

# A MODEL CODE on Education and Dignity

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PRESENTING A HUMAN RIGHTS  
FRAMEWORK FOR SCHOOLS

REVISED 2019



## DIGNITY IN SCHOOLS

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# Acknowledgements

The first draft of the Model Code, circulated for comment in 2009, was developed by members of the Model Code Working Group from the Dignity in Schools Campaign, the Children’s Rights Litigation Committee of the American Bar Association Section on Litigation and various other individuals and organizations that contributed to the project. Members of the Model Code Working Group then reviewed drafts of the Code and gathered input at Dignity in Schools Campaign meetings and at a summit organized by the Children’s Rights Litigation Committee.

The first complete version of the Model Code was published in August 2012. Based on feedback and input from communities, educators and advocates across the country, the Dignity in Schools Campaign updated and re-released a second edition in 2013 and this third edition in 2019.

The following individuals drafted and edited sections of the Model Code as different editions have been published over time: Sarah Biehl, Brittany Brathwaite, Natalie Chap, Maisie Chin, Richard Cohen, Hillary Coustan, Stephanie Coyle, Matthew Cregor, Ruth Cusick, Julia Daniel, Chloe Dugger, Karla Estrada, Laura Faer, Nancy Franklin, Jim Freeman, Christina Gilbert, Chris Gowen, Dean Hill Rivkin, Rosa K. Hirji, Hashim Jabar, Gregory Johnson, Harold Jordan, Cierra Kaler Jones, Monica Llorente, Dan Losen, Tarek Maassarani, Denise Marshall, Kim McGill, Theshia Naidoo, Udi Ofer, Brent Pattison, John Pollock, Charlotte Pope, Marlene Sallo, Zakiya Sankara-Jabar, Benetta Standly, Liz Sullivan-Yuknis, Chris Tan, Marlyn Tillman, Julie Waterstone, Paul Weckstein and Melanie Zuch.

## Early Review Process

The Code was initially reviewed by participants at the American Bar Association Section of Litigation Children’s Rights Litigation Committee Summit, Raising our Hands: Creating a National Strategy for Children’s Right to Education and Counsel, October 23, 2009, Northwestern University School of Law, Chicago, IL; and presented by a panel at the American Bar Association National Conference in August 2010.

## 2011–2012 Editorial Committee

The Editorial Committee collected and reviewed the feedback from editors and communities and completed the final draft in summer 2012. Members of the Editorial Committee include: Sarah Biehl, Ohio Poverty Law Center; Ruth Cusick, Public Counsel Law Center; Joyce Parker, Citizens for a Better Greenville; Liz Sullivan, National Economic and Social Rights Initiative.

## 2011–12 and 2018–19 Community Engagement Processes

In 2011, the Dignity in Schools Campaign launched a community engagement process to gather input from members in 8 states around the country—California, Florida, Georgia, Illinois Louisiana, Mississippi, New York and Pennsylvania—bringing together students, parents and educators to review the draft of the Model Code and provide comments and input. In 2018 and 2019, as we prepared for our updated Model Code to be released, member organizations participated in editing and providing feedback on drafts, primarily through our monthly Campaigns Call. Organizations that participated in either of those community engagement processes in 2011–12 and/or 2018–19 include: ACLU of PA, Access Living (IL), Action Communication and Education Reform (MS), Activists with a Purpose (MS), Advocates for Children of New York, Atlanta Community Engagement Team, Blocks Together (IL), Blue Ribbon Leadership Institute (NC), Children’s Defense Fund Los Angeles, Center for Civil Rights Remedies at UCLA (CA), Children’s Defense Fund New York, Citizens for a Better Greenville (MS), Citizens for Educational Awareness (MS), Community Asset Development Re-Defining Education (CADRE, CA), COFI/ POWER PAC (IL), Concerned Citizens for a Better Tunica County (MS), Desis Rising Up and Moving (DRUM, NY), Elite Education Consultants (VA), Families and Friends of Louisiana’s Incarcerated Children (FFLIC), Generation Y (IL), Girls for Gender Equity (NY), Gwinnett Parent Coalition to Dismantle the School to Prison Pipeline (GA), Labor/Community Strategy Center (CA), Law Office of Piper A. Paul (CT), Mississippi Delta Catalyst Roundtable, New York Civil Liberties Union, Nollie Citizens for Quality Education (MS), Parents and Youth United for a Better Webster County (MS), Parents Across America (NC), Philadelphia Student Union, Philadelphia Teacher Action Group, POWER U (FL), Public Counsel (CA), Racial Justice NOW! (OH and MD), Restorative-DC, Restorative Schools Vision Project (CA Southern Echo (MS), Sunflower County Parents and Students Organization (MS), Teachers Unite (NY), Village of Wisdom (NC) Youth Innovation Movement Solutions (MS), Youth Justice Coalition (CA) and Youth on the Move (NY) and many others.

