Briefing before the U.S. Commission on Civil Rights
The School-to-Prison Pipeline:
The Intersections of Students of Color with Disabilities
Written Testimony of Daniel J. Losen

December 8, 2017

I would like to thank Chairperson Lhamon and the members of U.S. Commission on Civil Rights for inviting me to testify on this important topic. This briefing, which explores how school disciplinary policies may affect the educational achievement of children of color who have disabilities, comes at a critical time. My written testimony goes into greater detail and is wider in scope than my oral presentation and PowerPoint slides. I hope my entire testimony and other supporting documents, will encourage education policy leaders to continue to embrace the principles represented in the valuable joint guidance on school discipline and civil rights issued by the DOJ and OCR in January 2014, as well as the new IDEA regulations regarding disproportionality in special education, which were issued on December 12, 2016. The latter were specifically promulgated to improve implementation of the IDEA’s provisions that were designed in part to protect children with disabilities from excessive and racially disparate discipline. These regulations are critically needed, and their implementation should be neither delayed nor rescinded.

I first began working for the benefit of children as a law and policy researcher with the Civil Rights Project when it was part of Harvard Law School and the Harvard Graduate School of Education. I now direct the Center for Civil Rights Remedies (CCRR), an initiative of the Civil Rights Project, which is now located at UCLA. The CCRR is dedicated to improving educational opportunities and outcomes for children from subgroups that have been discriminated against historically due to their race/ethnicity and are frequently subjected to exclusionary practices, such as disciplinary removal, over-representation in special education, and limited access to a college and career preparatory curriculum. Our work focuses on bringing together the best research in order to inform efforts to solve these problems, and to improve the educational outcomes and lives of these children.

With these goals in mind, I’m particularly thankful that the title of this briefing helps frame concerns about excessive and disparate school discipline, particularly in terms of the negative educational impact the research suggests is the result of unsound and
unjustifiable policies and practices. The more we learn about the impact disciplinary disparities have on educational outcomes, in particular the learning opportunities of students of color with disabilities, the more likely it is that the national debate on school discipline reform can return to a sound and reasoned discussion about what works best. It is imperative that we carefully monitor efforts to improve school discipline, as federal monitoring and enforcement are needed to ensure that those most harmed by the unsound policies are not overlooked.

The bottom line is that excessive disciplinary exclusion from school harms ALL students’ educational opportunities and outcomes. For a variety of reasons, unsound, often counter-productive and inefficient forms of zero tolerance tend to harm students of color, especially Black boys and girls of color, and students with disabilities more than other groups. The group that is harmed the most of all, in nearly every district that keeps data, are Black children with disabilities. Therefore, my oral and written testimony will feature preliminary findings from new research describing the excessive and disparate loss of instruction experienced by Black youth with disabilities.

![Nationwide: 2014-15 Racial Disparity in Days of Lost Instruction Due to Disciplinary Removal Per 100 Students with Disabilities](image)

Nationwide, based on federal reports on lost instruction for both the nation and for each state, we estimate conservatively that Black students with disabilities lost 119 days of instruction per 100 enrolled due to disciplinary removals. This amount of lost instruction was 76 days more per 100 enrolled than the amount of lost instruction that White students with disabilities lost. Moreover, in the 10 states where Black students with disabilities missed the most class time, the losses ranged between 144 days and 201 days of instruction lost due to disciplinary removals per 100 enrolled. In most of these states Black students lost at least 100 days more instruction time per 100 enrolled than their White counterparts lost.
These state averages mean that there are many districts with higher rates and even larger disparities. A degree of state oversight and interventions regarding district level discipline disparities is required by the IDEA.\(^1\) This obligation is only being met by 20 states. The obligation to address these disparities was clarified by the newly issued IDEA regulations on racial disproportionality in special education. This written testimony and the documents submitted for the record, spell out the numerous reasons why the U.S. Department of Education should *not* delay in implementing these new regulations, and also not rescind the joint guidance from DOJ and OCR on school discipline and racial disparities, generally.

Before going into greater detail, it is important to put the debate about the safety of students and teachers to one side. This is a straw-man argument put forth by opponents of reform. Discipline reform proponents are teachers, administrators, parents, and students, too, and safety is of paramount importance to us all. I’d add that the goal that our children feel safe and are safe at school may start with physical safety, but it doesn’t end there.

Children’s safety also includes protection from oppression and bigotry and injustice. Fear-mongering and rhetoric that criminalizes youth of color, children from poor families, and children with disabilities should not be tolerated. There are no throw-away children, and our public educators need to commit to educating all comers. This includes embracing the fact that all children with disabilities have a right to a free and appropriate public education with as much conviction as if they were our own children. I hope we can all agree that school safety in all its forms is non-negotiable.

