



Background on the Federal School Discipline Guidance



Suspensions, expulsions, and school-based arrests are used too often in our schools and disproportionately impact students of color. According to data from the U.S. Department of Education, during the 2013-2014 school year, Black K-12 students were 3.8 times more likely to receive an out-of-school suspension than white students,ⁱ even though research shows there is no evidence that students of color misbehave more than their white peers.ⁱⁱ Many students are pushed out for typical child and adolescent behavior that should be addressed in schools. On January 8, 2014, the U.S. Department of Justice and the Department of Education jointly released a school discipline guidance package.ⁱⁱⁱ The materials included were intended to assist states, districts, and schools in developing policies and practices to meet existing federal civil rights laws and to promote positive school climates.

Why were the guidance documents created?

The guidance documents were created to help schools serve students more effectively by:

- Encouraging them to avoid pushing students out of school;
- Reminding them that racial discrimination, including discrimination in school discipline, is illegal; and
- Providing recommendations and resources to reduce disparities in exclusionary discipline.

What does it mean that the guidance was withdrawn?

Withdrawing the school discipline guidance sends the message that Secretary DeVos is not concerned about the discriminatory use of suspension, expulsion, and arrests in our schools. However, the guidance did not create or change any laws, and withdrawing the guidance has no effect on the law. Schools are still prohibited from discriminating against students, and the Department of Education is still obligated to act when a complaint is filed against a school or district.

Why is school push out harmful for students?

Students who are pushed out of school lose valuable instructional time. Disproportionate rates of exclusionary discipline mean that students of color lose more instructional time than their white peers.^{iv} Students who are suspended are more likely to fail a grade or drop out of school.^v As the American Academy of Pediatrics says, “out-of-school suspension and expulsion represent an enormously costly and largely unsatisfactory solution to behavior problems in school, whether from the standpoint of the school district, the student, or the community.”^{vi}

What is the alternative to pushing students out of school?

Suspensions and expulsions are not the only way of responding to student misbehavior and have frequently been shown to be counterproductive. Evidence-based strategies for building positive school climates that prevent misbehavior, and restorative and transformative justice practices that address the underlying problems that lead to misbehavior, more effectively achieve the educational mission of schools and more consistently comply with federal nondiscrimination laws.

ⁱ U.S. Department of Education. “2013-2014 Civil Rights Data Collection: A First Look.” October 28, 2016.

<https://www2.ed.gov/about/offices/list/ocr/docs/2013-14-first-look.pdf>.

ⁱⁱ Skiba, R. J., Arredondo, M. I., Rausch, M. K. “New and Developing Research on Disparities in Discipline.” The Equity Project at Indiana University. March 2014. http://www.indiana.edu/~atlantic/wp-content/uploads/2015/01/Disparity_NewResearch_010915.pdf.

ⁱⁱⁱ U.S. Department of Education. “Dear College Letter on the Nondiscriminatory Administration of School Discipline.” January 8, 2014. <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.html>.

^{iv} Losen, D. J., Whitaker, A. “Lost Instruction: The Disparate Impact of the School Discipline Gap in California.” Center for Civil Rights Remedies. October 24, 2017. <https://www.civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/summary-reports/lost-instruction-the-disparate-impact-of-the-school-discipline-gap-in-california>.

^v Fabelo, T., Thompson M. D., Plotkin, M., Carmichael, D., Marchbanks III, M. P., Booth, E. A. “Breaking Schools’ Rules: A Statewide Study of How School Discipline Relates to Students’ Success and Juvenile Justice Involvement.” Council of State Governments Justice Center & The Public Policy Research Institute, Texas A&M University. July 19, 2011. <https://csgjusticecenter.org/youth/breaking-schools-rules-report/>.

^{vi} Lamont, J.H. “Out-of-School Suspensions and Expulsion.” American Academy of Pediatrics. March 2013. <http://pediatrics.aappublications.org/content/131/3/e1000>.