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# INTRODUCTION

All children and youth have a human right to quality public education in safe and supportive learning environments. Such an education provides a foundation for access to higher education, meaningful employment and full participation in society. Although communities have fought to secure and improve public education, our educational policies and practices throughout U.S. history have failed to reflect that commitment. As a result, millions of young people are being pushed out of school every year, denying them the opportunity to reach their full potential.

This nation-wide “pushout” crisis is fueled by many factors, including unwelcoming school environments, low expectations for students, zero-tolerance discipline policies and practices, school policing and other punitive disciplinary measures, lack of adequate resources and support for teachers, high stakes testing and narrow curricula, and a lack of needed resources for students like counselors and social workers<sup>1</sup>. School systems also exclude the voices of youth, parents and educators from important educational decisions and adopt top-down approaches that result in policies and practices that fail to address the needs of school communities. Furthermore, the negative effects of these policies and practices disproportionately impact children of color (impacting Black students at the highest rates), English language learners, children with special needs, children from low-income families, students experiencing homelessness or in temporary housing situations, students in the foster care system and children in other marginalized communities. As a result, increasing numbers of these youth are being pushed out of school and into poverty, unemployment and prison<sup>2</sup>. This kind of inequity and structural racism means that in this country students are not getting an equal chance at success, starting as early as pre-K and continuing throughout their education.

Punitive and ineffective approaches to school safety and discipline have dramatically increased over the last three decades, as schools rely more and more on suspensions, expulsions, police interventions and arrests. In the 2015–2016 school year roughly 2.7 million students across the country were suspended and over 120,000 expelled.<sup>3</sup> Perversely, these punitive practices do not improve student behavior; rather, they increase the likelihood that students will fall behind academically and drop out, contributing to an unhealthy atmosphere that affects the entire school community<sup>4</sup>. These practices have proliferated in schools as mass incarceration in the United States has continued to swell, mirroring the same extreme racial disparities. Both systems utilize harsh punishment and removal as their main tools to control behavior, despite the fact that these tactics do not prevent harm and often leave individuals, families and communities worse off. Our failure to end this system of punitive and criminalizing school discipline stymies national efforts to reduce dropout rates, close the achievement gap and improve teacher effectiveness, and continues to feed the school-to-prison pipeline.

Fortunately, best practices for improving school climate and discipline have been developed, and a diverse array of community, civil rights, research, policy and education organizations are working towards their implementation<sup>5</sup>. Across the country, communities are advocating for and winning policy changes to implement school-wide discipline models such as Restorative Justice Practices and School-Wide Positive Behavior Interventions and Supports (SWPBIS), which give teachers and students the tools to build positive school environments and to prevent and respond to conflict in ways that address students’ social, emotional and academic needs. These approaches support young people in learning how to take accountability for their actions without punishment or removal. They can reduce suspensions by up to 50 percent, improve school climate, increase teacher effectiveness and support better educational outcomes for all students.<sup>6</sup> As a result of organizing by the Dignity in Schools Campaign and allies across the country, in 2014, the Obama Administration released the Federal School Discipline Guidance which outlined the civil rights obligations of states, districts and schools under existing law to address racial discriminatory discipline practices. The guidance provides resources for how to implement positive alternatives and promote positive school climates.<sup>7</sup>

This Model Code articulates a vision for all community stakeholders based on the best practices, research and personal experiences of students, parents and educators from around the country. It is also built around a human rights framework for schools which recognizes that the goal of education must be to support all children and young people in reaching their

<sup>1</sup> ACLU, Cops and No Counselors: How the Lack of School Mental Health Staff Is Harming Students (2018). Available at: <https://www.aclu.org/issues/juvenile-justice/school-prison-pipeline/cops-and-no-counselors?redirect=copsandnocounselors>

<sup>2</sup> ACLU of PA, Students and the Justice System: Collateral Consequences (2019). Available at: [https://drive.google.com/file/d/1U\\_rBQ0d96-9MupB\\_VczuSldofocYiEi/view](https://drive.google.com/file/d/1U_rBQ0d96-9MupB_VczuSldofocYiEi/view)