I will also state for the record that we know from hard data that are reported, in most high-suspending school districts, most disciplinary removals occur when adults are enforcing rules related to truancy, dress codes, foul language, smoking cigarettes, having cell phones, loitering in the hall, disruptive or disobedient behavior, and repeated tardiness. These types of infractions constitute the bulk of questionable suspensions.\(^2\) Where disciplinary removal is a frequent response to such minor behaviors, they needlessly causes students to lose instruction time, often with long-term negative academic and life outcomes for the suspended student. While the greatest concern is unnecessary removals, a broad range of adult behaviors related to excessive removals is also problematic. Some adults may misperceive the seriousness of certain behaviors and employ overly punitive responses, which raises questions of injustice. A large number of removals may be for behaviors that are in fact the manifestation of a disability or due to educators’ failure to provide the student in question with the supports and services required by their IEP. Even when disciplinary removal is deemed necessary, questions may remain about the length of the removal or whether a less punitive response might be more effective in preventing the problem behavior from reoccurring.

For these reasons, recent reports published by the CCRR have called attention to profound racial differences in the amount of instruction time lost due to discipline. Our recent report, *Lost Instruction: The Disparate Impact of the School Discipline Gap in California* (Losen & Whitaker, 2017),\(^3\) estimated that, despite California being one of
the leading states in terms of school discipline reform, many districts in the state still have frequent and highly disparate use of suspension. For example, we estimated that California schoolchildren missed nearly 900,000 days of instruction in 2014-15 due to disciplinary removal alone. The report documented the districts with the largest differences in lost instruction time by race and ethnicity, after ranking each district in the state from highest to lowest. On its website, California unfortunately does not currently report the racial disparities in lost instruction time for students with disabilities at the state level, despite the IDEA’s explicit requirement to do so (see 20 USC Sec 1418 (a)).

When responding to the request for testimony on schools’ racially disparate use of discipline and the impact this has on the achievement of students with disabilities, I had to dig deeper. Although state-level data on this topic is not easy to find on state websites, the U.S. Department of Education website offers a link to publicly reported data on every state, including California, for the 2014-15 school year. Preparing for this hearing inspired me to embark on a new national report that includes data on every state, including conservative estimates of the instruction time lost due to discipline for students with disabilities, disaggregated for each racial/ethnic group for which there is reliable data. This testimony contains some of the preliminary findings from that upcoming report.

Summary of This Testimony
This testimony begins with a close review of the most recent data demonstrating the disparate impact removals have on instruction at the state level. The large state level differences are built from district level information. This suggests that there is a widespread problem of discipline disparities at the district level which has not been adequately addressed. This testimony includes edited excerpts from our California study, which highlights the need for continued discipline reform, especially with regard to suspensions for minor disruptive or disobedient misbehavior. The discussion section in that report addresses the misrepresentation of research findings by some conservative education bloggers who are apparently garnering attention from the U.S. Department of Education, including those who offer the unsupported conclusion that the joint guidance is currently causing chaos. It also suggests that there are some misunderstandings about how school districts can respond to the potential for disparate impact violations when school discipline is the issue at hand.

The findings from our recent California report demonstrate that neither quotas nor chaotic environments are logical outgrowths of policy changes that may have been prompted by the joint guidance or by OCR investigations that began prior to the guidance (such as in Los Angeles), or more generally by proponents of effective and racially just school discipline reform. In the course of my oral and written testimony I also review research showing that there are several ways to reduce suspensions and mitigate the racial disparities that typically accompany excessive use of suspension, and that none involves racial quotas or sacrificing the integrity of the learning environment to narrow the racial gaps. There is ample evidence that the joint DOJ/OCR guidance will continue to inspire schools and districts to replace unsound or
unnecessarily harsh discipline policies and practices with educationally sound ones that research shows can reduce racial disparities in school discipline. We believe there is a growing consensus that many schools and districts suspend too many children far too often, and that those most harmed should benefit from the reforms. Furthermore, we must all support efforts to improve learning conditions while reducing the amount of instruction students lose due to disciplinary removals. This includes doing our best to distinguish problems caused by poor implementation of a new policy or practice pursued in the interest of discipline reform from problems caused by ineffective reforms and policy changes that would be unlikely to improve learning conditions, even when implemented as intended.

**Research**

**Missing instructional time hurts academic outcomes**

Research on chronic absenteeism shows that, after controlling for other variables, missing three or more days of instruction before taking the fourth-grade National Assessment of Educational Progress in reading lowers achievement by a full grade level (Ginsburg, Jordan, & Chang, 2014). Considering that frequent use of suspension contributes to chronic absenteeism and the research-based consensus that suspension has a harmful impact on graduation rates and juvenile justice (Morgan, Salomon, Plotkin, & Cohen, 2014), we were surprised to find that the state of California does not provide any information to the public or to researchers about the number of days of instruction missed due to discipline. In fact, few states provide this information directly to the public.

