



501 3<sup>rd</sup> Street, NW · 8<sup>th</sup> Floor  
Washington, DC 20001  
T 202.467.4900 · F 202.467.4949  
[childrenslawcenter.org](http://childrenslawcenter.org)

Testimony Before the District of Columbia Council  
Committee on Education  
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Public Hearing:  
B22-594, the “Student Fair Access to School Act of 2017” and B22-179, the “D.C. Public  
Schools Alternatives to Suspension Amendment Act of 2017”

Judith Sandalow  
Executive Director  
Children’s Law Center

## **Introduction**

Good morning Chairman Grosso and members of the Committee. My name is Judith Sandalow. I am the Executive Director of Children’s Law Center<sup>1</sup> and a resident of the District. I am testifying today on behalf of Children’s Law Center, which fights so every DC child can grow up with a loving family, good health and a quality education. With 100 staff and hundreds of pro bono lawyers, Children’s Law Center reaches 1 out of every 9 children in DC’s poorest neighborhoods – more than 5,000 children and families each year. The children we advocate for at Children’s Law Center are disproportionately impacted by school suspensions and expulsions—children of color, children with disabilities and children in foster care. We regularly serve children who are sent home from school instead of receiving the educational supports they need to stay in the classroom and continue learning.

Thank you Councilmember Grosso for holding this hearing and for introducing the Student Fair Access to School Act of 2017 (“Fair Access Act”). Children’s Law Center was part of the working group you convened this summer to discuss how best to improve school discipline and is proud to support Fair Access Act that resulted from that work. We also want to thank Councilmember Trayon White for his commitment to finding a solution to the excessive use of school exclusion and for introducing the D.C. Public Schools Alternatives to Suspension Amendment Act of 2017, which would

require DCPS principals to justify in writing each time a child is suspended why suspension was more appropriate than alternatives.

**There is a suspension crisis in the District.** I call it a crisis because the statistics reveal that suspension is being used in a discriminatory fashion. African-American and Latinx children are suspended at dramatically higher rates than other children. So are children with disabilities, children in foster care, children living in poverty and children who are homeless. I call it a crisis because instead of figuring out what children need to be successful and learning, we are excluding them from class and depriving them of fair access to an education. I call it a crisis because the children we are suspending come from the same demographic groups as the children whom we are failing academically.<sup>2</sup> I call it a crisis because the ripple effect of suspension destabilizes families, leads children to drop out of school, increases and deepens income inequality and poverty, and prevents the District from being the safe, thriving, equitable city that we all want it to be.

My experience is that all of us bring many assumptions to the discussion of suspension. One way we can identify these assumptions is to close our eyes and picture a situation in which a child is being suspended. How old is that child? What did they do to warrant being suspended? What race is the student? What would happen if the student wasn't suspended?

Now let me share a few facts:

- Almost 40% of children who were suspended last year were in elementary school.<sup>3</sup>
- More than 4,700 suspensions were for relatively minor offenses (disrespect, insubordination, disruption) or attendance issues.<sup>4</sup>

I hope these two facts help to change the picture in your mind about the children who are being suspended. As you reflect on this legislation, what happens if you picture a fourth grade boy living in foster care who steals snacks from the snack closet, which happened with one of our clients earlier this school year? Or if you picture a middle school student with the cognitive limitations of a three-year-old who colors on the wall, whose suspension you read about from Ms. Morales. Or even a hypothetical eight-year-old girl saying something rude to a teacher and then refusing to go to the principal's office?

I also asked you to imagine the child's race and what you think might happen if suspension is not available. These assumptions require more discussion and I will turn to them later in my testimony.

The Children's Law Center supports the Fair Access Act for many reasons and believes it addresses the crisis as I have described it. Chief among them is that the Act will help reduce the impact of implicit bias that results in students of color being disproportionately suspended; reduce suspensions of children with disabilities and get them services faster; ensure that when safety requires a child to be out of school that the

focus is on safety planning and the speedy return of the child to a safe environment; end the practice of undocumented partial day suspensions; and ensure that children can return immediately after the conclusion of a suspension. We believe that if schools view the Fair Access Act as the impetus to build a more effective response to identifying and responding to children's needs that all children will benefit and that academic achievement will improve across the school system.

The Fair Access Act can be even stronger with a few key amendments. Most importantly, we recommend that the final legislation ensure that schools receive the resources they need to implement alternatives to suspension that work and improve schools as places for every student to learn. In addition, I have a few suggestions to further minimize the educational harm to children who need to be suspended.

### **Why the DC Council Should Act**

The suspension crisis is not new. Students, parents, advocates and teachers have been calling for reform for years. And, although some good work has been done by some schools, children are still being suspended at extremely high rates. The data from the Office of the State Superintendent of Education (OSSE) suggests that in the past five years suspensions have been cut almost in half, from 13% of students receiving a suspension in school year (SY) 2011-12, to 7.4% in SY 2016-17.<sup>5</sup> Unfortunately that data is not reliable. Some schools have dishonestly lowered their suspension numbers with "Do Not Admit" lists and other off-the-books suspensions.<sup>6</sup>

Even using the flawed data provided by OSSE, suspension numbers have stopped going down and still remain at crisis levels. There was almost no reduction in the number or percentage of students suspended in SY 2015-2016 and 2016-2017 – and almost one in 15 children were suspended at least once.<sup>7</sup> In fact, the data suggests that more students received multiple suspensions in SY 2016-17 than the school year before, suggesting that efforts to address the underlying cause of the suspension were less successful.

