWest PBIS Network'. The main content area features a large image of a smiling woman in a school hallway. To the right of the image is a section titled 'Upcoming Events' which lists 'PBIS Summer Institute' with dates 'August 20 @ 8:00 am - August 21 @ 4:00 pm' and a link for 'View All Events'.

Practice Resources: Restorative Justice

International Institute for
Restorative Practices
www.iirp.edu

FOR RESTORATIVE PRACTICES A GRADUATE SCHOOL
Restoring Community in a Disconnected World

Learn practical skills and professional development or
[Explore your options](#)

nt ▾ Graduate Education ▾ Event Calendar Project Websites ▾

“The supervision concepts embedded in the program helped me become a more effective leader.”

Thomas Fertal '11,
High School Principal,
Lancaster, Pennsylvania

Restorative Justice for Oakland
Youth (RJOY)
Rjoakland.org

Restorative Justice for Oakland Youth

Home About RJOY Programs Partners Contact Us

Restoring Community in a Disconnected World

Restorative Justice for Oakland Youth

Changing our world - one circle at a time

THE PROJECT



**Schoolwide Positive
Restorative
Discipline**

**Development work funded by the
Research to Practice Collaborative on
Discipline Disparities**

**[http://rtpcollaborative.indiana.edu/
briefing-papers/](http://rtpcollaborative.indiana.edu/briefing-papers/)**

**and the University of Oregon Office
on Research, Innovation, and
Graduate Education**

Partners:

**The University of Oregon College of
Education**

**The University of Oregon School of
Law & Conflict Resolution Program
Center for Dialogue and Resolution in
Eugene, OR**

Eugene School District 4J

CASE STUDY

Garfield High

- In May 2013, L.A. Unified bans suspension for 'willful defiance'
- "Willful defiance," an offense criticized as a subjective catch-all for such behavior as refusing to take off a hat, turn off a cellphone or failing to wear a school uniform.
- The offense accounted for 48% of 710,000 suspensions issued in California in 2011-12, prompting state and local efforts to restrict its use in disciplinary actions.

Source: LA Times story, published May 14, 2013) <http://articles.latimes.com/2013/may/14/local/la-me-laUSD-suspension-20130515>



Garfield High: Taking Action

- Garfield High School is in East LA, a low-income neighborhood that is predominantly Latino.
- "Suspensions are off the table at Garfield High School. I can't teach a kid if he's not in school," Garfield's principal, Jose Huerta says.
- In the 2008-09 school year, Garfield had 638 suspensions, but in 2009-10, 2010-11, and 2011-12, only one suspension.
- As a result, Huerta says, the school's attendance rates are in the 96th percentile, the graduation rate is higher than the district as a whole and, he adds, "We just got word ... that 27 of our students were accepted to UCLA. That's the highest of any high school in California."

What story the data tell

API for High Schools in the LAUSD District 5 and local small public charter high schools in the East Los Angeles region, 2008-09 and 2010-11.

School	2008-09	2010-11
Francisco Bravo Medical Magnet High School	815	832
Marc and Eva Stern Math and Science School	788	809
Oscar De La Hoya Animo Charter High School	709	744
James A. Garfield High School	593	705
Abraham Lincoln High School	588	643
Woodrow Wilson High School	600	636
Theodore Roosevelt High School	576	
Thomas Jefferson High School	514	546
Santee Education Complex	521	565

MORAL IMPERATIVE: THE BOTTOM LINE

The undeniable truth is that the everyday educational experience for many students violates the principle of equity at the heart of the American promise. It is our collective duty to change that.

--Arne Duncan

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Questions & Comments



OEIB Equity Lens

Guiding Questions for Educational Leaders

Which racial/ethnic and underserved groups are affected? What is the resource allocation and strategic investment to these groups? Is the decision being made ignore or worsen existing disparities or consequences? What is the impact on eliminating the opportunity gap? How does the investment or resource allocation advance the 40/40/20 goal? What are the barriers to more equitable outcomes? (e.g. mandated, financial, programmatic or managerial)

OEIB Equity Lens

Guiding Questions for Educational Leaders

Have you intentionally involved stakeholders who are also member communities affected by the strategic investment or resource allocation in your assessment in (1), (2) and (3)?

Will you modify or enhance your strategies to ensure each learner and communities' individual and cultural needs are met?

Are you collecting data on race, ethnicity, and native language?

What is your commitment to P-20 professional learning for equity? What are you allocating for training in cultural responsive instruction?