While the cited studies did not specifically address the impact suspensions have on the academic outcomes of students with disabilities, there is no logical reason these students would not suffer the same or even greater harm from being suspended. This is especially true for those who receive extra counseling, physical and occupational therapy, or need behavioral supports, which is especially common among students with emotional disturbance. However, the federal data also show that students with emotional disturbance are the most likely to be suspended and are among those most often given suspensions of more than 10 days. In one state, Nebraska, more than 11% of all students with emotional disturbance were expelled or received a long-term suspension. Moreover, when students with disabilities are suspended for fewer than 10 days, they are not entitled to receive any educational supports that are not also provided to suspended nondisabled peers, which is rarely the case. The notion that equal misbehavior should beget equal treatment when suspensions are short-term overlooks the fact when they are removed from school for disciplinary reasons, students with disabilities are also losing much more than their nondisabled peers relative to their needs. Imposing short-term suspensions for minor offenses in equal measure on students with and without disabilities may seem fair, but those who are losing more relative to their needs may have much greater difficulty recovering from a suspension that is the same length as that imposed on their nondisabled peers. Although the main subject of my testimony is racial disparities in disciplinary removal among students with disabilities, it is worth noting that a policy of removing students with disabilities
from school, especially for minor misbehaviors, may have an unjustifiably disparate and harmful impact on students with disabilities, independent of the racial disparities that are so often evident.

This testimony is the first to analyze the federal data collected on lost instruction and to describe the impact suspension from school has on lost instruction for students with disabilities in every state, including a comparison of Black students to White students. A complete report on this topic that covers every racial group and includes these findings will be released in 2018. These preliminary findings may be updated (or replaced) if more recent data become available. This descriptive analysis uses the data collected by the U.S. Department of Education from each state’s reported enrollment numbers for the 2014-2015 school year, along with the data on the unduplicated counts of children with disabilities in each of the following three ranges for the number of days of removal: just one day, two to ten days, and greater than ten days. In order to estimate the total days lost for each group, we assigned a value to each of the three ranges. For one day the value didn’t change, as we naturally assigned one day. For the wide range of two-ten days, we assigned five days because that is one day less than the average for the range. Furthermore, we assigned a value of 11 to the range of greater than 10 days, which is the smallest value possible.

Taking a conservative approach to our estimates ensures that others pursuing similar studies will likely find even deeper disparities. Further, we assigned 11 to the range of greater than 10 days, which is the smallest value possible. Replacing the given ranges with these more specific values made it possible to calculate for each state how many days of instruction were lost due to removal for Black students with disabilities and for White students with disabilities. In every state except Maine, Black students lost more days. Therefore, we arrived at our estimate of the racial gap in days lost, by subtracting the White days per 100 White students enrolled from the Black days lost per 100 enrolled. The national racial gap deserves repeating because it is so large. Black students with disabilities lost 76 more days of instruction due to disciplinary removals than White students lost.5

We analyze the disaggregated removal data by students’ race/ethnicity from these categories to estimate the days of missed instruction for Black and White students with disabilities in every state, and some of those numbers dwarf the national racial gap. This preliminary analysis provides the data for Blacks and Whites in the ten states with the largest racial gaps.
Preliminary State Level Findings Show the 10 States (including DC) with the Greatest Racial Disparity in Days of Lost Instruction Due to Disciplinary Removal

<table>
<thead>
<tr>
<th>State</th>
<th>Black SWD Days Lost Per 100</th>
<th>White SWD Days Lost Per 100</th>
<th>Black-White Racial Gap in Days Lost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Connecticut</td>
<td>128.7</td>
<td>38.9</td>
<td>89.9</td>
</tr>
<tr>
<td>District Of Columbia</td>
<td>132.4</td>
<td>18.5</td>
<td>113.9</td>
</tr>
<tr>
<td>Missouri</td>
<td>190.1</td>
<td>74.6</td>
<td>115.5</td>
</tr>
<tr>
<td>Nebraska</td>
<td>201.2</td>
<td>45.7</td>
<td>155.5</td>
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<tr>
<td>Nevada</td>
<td>182.8</td>
<td>54.5</td>
<td>128.3</td>
</tr>
<tr>
<td>North Carolina</td>
<td>158.3</td>
<td>64.1</td>
<td>94.3</td>
</tr>
<tr>
<td>Ohio</td>
<td>151.5</td>
<td>47.7</td>
<td>103.8</td>
</tr>
<tr>
<td>Tennessee</td>
<td>163.6</td>
<td>59.1</td>
<td>104.5</td>
</tr>
<tr>
<td>Texas</td>
<td>181.6</td>
<td>84.0</td>
<td>97.6</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>126.4</td>
<td>30.1</td>
<td>96.3</td>
</tr>
<tr>
<td>National Average</td>
<td><strong>119</strong></td>
<td><strong>43</strong></td>
<td><strong>76</strong></td>
</tr>
</tbody>
</table>