<sup>3</sup> Office for Civil Rights, Dept. of Educ., Civil Rights Data Collection 2015–2016. Available at: <https://www2.ed.gov/about/offices/list/ocr/docs/school-climate-and-safety.pdf>

<sup>4</sup> Council of State Governments Justice Center, Breaking Schools’ Rules: A Statewide Study on How School Discipline Relates to Students’ Success and Juvenile Justice Involvement (2011). Available at: [https://csgjusticecenter.org/wp-content/uploads/2012/08/Breaking\\_Schools\\_Rules\\_Report\\_Final.pdf](https://csgjusticecenter.org/wp-content/uploads/2012/08/Breaking_Schools_Rules_Report_Final.pdf)

<sup>5</sup> Communities for Just Schools Fund, Do the Harder Work--Create Cultures of Connectedness in Schools: A Youth & Parent Organizer Response to the Federal Commission on School Safety (2018) Available at: <https://www.cjsfund.org/do-the-work>

<sup>6</sup> Southern Poverty Law Center, Effective Discipline for Student Success: Reducing Student and Teacher Dropout Rates in Alabama (2008), available at [http://cdna.splcenter.org/sites/default/files/downloads/Effective\\_Discipline\\_ALA.pdf](http://cdna.splcenter.org/sites/default/files/downloads/Effective_Discipline_ALA.pdf).

<sup>7</sup> Federal School Discipline Guidance Package (2014). Available at: <https://safesupportivelearning.ed.gov/events/webinar/overview-school-discipline-guidance-package>

full potential.<sup>8</sup> This human rights framework envisions an educational system where schools adapt to meet the academic, social and emotional needs of every student; where students, parents, and teachers all participate in decisions affecting education; where all students are treated with dignity and attend school free from discrimination of any kind; and where communities play a central role in monitoring education policies and practices to continuously improve educational outcomes for students. In adopting a human rights approach to education, we aim to respect the rights and needs of every individual who studies in, works in and supports our schools.

The Model Code also presents policymakers with recommended language for alternatives to pushout and zero-tolerance practices. We present our recommendations in concrete, prescriptive language, in the form of procedures, criteria and standards to be used by states, districts, schools, educators, students and parents. The Model Code is designed so that communities and policymakers can identify individual topic areas they wish to address, and implement the recommended language while taking into account the diverse needs and characteristics of individual communities. The centerpiece of the Model Code is Chapter 3, which provides a comprehensive framework for school climate and discipline policies. Because all of the policies in this Model Code are part of a broader focus on children's human right to an education, it should be noted that implementing any part of this Code requires communities to engage in a broader conversation about how to shift their collective approach to education. Therefore, we recommend that advocates, schools and communities view this document not only as a prescription for policy change, but also as a catalyst for transforming school culture.

Included in the Model Code are areas of law and policy that break new ground. These innovative recommendations—such as in the areas of right to counsel, right to specific procedures and protections in school suspension and expulsion hearings, removal of all law enforcement from schools, substance abuse prevention, and the right to participation of all stakeholders—are set forth as recommended language to advance the Code's overall goal of protecting children's human right to education. Since we originally published the Code in 2012, we have seen support for these policy recommendations grow as communities across the country are winning major changes in school discipline policies that once seemed impossible.

## 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) Data, Monitoring and Accountability. Each of these chapters addresses a 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.

Chapters 1 and 2 on Education and Participation outline broad principles and standards for high quality education and community participation that lay the groundwork for positive school climates and discipline. Chapter 3 on Dignity focuses on the issue of positive school climate and constructive approaches to discipline. It provides detailed language that can be adopted by states, districts and schools in education codes and policies. Chapters 4 and 5 on Discrimination and Monitoring and Accountability present recommended policies and practices for addressing the disproportionate impact of punitive discipline, and for ensuring quality data collection and effective monitoring of policies.

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<sup>8</sup> Foundational human rights provisions for the right to education can be found in: Universal Declaration of Human Rights (UDHR), Article 26; International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 13; Convention on the Rights of the Child (CRC), Articles 28 and 29.