This is a problem that can be solved. Comparing DC to two local, similar jurisdictions demonstrates DC's over-reliance on the use of school exclusion. DC suspended 30% and 18% more of its overall student body than Baltimore City Schools and Prince George's County Schools, respectively.

The role of the DC Council is to set clear priorities. Improving equity and achievement should be a priority in our public schools. Passing this legislation requires the schools to take action and provide all children with fair access to education.

### **School Exclusion under Current Policies Has a Disproportionate Impact on Marginalized Students**

Tackling the suspension crisis is a matter of racial equity. African-American students in DC are 7.7 times more likely to be given out of school suspensions than White students, when controlling for at-risk status, economic disadvantage, disability, gender and other risk factors.<sup>8</sup> This disparity is significantly worse than nationally, where African-Americans are 3.5 times more likely to be suspended than other

children.<sup>9</sup> In addition, 94.4% of District students who were suspended more than once are African-American, although they are only 67.8% of public school students.<sup>10</sup> The disparity for Latinx children is also great: they are 2.8 times more likely to be suspended than White children.<sup>11</sup>

There are also significant disparities that are not race-based. Students who are considered at-risk were 2.7 times more likely to be suspended,<sup>12</sup> homeless students were 2.5 times more likely to be suspended,<sup>13</sup> and children in foster care because of past abuse or neglect were 2.9 times more likely to be suspended.<sup>14</sup>

My colleagues and I have great respect for teachers and school staff. We know from experience that the overwhelming majority are hard-working and dedicated. But research shows that all of us, from the time we are born, are fed information on a daily basis that reinforces negative stereotypes about adults and children who are African-American, adults and children who are Latinx, adults and children with disabilities, adults and children who are homeless, as well as adults and children from other marginalized groups.<sup>15</sup> These messages affect how we see and interpret the events around us – even when our conscious minds reject stereotypes.<sup>16</sup> One Yale study of preschool teachers, for example, found that teachers of all races look for and notice misbehavior more in African-American boys.<sup>17</sup> This implicit bias also impacts decision making, even in people striving to be fair and impartial.<sup>18</sup> Multiple studies show that

implicit biases explain at least some of the persistent racial disparities in out-of-school suspension.

The District's current suspension policies give wide discretion to suspend children for a range of reasons that leave room for implicit bias to creep in. Reducing discretion is a best practice in addressing inequity generally, and regarding suspension, is a necessary and important way to make DC a fair and equitable place for all children, regardless of race, disability or family wealth.

### **Suspensions Cause Harm and Don't Address the Underlying Problem**

Suspending a child may take them out of the school briefly, but in our 20 years of working with children and families, we have seldom seen it change the child's behavior because it does not resolve the underlying issue that caused the behavior.<sup>19</sup> Instead, suspension often starts a vicious cycle that exacerbates the problem and makes the situation worse for suspended students *and their peers*. Suspension causes a child to miss instruction; as a result the child falls behind in class; poor academic performance causes the child to feel frustrated and embarrassed; these feelings often result in more behavior problems and another suspension. And the cycle begins again. Missing just a few days can have devastating consequences on academic performance, according to research that shows missing as few as three days of instruction can lower achievement in reading by a full grade level.<sup>20</sup>



Decades of research shows that suspended and expelled students are more likely to perform poorly academically, be held back because of failed classes, drop out-of-school, or become involved in the juvenile justice system.<sup>21</sup> Indeed, research shows that being suspended significantly increases the likelihood that a child will drop out of school, even when the study controls for other strong drop out predictors.<sup>22</sup> In DC, Graduation Pathways work illustrated that suspension in middle school was a strong predictor that students would not graduate from high school.<sup>23</sup>

Given the research on the impact suspensions have on academic performance, it is not surprising that the same groups of students in DC are most likely to be suspended and most likely to have poor academic performance. Results on the most recent Partnership for Assessment of Readiness for College and Careers (PARCC) test show that 22% and 18.6% of children who are African-American are meeting or exceeding expectations (proficient) for their grade level in English Language Arts (ELA) and Math (respectively). For Latinx children, 28.9% were proficient in ELA and 26% in Math. Only 15.8% and 14.2% of children considered at-risk, which includes children in foster care and homeless children, were proficient on the ELA and Math tests (respectively) in 2017. For economically disadvantaged children, only 21.4% were proficient in ELA and 19% in Math. And only 6% of students receiving special education support were proficient in ELA and only 7% in Math. These results are

compared to 30.5% ELA and 27% Math of all students who were proficient.<sup>24</sup>

Suspensions likely are part of the reason for these low scores.