One might argue that because the IDEA requires that students suspended for more than 10 days must receive special education and services, maybe our lost days calculations overstate the impact? Readers should note that the data analyzed for this report are based on students’ cumulative days of removal, therefore many in the “greater than ten days” category did not receive any long-term suspensions. Most students with and without IEPs are suspended for less than 10 days. In fact, the same data source provides the number of disciplinary removals in a separate column. We divided those removal counts by the estimated days lost and found that the average length of time for each removal was 1.86 days and 1.64 days for Black and White students respectively. To the best of my knowledge, in most states students suspended for less than ten days receive no instruction, even when serving an in-school suspension.

Few districts in the states with the highest racial disparities were flagged as having significant disproportionality in discipline:

Despite this shockingly high level of lost instruction, especially for Black students with disabilities, and the dramatic disparity that emerges when their amount of lost instruction is compared to their White counterparts, only 20 states identified at least one district for racial disparities in discipline among students with disabilities. What is worse, only 4 states out of the 10 states and District of Columbia (DC) with the largest racial disparities (bolded) identified any school districts for racial disparities in school discipline among students with disabilities (the prior year). The four are Connecticut, North Carolina, Texas and Wisconsin. In Connecticut and Texas only one district was identified and in Wisconsin only 5. The remaining 16 states that
identified at least one district were Alabama; Arkansas; California; Delaware; Florida; Georgia; Indiana; Iowa; Kentucky; Louisiana; Maryland; Michigan; Mississippi; New York; Oregon; and Rhode Island. Combined, these 20 states identified and required the use of Part B IDEA funds for comprehensive coordinated early intervening services CEIS in 238 districts, or between 1 and 2% of all districts in the nation. 31 more districts were flagged for discipline disparities, including several in Massachusetts, but were not required to use any part B funds in 2014-15. The discipline category was the most common reason for a district’s identification pursuant to the federal requirements in the IDEA. The next highest reason, for overrepresentation in a high incidence disability category, was the grounds for states to tell 182 districts that they had significant disproportionality and had to use 15% of their Part B funds for comprehensive coordinated early intervening services (193 flagged but not all required to use Part B funds in 2014-15).

By highlighting the degree to which suspensions contribute to lost instructional time for students with disabilities, we hope to make the commissioners aware that the discipline gap contributes to the achievement gap. Besides the large numbers highlighted in this testimony, several state-level studies controlled for additional factors contributing to lower achievement, including poverty, and suggest that fewer suspensions would predict higher achievement. Research has shown that school suspensions account for approximately one-fifth of Black-White racial differences in school performance (Morris & Perry, 2016). Meta-analyses have revealed a significant inverse relationship between suspensions and achievement, along with a significant positive relationship between suspensions and dropout (Noltemeyer, Ward, Mcloughlin, 2015). While exploring school discipline and academic performance in the state, the West Virginia Department of Education found that “students with one or more discipline referrals were 2.4 times more likely to score below proficiency in math than those with no discipline referrals” (Whisman & Hammer, 2014).

This written testimony stated that large statewide racial/ethnic gaps most likely mask even more profound local discipline gaps. While we have not completed an analysis of lost instruction time by race and disability at the district level, our recent study of lost instruction time by racial groups among all students, which reviewed every district in the state of California, is instructive. Therefore, to further illustrate why the federal joint guidance is needed, the remainder of this testimony will highlight segments of our recent report on the disparate impact of lost instruction time in California’s school districts. It also will demonstrate why a more rigorous review of district-level racial disparities in discipline by all states, like the stronger review called for by the new IDEA regulations, must not be delayed. Except where indicated, excerpts from our report constitute the remainder of this written testimony.