## 5 Chapters of the Model Code

Education	Participation	Dignity	Freedom from Discrimination	Monitoring & Accountability
<p><b>Education for the Full Potential of Children &amp; Youth</b></p> <p>Equity in Education</p> <p>Culturally Relevant Curriculum &amp; Teaching</p>	<p><b>Stakeholder Participation</b></p> <p>Rights of Children &amp; Youth to Participation</p> <p>Rights of Parents &amp; Guardians to Participation</p>	<p><b>School Climate &amp; Positive Discipline</b></p> <p>Suspensions, Expulsions &amp; Removals</p> <p>Law Enforcement &amp; Criminalization In Schools</p> <p>Truancy Prevention &amp; Status Offenses</p> <p>Alternative Schools</p> <p>Education for System-Involved Youth</p> <p>Model Policies on Specific Topics</p>	<p><b>Right to Freedom from Discrimination</b></p> <p>Disproportionate Use of Discipline</p> <p>Racial Disparities in School Discipline</p> <p>Immigrant &amp; Undocumented Students</p> <p>Students with Disabilities</p> <p>LGBTQ+ &amp; Gender Non-Conforming Students</p>	<p><b>Right to Information &amp; Data Collection</b></p> <p>Monitoring &amp; Community Analysis</p>

### Content of the Model Code Chapters

**Background:** The background section introduces current educational policies and practices that contribute to school pushout, as well as research and best practices to support the positive solutions presented in the Model Code.

**Chapter Sections:** Each chapter is divided up into sections that address particular areas of concern. In Chapter 3 on Dignity for example, there are seven main sections: 3.1 Key Elements of School Climate and Positive Discipline, 3.2 Guidelines for Suspensions, Expulsions and Removals, 3.3 Law Enforcement and Criminalization in School Environments, 3.4 Truancy Prevention and Dismantling Status Offense Laws, 3.5 Alternative Schools, 3.6 Right to Education for System Involved Youth, and 3.7 Model Policies on Specific Topics.

**Sub-Sections:** Some sections are further divided into more specific sub-sections. For example, within section 3.7 Model Policies on Specific Topics, there are sub-sections on 3.7.a Model Policy on School-wide Positive Behavior Interventions and Supports, 3.7.b Model Policy on Restorative Justice Practices, 3.7.c Model Policy on Fighting, 3.7.d Model Policy on Dress Codes, 3.7.e Model Policy on Bullying Behavior, 3.7.f Model Policy on Drugs and Alcohol, and 3.7.g Model Policy on Using an Intervention Team Support Model for “Threat Assessments.”

**Human Rights Goal:** Each individual sub-section identifies a Human Rights Goal on which the policy recommendations are based. This goal reflects the shift in values necessary to achieve not only a change in policy, but also to create a culture that guarantees the rights of students and other stakeholders.

**Definitions:** We provide definitions for terms used in some sections that may require more information.

**Recommended Language:** Each sub-section includes recommended language for policy makers at the school, district and/or state levels to adopt as law or regulation. The Recommended Language in most sub-sections includes the following components:

- General standards or principles that apply to the state, district and school level
- State, district and/or school-level planning teams and policies
- Trainings and other support necessary to implement those policies
- Evaluation and monitoring
- Additional state or federal actions required to fully implement those policies

## The Human Rights Framework in the Model Code

In this Model Code, we take research and best practices for effective education policy from across the country, and place them within a human rights framework that identifies the full development of the child, dignity and participation as key principles necessary for ensuring a quality education. This human rights framework emerged from the struggles of communities around the world to claim their rights and is also recognized by governments in treaties and declarations.

In the United States, human rights have been a fundamental part of our movements for social justice. U.S. civil rights leaders, for example, recognized their work to end segregation as part of a broader human rights movement.<sup>9</sup> Struggles to achieve women's rights, workers' rights and the rights of individuals with disabilities have been framed around notions of human rights as well. The United States, through the leadership of Eleanor Roosevelt, was one of the main authors of the Universal Declaration of Human Rights in 1948.<sup>10</sup>

International documents such as the Universal Declaration and the Convention on the Rights of the Child set out standards for education developed with participation of the United Nations. The Model Code is grounded in these principles because they provide a framework that can help transform our schools by:

- Setting forth a vision for learning environments that support every young person in reaching their full potential and treat students with dignity and respect;
- Shaping a positive message for combating school pushout that shifts practices away from punishing and excluding children towards policies that meet students' needs;
- Calling for school systems to guarantee the right of students, parents and all members of the school community to participate in decision-making; and
- Uniting people through the common message that human rights are universal and apply to everyone.

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<sup>9</sup> See generally, Carol Anderson, *The United Nations and the African American Struggle for Human Rights, 1944–1955* (2003).

<sup>10</sup> See generally, *A Brief History of Human Rights: The Universal Declaration of Human Rights (1948)*, <http://www.humanrights.com/what-are-human-rights/brief-history/the-united-nations.html>.