Suspension has other negative consequences. It invites school staff to ask, “What is wrong with this child?” rather than “What happened to this child?” Or, said differently, in order, to successfully help children improve their behavior, we have to identify and address the root causes of the disruptive behavior.

This is a good moment to invite you to close your eyes and picture a real child in a real situation, such as the 4<sup>th</sup> grade boy I mentioned earlier who “stole” snacks from the class snack closet. His name is Julian and he is in foster care because of multiple traumas which have left him with a diagnosis of Post-Traumatic Stress Disorder.<sup>25</sup> He has other disabilities as well. Stealing and hoarding food is such a common response to extreme neglect that my training as a foster parent included specific advice about not punishing children for this behavior. For this young boy, not only did his trauma history teach him to take and save food whenever it is available, part of his disabilities are difficulties with and avoidance of social interactions. Suspending him actually reinforced this behavior, by rewarding him with avoiding social interactions in school.

In Children’s Law Center’s 21 years of experience representing children like Julian, the root causes of misbehavior include trauma resulting from domestic and community violence; parental incarceration; child abuse and placement in foster care; chronic stress, fatigue and hunger resulting from homelessness and extreme poverty;

social, emotional, learning and genetic disabilities; and academic frustration, embarrassment, and humiliation. A significant percentage of DC students, more than half, come into the schools with prior trauma or ongoing traumatic experiences at home or in their neighborhoods.<sup>26</sup> About fifteen percent of children in public schools in the District, about 14,000 children, have a documented disability, and from our experience, many more children have not been identified.<sup>27</sup> Failing to address these causes of behavior will only lead to children being left further and further behind and do not improve the classroom environment in the long run.

For children with disabilities, like Johanna and Jasmin Morales, whose experiences you can read about in Ms. Morales' written testimony, being sent home does nothing to teach them how to control their behavior. Instead, children with disabilities need appropriate assessment to help figure out, for example, what sensory input will help calm their bodies, what classroom arrangement will reduce overstimulation and what speech and language therapy they may need to learn communication skills. Then, they need to be in school to receive the therapies and specialized instruction to teach them new skills and allow them to practice. Suspension wrongly presupposes that the child has the skills to communicate or behave differently or that the school or classroom is appropriately designed to accommodate their disability.

## **Suspensions Hurt Families and Communities**

The parents we have represented over the past two decades have been low income and overwhelmingly African-American or Latinx. They have cared deeply about helping their children succeed in school and have taken suspension very seriously, trying many things at home to improve their children's misbehavior. Suspension has seldom been helpful. Instead suspensions, especially long and chronic suspensions are extremely stressful on families. In our experience, they also contribute to destabilizing changes from one school to another for too many children.<sup>28</sup> In addition, suspensions reduce family earnings in families that are already struggling financially. We have seen many parents who either cannot work or lose good paying jobs because of their child being suspended. You'll hear about this serious impact from Ms. Bishop and Ms. Morales. Families who do not have enough money because they cannot work experience stress from the day to day worry about money, stress which has negative impacts on their children.<sup>29</sup>

In addition, suspensions hurt schools. Research shows that when more students in a school are suspended, the academic achievement of *all* students in the school decreases.<sup>30</sup> Suspension contributes to the high rates of drop out and school disconnection that persist in DC.<sup>31</sup> Without a diploma, many residents are unable to secure employment, let alone a job that pays a living wage.<sup>32</sup> Those lost wages and related social costs hurt families and our local economy.<sup>33</sup> In addition, students who

have been suspended are more likely to become entangled in the juvenile justice system.<sup>34</sup> It is common sense that students who are not in school have more unstructured time to get in trouble in the community. Their juvenile justice system involvement puts the child and other residents at risk and costs the District money.

### The Fair Access Act is the Right Next Step

The Fair Access Act takes several important steps that will help address the crisis we are facing.

- Recognizes the rights of children in kindergarten through eighth grade to remain in school learning if their behavior is not a safety risk, a change that reduces the ability of implicit bias to lead to the over-exclusion of Black children,
- Leaves flexibility for teachers and educators to respond to dangerous and distressing behavior,
- Limits each out-of-school suspension for children in kindergarten through eighth grade to five school days,
- Prohibits suspending children in kindergarten through eighth grade more than twenty cumulative school days,
- Recognizes a right for students in grades nine through 12 to remain in school when they are late or out of uniform and for subjective behaviors (e.g., defiance, disrespect, rowdy),

- Requires that students be allowed to return to school at the end of a suspension even if their parents cannot be present at the school,
- Ensures that children with disabilities will not be suspended from school for longer than a week if the root cause of the behavior is related to any of the child's disabilities and, instead requires that individualized assessments and plans are implemented to prevent a recurrence of the problem,
- Ensures that children with disabilities will receive educational services to help them learn if excluded from school for more than five days,
- Defines out-of-school suspension in a way that includes partial days of suspension, so that children do not miss instructional time for many partial day suspensions,
- Provides a right for a student to access academic work and earn credits during a suspension, requiring schools to have generalized plans for continuity of education,
- Includes strategies to promote trauma-informed educational settings.