Statewide averages do not capture the vast differences in lost instruction time experienced by students of color from one district to the next. Figure 2 below (Figure 3 in our California report) is not specific to students with disabilities, but it demonstrates the broad distribution of the number of days missed by race across all school districts in California.
Figure 2: School District Distribution of Days of Missed Instruction (per 100 enrolled) by Black, White, and Latino Students

We label 25 or more days of missed instruction as “high,” as it approximates the number of days missed when we add one standard deviation to the statewide average of 13 days per 100 enrolled.¹¹

Figure 2 compares the district-level distribution of days of missed instruction for all disciplinary reasons for all students, and for Black, White, and Latino students. To determine this, we divided the number of districts where, for example, Black students lost 25 or more days of instruction (N = 342) by the total number of districts that enrolled more than five Black students (N = 665). We arrived at the fact that Black students in 51% of the districts they attend lost at least this much instruction time. This experience contrasts starkly with the amount of instruction lost due to discipline by the vast majority of students attending school in a California district. Losing 25 or more days of instructional time was the norm in only 166 districts out of a total of 895, or 19%; Whites missed 25 days or more per 100 in only 1 in 5 districts (20%); Latino students experienced high rates in 1 in 7 districts (15%; see appendices and spreadsheet for more details). On the other hand, each subgroup in 20% to 30% of the districts lost very little instruction time (between 0 and 5 days). This means that students in a significant number of California districts experienced a school climate in which a relatively low amount of instruction time was lost for disciplinary reasons. This analysis is consistent with other reports examining differences at the school level using California’s 2014-15 dataset (Loveless, 2017).
The Disparate Impact of Suspension on Instruction Found in the 25 Highest Suspending Districts in California

In addition to the aggregate picture of the disparate impact of suspensions, our recent California report looked at the 25 highest suspending districts that enrolled at least 100 Black, White, and Latino students. When observing the days of lost instruction in each of these highest suspending districts for all students for reasons that cover the entire code of conduct, it is apparent that students in these districts were losing an extraordinarily high number of days due to discipline — far greater than the statewide average of 13 days per 100 enrolled. We organized the districts on our list (see Table 2) in descending order by total days lost per 100 students enrolled for all offenses for all students, starting with the district that had the highest amount of lost instruction. For each district listed, we show the days lost per 100 enrolled for Blacks, Latinos, and Whites for all offenses, and then for “disruption or defiance.” We calculated the percentage of all instruction lost due to this one category of minor misbehavior for each racial group in each district.
### Table 2: California’s 25 Districts with Most Days of Lost Instruction per 100 Enrolled in 2014-15

<table>
<thead>
<tr>
<th>District</th>
<th>All Students</th>
<th>All Behavior</th>
<th>Disruption/Defiance</th>
<th>All Students</th>
<th>All Behavior</th>
<th>Disruption/Defiance</th>
<th>All Students</th>
<th>All Behavior</th>
<th>Disruption/Defiance</th>
<th>All Students</th>
<th>All Behavior</th>
<th>Disruption/Defiance</th>
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<tr>
<td>Sausalito Marin City</td>
<td>106.0</td>
<td>265.5</td>
<td>194.8</td>
<td>120.3</td>
<td>98.7</td>
<td>4.0</td>
<td>2.7</td>
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<td>Mojave USD</td>
<td>82.4</td>
<td>162.2</td>
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<td>45.3</td>
<td>20.1</td>
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<td>Vallejo City USD</td>
<td>54.9</td>
<td>106.6</td>
<td>41.6</td>
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<td>53.4</td>
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<td>Woodland Joint</td>
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<td>Antioch USD</td>
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<td>30.5</td>
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<td>27.4</td>
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<td>18.4</td>
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<td>Merced City Elementary</td>
<td>38.8</td>
<td>106.3</td>
<td>45.1</td>
<td>36.1</td>
<td>18.2</td>
<td>47.5</td>
<td>24.6</td>
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<td>Konocti USD</td>
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<td>64.2</td>
<td>23.9</td>
<td>27.7</td>
<td>6.1</td>
<td>40.8</td>
<td>6.2</td>
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<td>106.9</td>
<td>23.9</td>
<td>30.3</td>
<td>8.1</td>
<td>24.4</td>
<td>4.5</td>
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<td>79.7</td>
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<td>9.0</td>
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<td>Marysville Joint</td>
<td>33.9</td>
<td>84.1</td>
<td>21.8</td>
<td>24.9</td>
<td>8.5</td>
<td>41.4</td>
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<td>Fairfield-Suisun</td>
<td>33.9</td>
<td>73.7</td>
<td>21.9</td>
<td>31.7</td>
<td>13.2</td>
<td>24.5</td>
<td>8.7</td>
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<tr>
<td>Yuba City USD</td>
<td>33.4</td>
<td>108.9</td>
<td>56.1</td>
<td>38.6</td>
<td>17.6</td>
<td>34.7</td>
<td>12.8</td>
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Racial disparities can be reduced without relying on quotas
In each of the 25 highest suspending districts, what appears to be an overarching problem of excessive and disparate use of suspension could be helped by finding alternative responses to the wide array of minor behaviors that constitute disruption or
defiance. As detailed in the report’s discussion and recommendations sections, the
days of missed instruction are used to highlight severe problems that need
educationally sound solutions. This report, like all of our prior reports addressing
discipline disparities, does not recommend racial quotas. We suggest instead that
changes in state and local discipline policies are likely to help achieve more equitable
outcomes by improving the school climate and learning conditions for all children. As
suggested below, conscious efforts to reduce the suspected impact from implicit racial
bias can also be pursued by focusing on the most frequently suspended racial/ethnic
group, which may vary according to the context.