These reforms will be a change for some schools and teachers. We recognize that teachers and schools will need support and additional tools to make this change successful. However, if we are serious about educational equity and achievement, we cannot afford not to make these changes.

## Eliminating Subjectivity and Focusing on Education and Safety

The elimination of suspension when safety and significant emotional distress is not at risk,<sup>35</sup> should reduce the discriminatory impact of suspension. The misbehaviors that fall in these categories, such as disrespect, defiance, or disobedience are more vaguely defined and allow individual interpretation. Research shows that subjective, ambiguous situations create the opportunity for our brains to exercise our unintended, unconscious, and implicit biases.<sup>36</sup> Not surprisingly, then, national research shows that suspension in these subjective categories drives the disparity in out-of-school suspension of African-American children.<sup>37</sup> Removing the possibility of using a harmful school suspension in these situations where no one's safety is at risk should reduce suspension and expulsion of African-American children.

When exclusion from school is necessary, the focus should be on addressing safety concerns and returning students to class. Limiting suspensions to five school days, a full week, should be enough time for schools to make a safety plan, including implement restorative justice practices or engage school behavioral and emotional support professionals for the child's return.<sup>38</sup>

Further, when the suspension is over, the child should be able to return to school. If the parent is not available for a meeting on the day the student can return, the child's right to learn should be more important than a missed meeting. The Fair Access Act makes this important policy change. This change will stop some of the undocumented

suspensions that youth experienced because of Do Not Admit lists. Many parents can and want to participate in meetings at the end of suspensions, but some parents cannot because of work schedules or the school schedules for other children. Children should not be sent home and miss additional instruction because a meeting could not be held.

### Improving Supports for Children with Disabilities

Many disabilities cause children to be unable to behave and learn in the same ways as typically developing peers. Under current law and practice, many schools suspend children with disabilities for as long two weeks, even if they know that the child's disability is the root cause of the offending behavior.<sup>39</sup> One example you will see in the written testimony of our former client Maria Morales. Her daughter, a DCPS middle school child with Prader-Willi Syndrome<sup>40</sup> who was unable to speak and had cognitive delays making her function more like a preschooler, was suspended for coloring in crayon on a wall.<sup>41</sup> Suspending students for behavior stemming from their disabilities is counterproductive. The Fair Access Act requires quicker action and affirmative steps to be taken to get students with disabilities productively back in class.<sup>42</sup> The team who understands the child's diagnoses and disabilities (called the Individualized Education Program, or IEP, team) will convene sooner, before suspensions become chronic and recurring. The IEP team can then tailor continuing educational services to help the child continue to learn. School psychologists and social workers on the team will conduct specialized behavior assessments and create



individualized behavior intervention plans, so that children get services that work to prevent future behavior problems. The impact this reform will have - keeping children learning and not punishing them for their disabilities - cannot be understated.

### Eliminating Partial Day and Undocumented Suspension

It is very important that the definition of out-of-school suspension in this bill remains clear that being sent home for any portion of the school day is a suspension.<sup>43</sup> Many of the children with whom we have worked have missed hundreds of hours of instruction to undocumented suspension for parts of multiple school days. These suspensions are not reported to OSSE because currently sending a child home for part of the day – even if it is every day at 10am for weeks - is not considered a suspension. Repeated partial-day suspension causes the same cycle of missed learning, increased frustration and embarrassment, acting out in the class that's been missed many times, and suspension for the rest of the day. If we are really going to address the crisis of suspension we must include this type of push out in the definition of out-of-school suspension.

### Recommendations

We do have several recommendations for improvement.<sup>44</sup> Most importantly, to be effective, resources must be invested in this effort. Full funding and staffing in the schools to implement, with fidelity, alternative approaches to out-of-school exclusion is essential. Such alternatives include options like restorative practices, multi-tiered

systems of support, positive behavior intervention systems, trauma-sensitive schools, community schools, mentoring, and out-of-school time programming aimed at teaching social and emotional skills. These approaches will require trainers, coaches for teachers, school based psychologists, and mental health clinicians. While placing some resources within OSSE, as envisioned in the bill, may be beneficial, the greatest impact will be felt by ensuring that those resources are available to teachers, staff and students in schools.

The District will need to support, financially, evidence-based and promising programs that give teachers tools and strategies, improve school connection and school climate, teach social-emotional skills to students, and improve behavior. Examples include Responsive Classroom, The Early Years, Good Behavior Game,<sup>45</sup> Conscious Discipline, Schoolwide Integrated Framework for Transformation, and Schoolwide Positive Behavior Intervention Systems.

In addition, we need to fund measuring the outcomes of these alternatives and their implementation in schools, to add to the evidence about what works best to improve student behavior in school and improve learning for all students. Finally, we will need to fund an array of services to help schools address challenges that are the root causes of misbehavior; for example, programs to teach students, both with disabilities and without, who are far behind academically to read and write so they are not as frustrated and ashamed in school; school-based mental health services; and

trauma treatment available for schools. We must commit the funds necessary to meet these critical needs.

We also need to ensure that while out of school, students who are suspended continue learning. We see promise in the bill's requirement for a reintegration to include a "generalized plan for continuity of education." However, as you will hear from Ms. Bishop's testimony, many parents struggle to get work sent home during suspensions. To strengthen the bill, it should be clear who will be examining school-level plans to ensure that the plans really will help children continue their studies. A stronger law would also make clear what parents or teachers can do, where they can go to enforce implementation of the plans, if the child is not actually receiving the supportive services necessary to address the causes of the behaviors. We all have a stake in making this work, in ensuring that students and teachers get the supports and resources they need to prevent future misbehaviors.

Lastly, children and families in DC need more universal process and procedures to appeal out-of-school suspensions and expulsions and get help when students are suspended. Although we support the provisions in this bill about transparency and distribution of each LEA's policies, the reality is there is a confusing array of procedures. The Council of Court Excellence analysis found that 63% of LEA policies lacked required, fundamental rights to be heard by impartial decision makers for long

term suspensions.<sup>46</sup> If not in this legislation, we urge Councilmembers to take up the problem soon.

## Conclusion

Thank you for the opportunity to testify.

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<sup>1</sup> Children’s Law Center fights so every child in DC can grow up with a loving family, good health and a quality education. Judges, pediatricians and families turn to us to be the voice for children who are abused or neglected, who aren’t learning in school, or who have health problems that can’t be solved by medicine alone. With 100 staff and hundreds of pro bono lawyers, we reach 1 out of every 9 children in DC’s poorest neighborhoods – more than 5,000 children and families each year. And, we multiply this impact by advocating for city-wide solutions that benefit all children.

<sup>2</sup> Results of the recent PARCC scores show the percentage of each of the following groups to be proficient in English/Language Arts (ELA) and Math: Students with Disabilities (6.3%ELA/6.9%Math); At-Risk (15.8%ELA/14.2%Math); Economically Disadvantaged (21.4%ELA/19.0%Math); Black (22%ELA/18.6%Math); and Hispanic (28.9%ELA/26.0%Math). See, OSSE (2017). *2017 DC PARCC Results*, p.16-17. Retrieved from [https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/2017%20PARCC%20State%20Results%20Public%20Presentation\\_updated%20Sept.%2027%2C%202017\\_0.pdf](https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/2017%20PARCC%20State%20Results%20Public%20Presentation_updated%20Sept.%2027%2C%202017_0.pdf)

<sup>3</sup> Kindergarten through 5<sup>th</sup> Grade represented 4,730 out-of-school suspensions of the 12,849 total received in grades K-12. See, OSSE (2017). *State of Discipline: 2016-17 School Year*, p. 22. Retrieved from [https://osse.dc.gov/sites/default/files/dc/sites/osse/page\\_content/attachments/2016-17%20School%20Year%20Discipline%20Report.pdf](https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/2016-17%20School%20Year%20Discipline%20Report.pdf)

<sup>4</sup> OSSE (2017). *State of Discipline: 2016-17 School Year*, p. 52.

<sup>5</sup> See, Every Student Every Day Coalition Report (2014). *District Discipline: The Overuse of School Suspension and Expulsion in the District of Columbia*. Retrieved from [http://www.dcly.org/district\\_discipline](http://www.dcly.org/district_discipline). See also, OSSE (2017). *State of Discipline: 2016-17 School Year*.

<sup>6</sup> Emma Brown and Alejandra Matos, Some D.C. high schools are reporting only a fraction of suspension, WASH POST (July 17, 2017). Retrieved from [https://www.washingtonpost.com/local/education/some-dc-high-schools-reported-only-a-small-fraction-of-suspensions/2017/07/17/045c387e-5762-11e7-ba90-f5875b7d1876\\_story.html?nid&utm\\_term=.a4ea63e9fdcf](https://www.washingtonpost.com/local/education/some-dc-high-schools-reported-only-a-small-fraction-of-suspensions/2017/07/17/045c387e-5762-11e7-ba90-f5875b7d1876_story.html?nid&utm_term=.a4ea63e9fdcf)

<sup>7</sup> In 2015-16, 7,324 students (7.8 percent of the total population) were suspended 12,695 times. See, OSSE (2016). *State of Discipline: 2015-2016 School Year*, p. 10-11. In SY2016-17, 7,181 students (7.4 percent of the total population) were suspended 12,897 times. See, OSSE (2017). *State of Discipline: 2016-17 School Year*, p. 11 and p. 21.

<sup>8</sup> OSSE (2017). *State of Discipline: 2016-17 School Year*, p. 25-26.

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<sup>9</sup> Note, the national statistic for African-American children is without controlling for other risk factors. See, U.S. Department of Education, Office for Civil Rights (March 2014). *Civil Rights Data Collection Data Snapshot: School Discipline*. Retrieved from

<http://blogs.edweek.org/edweek/rulesforengagement/CRDC%20School%20Discipline%20Snapshot.pdf>

<sup>10</sup> OSSE (2017). *State of Discipline: 2016-17 School Year*, p. 30.