Discussion and Conclusions Regarding the Need for Civil Rights Enforcement and
District-Level Review of Disciplinary Disparities

In CCRR’s reports on days of lost instruction in California and Massachusetts, the most
subjective and minor offense categories were found to be major contributors to the
profound differences in lost instruction. CCRR’s Massachusetts report, Suspended
Education in Massachusetts, reviewed data on students with disabilities, finding that
59.4% of all the days of lost instruction were due to suspensions for the catch-all
behavior “category 18,” which covers all “non-drug, non-violent and non-criminal
related” behavior that is not already captured in the first 17 offense categories. The
fact that so much of the lost instruction time is due to discipline for minor misbehaviors
indicates that a great deal of the harmful impact could be reduced by removing certain
violations as grounds for suspension, whether those removals are prompted by research
on sound policy, or by state or federal interventions seeking to help districts end an
impermissible racially disparate impact. This conclusion is informed by findings from
other state studies that support the idea that local and school-level administrators have a
great deal of influence over whether suspensions are used frequently or as a last resort
(Fabelo et al, 2011; Skiba, 2015). One study in Texas that tracked every middle school
student for more than six years, controlling for race, poverty, students’ behavioral
background, and numerous other external factors, concluded that school-level factors
contribute to large differences in the use of suspension (Fabelo et al, 2011). In a study
of school principals in Indiana, controlling for poverty and other factors, Skiba (2015)
found that both higher suspension rates and larger racial disparities in those rates were
predicted for principals who adopted zero-tolerance approaches to discipline. A recent
study on the impact of suspensions for minor misbehaviors indicated that they
contribute so dramatically to lower achievement in both math and English language arts
that they can reduce the likelihood that a suspended student will achieve proficiency in
these areas (Lacoe & Steinberg, 2017b). Most important is the example of what the Los
Angeles Unified School District (LAUSD) has done, which provides important
evidence that districts can take the initiative by eliminating disruption and defiance as
grounds for suspension at every grade level. Although our analysis did not entail a full
study of LAUSD, and while we acknowledge that more improvements need to be made
in that district, the data on school climate and suspension rates suggest that LAUSD
made real progress in reducing suspensions without creating chaos.

Figure 3 shows our estimate of the overall decrease in lost instruction time in LAUSD.
The policy to eliminate disruption/defiance as grounds for suspension was adopted in
the 2012-13 school year, but the sharpest decline in the overall use of suspension began at least a year earlier.

**Figure 3: Four-Year Trends in Days of Missed Instruction per 100 LAUSD Students**

In our previous report, *Closing the School Discipline Gap in California* (Losen, Keith, Hodson, Martinez, & Belway, 2015), we noted that LAUSD adopted a plan in 2013 to eliminate the use of suspension as a response to disruption or defiance. As Figure 3 above demonstrates, the number of suspensions overall and for disruption/defiance declined four years in a row; during the first two years, the only years for which API scores were available, the scores showed an increase in achievement in LAUSD. We also noted that the purpose of the plan to eliminate suspension for all disruption/defiance offenses was not simply to reduce the number of suspensions but to improve academic achievement. Although discipline reform efforts were prompted by local advocates, an OCR investigation, and a settlement agreement from several years before the joint guidance went into effect in LAUSD, we estimate, using the most recent data, that by eliminating suspensions for disruption or defiance, LAUSD has avoided the loss of thousands of days of instruction and more than ten thousand hours of instruction time. In addition, since the policy to eliminate suspensions for the category of disruption and defiance in all grades began four years ago, LAUSD has experienced what could be the largest increase in graduation rates in its history. In 2017, 80% of the district’s high school cohort graduated, a full 10 percentage-point jump from the 70% rate in 2013-14 (Kohli, 2017).

One would expect the new policy to have an impact on the targeted violation category, but equally important is that days of lost instruction for other violations also declined. Although not depicted, we calculate that the racial gap in days of instruction lost in LAUSD narrowed by more than what could be attributed only to eliminating suspension for disruption and defiance. This suggests that the reduction in suspensions for minor offenses was not replaced by increased suspensions in other categories, and that it was a genuine effort to improve school climate and prevent student misbehavior.
Although we do not have 2015-16 suspension data for other districts, we do know from LAUSD’s website that suspensions in LAUSD have continued to decline.

The survey results on students’ sense of safety for the most recent year available, 2016-17 (see Figure 4), show that safety ratings for middle and high school students are at the highest level in five years, higher than before the new suspension policy was implemented and more than making up an initial decline. Following that initial dip, LAUSD students’ reported sense of safety grew to 88% for the middle school and 84% for the high school—the highest it has been for students in those groups in the last five years.

This evidence runs counter to the frequent argument that a policy change intended to lower the use of suspension will cause the learning environment to become chaotic and unsafe. In a Wall Street Journal opinion piece published in September 2017, Manhattan Institute Senior Fellow Jason Riley argued that LAUSD’s climate survey data show that the change in policy caused a decline in safety after the district eliminated suspensions for disruption and defiance. 14 Missing from the evidence Riley (and Eden) presented were the most recent data and numerous other conflicting survey responses.

**Figure 4: Student, Staff, and Parent Perceptions of Feeling Safe in LAUSD Schools**

![Graph showing student, staff, and parent perceptions of feeling safe in LAUSD schools from 2014-15 to 2016-17.](image)

The actual data (see Figures 4 and 5) demonstrate that, in the several years after the policy change, the LAUSD school climate survey responses do not suggest chaos. Students’ and teachers’ reported sense of safety has in fact improved and both are currently at high rates, much higher than those reported the year before the policy change. Notably, when we look at all the years of data since the policy change, a period in which suspensions have continued to decline, elementary students’ sense of safety has remained steady, with between 83%-85% responding that they feel safe. Even the singular middle school indicator that Jason Riley used to assert his chaos
theory (students’ sense of safety) started rising again the year after it dipped; it was reported at 84% for 2016-17, more than 10 percentage points higher than the year before the policy change.

We do not assert that there are no issues with the way discipline reform has been implemented in LAUSD, nor do we argue that any one indicator is proof that a policy is successful. However, one would expect that, if the policy change in 2013-14 truly caused chaos, it would show up in multiple indicators and that nearly all indicators would grow worse each year as implementation of the new policy advanced.\textsuperscript{15}

As Figure 4 shows, the sense of safety reported by school staff never dipped and is now at 95% or higher. Parents’ rate rose to 92% or higher at each grade level in 2015-16, an increase over 2014-15 (no comparable data were available in 2013-14). They declined slightly in 2016-17 but all are still at 87% or above, which is still much higher than in 2014-15. Readers should also note that the percentage of students who agreed that bullying was a problem at their school showed a consistent decline at the elementary level. Furthermore, while staff perceptions of harassment and bullying showed a slight uptick in 2016-17 at the middle and high school levels, they remain consistently lower at all levels than they were in 2014-15.

Equally important is that, of the nearly 50,000 LAUSD school staff members surveyed in 2016-17, more than 80% at all grade levels felt that school discipline problems were handled fairly, and more than 75% felt that discipline was handled effectively. As Figure 5 demonstrates, staff at all levels report that student behavior is less problematic since the abolition of suspension for disruption/defiance.\textsuperscript{16}

\textbf{Figure 5: LAUSD Staff Perception of Student Behavioral Problems (Moderate or Severe)}

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<tbody>
<tr>
<td>Disruptive behavior</td>
<td>54%</td>
<td>47%</td>
<td>47%</td>
<td>46%</td>
<td>39%</td>
<td>39%</td>
<td>39%</td>
<td>33%</td>
<td>32%</td>
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<td>39%</td>
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<td>32%</td>
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<tr>
<td>Lack of respect of staff</td>
<td>41%</td>
<td>32%</td>
<td>30%</td>
<td>32%</td>
<td>26%</td>
<td>22%</td>
<td>20%</td>
<td>15%</td>
<td>14%</td>
<td>21%</td>
<td>16%</td>
<td>15%</td>
<td>21%</td>
<td>16%</td>
<td>15%</td>
</tr>
<tr>
<td>Harassment or bullying</td>
<td>37%</td>
<td>29%</td>
<td>30%</td>
<td>20%</td>
<td>17%</td>
<td>18%</td>
<td>21%</td>
<td>16%</td>
<td>15%</td>
<td>21%</td>
<td>16%</td>
<td>15%</td>
<td>21%</td>
<td>16%</td>
<td>15%</td>
</tr>
<tr>
<td>Physical fighting</td>
<td>23%</td>
<td>17%</td>
<td>17%</td>
<td>13%</td>
<td>12%</td>
<td>12%</td>
<td>12%</td>
<td>9%</td>
<td>8%</td>
<td>23%</td>
<td>17%</td>
<td>15%</td>
<td>23%</td>
<td>17%</td>
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The use of data out of context to raise the specter of chaos is not limited to Jason Riley’s op-ed; a recent Brookings Institution report about California disciplinary disparities cites several of the same sources. Most noteworthy and relevant to the misunderstandings about reform conclusions is how the comprehensive Brookings Institution report on suspensions in California’s schools infuses research about the harm from disruptive peers in general with the discussion of reducing suspensions through policy limits, raising the concern that reform may put orderly classrooms and well-behaved children at risk, albeit in far subtler terms (Loveless, 2017).