<sup>11</sup> *Id.* at p. 29.

<sup>12</sup> At risk status includes children who receive TANF or SNAP benefits, children in foster care, children who are homeless, and youth in high school who are overage for their grade. Children's Law Center calculated this risk ratio from the data on page 40 of OSSE's 2017 *State of Discipline Report*.

<sup>13</sup> Children's Law Center calculated this risk ratio from the data on page 43 of OSSE's 2017 *State of Discipline Report*.

<sup>14</sup> Children's Law Center calculated this risk ratio from the data on page 40 OSSE's 2016 *State of Discipline Report*. Retrieved from

[https://osse.dc.gov/sites/default/files/dc/sites/osse/page\\_content/attachments/2015-16%20OSSE%20Discipline%20Report%20Updated%20Jan%206%202017.pdf](https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/2015-16%20OSSE%20Discipline%20Report%20Updated%20Jan%206%202017.pdf)

<sup>15</sup> Staats, C. (2014, May). *Implicit Racial Bias and School Discipline Disparities: Exploring the Connection*, Columbus, Ohio: Kirwan Institute for Race and Ethnicity at Ohio State University, p. 9. Retrieved from Ohio State University, Kirwan Institute website: <http://kirwaninstitute.osu.edu/wp-content/uploads/2014/05/ki-ib-argument-piece03.pdf>

<sup>16</sup> *Id.*

<sup>17</sup> Gilliam, W. S., Maupin, A. N., Reyes, C. R., Accavitti, M., and Shic, F. (2016). *Do Early Educators' Implicit Biases Regarding Sex and Race Relate to Behavior and Recommendations of Preschool Expulsions and Suspensions?* Retrieved from Yale University, Edward Zigler Center in Child Development & Social Policy website:

[http://ziglercenter.yale.edu/publications/Preschool%20Implicit%20Bias%20Policy%20Brief\\_final\\_9\\_26\\_27\\_6766\\_5379\\_v1.pdf](http://ziglercenter.yale.edu/publications/Preschool%20Implicit%20Bias%20Policy%20Brief_final_9_26_27_6766_5379_v1.pdf)

<sup>18</sup> Staats, C. (2014, May). *Implicit Racial Bias and School Discipline Disparities: Exploring the Connection*, p. 9. Retrieved from Ohio State University, Kirwan Institute website: <http://kirwaninstitute.osu.edu/wp-content/uploads/2014/05/ki-ib-argument-piece03.pdf>

<sup>19</sup> There is some research evidence that suspension does not work to change behavior. Suspension early in a school year is not a deterrent and does not work to improve future behavior; 71% of students who were out-of-school suspended in August, September, or October received another office referral or out-of-school suspension in the same year. See, Massar, M., McIntosh, K., & Eliason, B. (May 2015). *Do Out-of-school Suspensions Prevent Future Exclusionary Discipline?* PBIS Brief, Office of Special Education Programs Technical Assistance Center on Positive Behavioral Interventions and Supports on Positive Behavioral Interventions and Supports, accessed at

[https://www.pbis.org/Common/Cms/files/pbisresources/EvalBrief\\_May2015.pdf](https://www.pbis.org/Common/Cms/files/pbisresources/EvalBrief_May2015.pdf)

<sup>20</sup> Alan Ginsburg, Hedy Chang & Phyllis Jordan (August 2014). *Absences Add Up: How School Attendance Influences Student Success*, San Francisco: Attendance Works, p.3, accessed at

<http://www.attendanceworks.org/absences-add-up/>

<sup>21</sup> Russell Skiba et al., American Psychological Association Zero Tolerance Task Force (2008). Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations, *American Psychologist*, 63(9), 852. We note that the definition of suspension in AAP Report is part or all of a school day. Seminal research following Texas students for over six years and controlling for 83 other variables found that students who were suspended or expelled were twice as likely to repeat a grade and almost three times as likely to get caught up in the juvenile justice system the following year. See, Fabelo, T., Thompson, M. D., & Plotkin, M. (2011). *Breaking Schools' Rules: A Statewide Study of How School Discipline*

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*Relates to Students' Success and Juvenile Justice Involvement*, p. 54. Retrieved from The Council of State Governments website: [http://knowledgecenter.csg.org/kc/system/files/Breaking\\_School\\_Rules.pdf](http://knowledgecenter.csg.org/kc/system/files/Breaking_School_Rules.pdf)

<sup>22</sup> Russell Rumberger & Daniel Losen (June 1, 2016). *The High Cost of Harsh Discipline and its Disparate Impact*, Los Angeles: The Center for Civil Rights Remedies at the Civil Rights Project, p. 5.

<sup>23</sup> Raise DC (2014). *District of Columbia Graduation Pathways Project Summary*. Retrieved from: [https://dme.dc.gov/sites/default/files/dc/sites/dme/publication/attachments/DME\\_GradPathways\\_FinalReport\\_20140924\\_vF.pdf](https://dme.dc.gov/sites/default/files/dc/sites/dme/publication/attachments/DME_GradPathways_FinalReport_20140924_vF.pdf)

<sup>24</sup> OSSE (2017). *2017 DC PARCC Results*, p.16-17. Retrieved from [https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/2017%20PARCC%20State%20Results%20Public%20Presentation\\_updated%20Sept.%2027%2C%202017\\_0.pdf](https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/2017%20PARCC%20State%20Results%20Public%20Presentation_updated%20Sept.%2027%2C%202017_0.pdf)

<sup>25</sup> The name and some details have been slightly altered, to protect the identity of our client.

<sup>26</sup> See, Michael Alison Chandler, *Almost half of D.C. children have suffered a traumatic experience, according to Federal survey*, WASH POST, (October 19, 2017). Retrieved from

[https://www.washingtonpost.com/local/social-issues/2017/10/19/f6e2f5da-b372-11e7-a908-a3470754bbb9\\_story.html?utm\\_term=.a51a3ea90b6b](https://www.washingtonpost.com/local/social-issues/2017/10/19/f6e2f5da-b372-11e7-a908-a3470754bbb9_story.html?utm_term=.a51a3ea90b6b) (citing the 2016 National Survey of Children's Health, <http://childhealthdata.org/browse/survey/results?q=4783&r=1>).

<sup>27</sup> OSSE (2017). *State of Discipline: 2016-17 School Year*, p. 34, Figure 22.

<sup>28</sup> We know from research about children in foster care and homeless children that changing schools increases the risk of lower academic achievement, contributing to failure, retention, and drop out. See Fantuzzo, J., LeBoeuf, et al. (2012). The Unique and Combined Effects of Homelessness and School Mobility on the Educational Outcomes of Young Children, *Educational Researcher*, 41(9), 393-402; Legal Center for Foster Care and Education (January 2014) *Fostering Success in Education: National Factsheet on the Education Outcomes of Children in Foster Care*, [http://www.fostercareandeducation.org/DesktopModules/Bring2mind/DMX/Download.aspx?portalid=0&EntryId=1279&Command=Core\\_Download](http://www.fostercareandeducation.org/DesktopModules/Bring2mind/DMX/Download.aspx?portalid=0&EntryId=1279&Command=Core_Download), citing, for example, Reynolds, A.J., Chen, C.-C., and Herbers, J.E. (2009). *School Mobility and Educational Success: A Research Synthesis and Evidence on Prevention*. Paper prepared for the Workshop on the Impact of Mobility and Change on the Lives of Young Children, Schools, and Neighborhoods, June 29-30, The National Academies, Washington, D.C. at <http://www.nationalacademies.org/hmd/~media/Files/Activity%20Files/Children/ChildMobility/2%20Reynolds1.ashx>

<sup>29</sup> Chronic stress of poverty is not just worry about money, but a full-environment issue that includes impact on parenting, relationships between adults in the family, and other impacts that also affect the child. See, Martha Wadsworth & Shauna Rienks (July 2012). *Stress as a mechanism of poverty's ill effects on children: Making a case for family strengthening interventions that counteract poverty-related stress*, American Psychological Association Children Youth and Family Office News;

Vonnie McLoyd (1990). The impact of economic hardship on Black families and children: Psychological distress, parenting, and socioemotional development. *Child Development*, 61, 311-346.

<sup>30</sup> See Brea L. Perry, Edward W. Morris (2014). Suspending Progress: Collateral Consequences of Exclusionary Punishment in Public Schools, *American Sociological Review*, 79(6), 1067-1087. A review of quantitative research conducted by the American Psychological Association found that more frequent usage of suspension and expulsion was associated with lower academic achievement across the school's entire student body, even when controlling for demographic factors and socioeconomic status. Russell Skiba et al., American Psychological Association Zero Tolerance Task Force (2008). Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations, *American Psychologist*, 63(9), 852. We are aware of the information in recent articles by Max Eden of the Manhattan Institute, however he is citing to an uncredited paper that does not use the best method of following individual students for multiple years and has not been peer reviewed, as opposed to the peer reviewed and

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published research that shows that increasing suspensions, even in schools with high levels of risk in the student population, lowers the academic achievement of all students.

<sup>31</sup> Balfanz, R., Byrnes, V., & Fox, J. (2015). Sent home and put off track: The antecedents, disproportionalities, and consequences of being suspended in the 9th grade. In D. J. Losen (Ed.), *Closing the school discipline gap: Equitable remedies for excessive exclusion*. New York: Teachers College Press.

Rumberger, R. W., & Lim, S. A. (2008). *Why students drop out of school: A review of 25 years of research*. Santa Barbara, CA: California Dropout Research Project. Available at [http://cdrp.ucsb.edu/dropouts/pubs\\_reports.htm#15](http://cdrp.ucsb.edu/dropouts/pubs_reports.htm#15).

<sup>32</sup> See Bureau of Labor Statistics (January 7, 2017). Unemployment rate 2.5 percent for college grads, 7.7 percent for high school dropouts, January 2017, *TED: The Economics Daily*, <https://www.bls.gov/opub/ted/2017/unemployment-rate-2-point-5-percent-for-college-grads-7-point-7-percent-for-high-school-dropouts-january-2017.htm>. In addition, costs to society from drop out include lower taxes paid, increased government spending on health, crime, and welfare benefits. Russell Rumberger & Daniel Losen (June 1, 2016). *The High Cost of Harsh Discipline and its Disparate Impact*, Los Angeles: The Center for Civil Rights Remedies at the Civil Rights Project, p. 11. (Hereinafter, "High Cost Report")

<sup>33</sup> *High Cost Report*, at page 7. A Texas study found reducing suspension would result in lifetime savings of \$750,000,000 to \$1,350,000,000 because of reduced drop out and the increased lifetime wages (as well as reduced health and crime disparities) that would be earned by just one cohort of students.

<sup>34</sup> Fabelo, T., Thompson, M. D., Plotkin, M., Carmichael, D., Marchbanks III, M. P., & Booth, E. A. (2011, July). *Breaking schools' rules: A statewide study of how school discipline relates to students' success and juvenile justice involvement*. New York: Council of State Governments Justice Center and Public Policy Research Institute, p. 46.

<sup>35</sup> We note that we have concern that some aspects of the definitions need further explanation to ensure that practice cannot drift back to suspending students in ambiguous situations. For example, the definition of emotional distress is too broad, given that some acceptable developmental experiences of childhood cause significant emotional distress, such as a first love interest breaking up with a child. That example would be willful behavior that caused significant emotional distress, but should not be a suspend-able behavior. In addition, we share concerns of the community about bullying, however there is no evidence that bullying is solved by suspension. When the student comes back to school, the dynamics in the relationships have not changed so that bullying behaviors will stop. Schools should use other techniques, including interventions that teach empathy with children who exhibit bullying.

<sup>36</sup> See Staats (2014) at 7-8.

<sup>37</sup> Fabelo, T., Thompson, M. D., Plotkin, M., Carmichael, D., Marchbanks III, M. P., & Booth, E. A. (2011, July). *Breaking schools' rules: A statewide study of how school discipline relates to students' success and juvenile justice involvement*. New York: Council of State Governments Justice Center and Texas A&M Public Policy Research Institute. Skiba, R.J., Michael, R.S., Nardo, A.C., & Paterson, R.L. (2002). The Color of Discipline: Sources of Racial and Gender Disproportionality in School Punishment, *The Urban Review*, 34(4), 317-342. The OSSE reports did not include analysis on this point, so we do not have DC specific data.

<sup>38</sup> See research discussed above at Note 20 that missing only 3 days can reduce reading achievement by a full year.

<sup>39</sup> This is because Federal law only requires the IEP team to discuss the incidents behind the suspensions on the eleventh school day of suspension and only requires schools to provide services to children on and after the eleventh day of exclusion.

<sup>40</sup> For a description of this disabling condition, see <https://www.mayoclinic.org/diseases-conditions/prader-willi-syndrome/symptoms-causes/syc-20355997>

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<sup>41</sup> Sometimes school teams, in their discussions of whether the child’s disability caused behaviors, feel constrained to use the “primary disability” label that the OSSE-created IEP computer system forces them to choose for the child when deciding whether the child’s disability is the cause of behaviors. Two provisions in this bill are intended to make it clear that teams should be considering whether *any* of the child’s disabilities or diagnosed conditions are causing the behaviors. This is very important to correct the “primary disability” problem and keep children with disabilities in school learning. We plan to submit a redline to the Committee that will highlight one needed edit to resolve a discrepancy in the two provisions.

<sup>42</sup> In-seat, instructional time is critical for academic achievement of all students, but particularly students with disabilities, given their dismal academic outcomes, as discussed above. Under the Fair Access Act, students with disabilities will no longer be out-of-school for so long as they are under current law and practice.

<sup>43</sup> We urge that the definitions in the data collection section be edited to rename “involuntary dismissal” to “part-day suspension” if the Committee wants to try to collect data on how many students are being excluded for less than a half day. We have some skepticism that data will be useful, similar to how very few schools currently report in-school suspensions to OSSE, while we know *many* schools that do operate in-school suspension.

<sup>44</sup> We also plan to submit a redline with some recommendations for technical changes before the close of the record. Some of those changes are discussed in footnotes above.

<sup>45</sup> <http://evidencebasedprograms.org/1366-2/good-behavior-game>

<sup>46</sup> Council for Court Excellence School Discipline Project Committee (March 2015). *Equity in School Discipline: An Examination of School Disciplinary Policies and Practices in the District of Columbia Public Education System and Recommendations for Reform*, Washington, DC, p. 13, accessed at [http://www.courtexcellence.org/uploads/publications/Equity\\_in\\_School\\_Discipline\\_Report\\_FINAL\\_31115.pdf](http://www.courtexcellence.org/uploads/publications/Equity_in_School_Discipline_Report_FINAL_31115.pdf)