The Brookings study explores California’s school-level discipline data and finds extraordinary racial differences. However, the report references a study of students in Alachua County, Florida, to make the point that being educated with disruptive students puts a burden on non-disruptive peers, which Brookings asserts is often overlooked by discipline reform proponents. The study’s relevance to the discussion builds on a tacit assumption that discipline reform will increase well-behaved students’ exposure to disruptive students. However, the research cited is not a study of discipline reform but of the broad societal impact of domestic violence. Specifically, the oft-cited study from Alachua County examined how the behavior of children exposed to domestic violence in their home impacted their peers in school. The study treated students from these violent homes as the proxy for disruptive students and estimated that exposure to them had serious economic costs for their non-disruptive peers. Not mentioned is the fact that Alachua County was among Florida’s highest suspending districts during the study period. The costs associated with being in a class with disruptive peers in Alachua County might better be described (in context) as the costs incurred in a district that frequently suspended youth for disruptive behavior. One could argue that non-punitive interventions to support traumatized youth displaying problem behavior might help reduce the disruptive behavior and also mitigate the costs for peers, such as those documented in the Alachua County study.

Instead, Riley’s op-ed and the Brookings report’s discussion both suggest that we take it as a given that high-suspending schools are helping make the learning environment more productive for non-disruptive students by instilling order. Missing from both is any research demonstrating that frequently suspending children produces the kind of order that improves the learning environment. Riley and Brookings do point to a working paper by researchers from the University of Arkansas, but in response to published criticism of this work, its authors issued a statement that their findings should not be used to suggest that suspensions are beneficial or boost test scores. To the contrary, the best research available suggests that suspensions generally fail to deter misbehavior and may in fact reinforce the behavior they are intended to deter. In short, neither the suspended students nor their peers appear to improve their behavior in harsh disciplinary environments (Mendez, 2003). There is a logical disconnect to the idea that frequent suspensions will instill order. While suspensions may serve as a wake-up call for some distracted parents to become more involved with teaching their children to behave appropriately, this is more wishful thinking than reality. What suspensions actually entail, especially the out-of-school variety, is less adult intervention, not more.
Most suspended students don’t learn appropriate behavior while they are at home or on the streets if they are unsupervised.

Moreover, the assumption that kicking out the “disruptive” students is likely beneficial is based on a false dichotomy that students are either disruptive or non-disruptive, and that being disruptive is some immutable characteristic or deficit within the student. Findings from the Texas study (Fabelo, 2011) suggest that the distinction is false, as more than 60% of Texas middle school students were suspended at least once by the time they left school. This hard data on who gets suspended at some point during their schooling indicates that the majority of secondary students at one point or another have been counted among the “bad” or “disruptive.” Most important, as mentioned at the outset, the Texas study concluded that school factors, not students’ characteristics, explained most of the differences in suspension rates among schools.

Schools Make a Difference

Nobody benefits if an educationally unsound response to student misbehavior causes students to miss instruction. Moreover, even if one racial or ethnic group is observed to engage in minor disruptive or defiant behavior more often than others, it would never justify their receiving unsound punishment or a counter-productive response. Nor should one except the unsupported assumption that the alternatives necessarily increase peers’ exposure to the disruptive youth. The heart of the civil rights concern about suspensions is that, once it is clear that an unsound policy or practice harms one group more than others, it becomes both a moral and legal imperative to replace the harmful policy with one that is sound and educationally justifiable.

Faced with data showing the deep racial divide in instruction time lost due to discipline, even assuming that most teachers and administrators try to treat students fairly and to avoid the influence of negative stereotypes, we should not assume that they succeed in doing so. Our previous report summarized recent research demonstrating that teachers likely would treat Black students more harshly than similarly situated Whites for the same offenses (Okonofua & Eberhardt, 2015). It is worth noting that they found no significant difference in how teachers of different races responded.

The most recent study examining teacher bias in discipline shows how implicit bias can influence not just our responses but our perceptions as well. The study, conducted by researchers at the Yale University Child Study Center (Gilliam, 2016), prompted preschool teachers to look for signs of pending bad behavior, then tracked the eye movements of both Black and White teachers as they watched a screen playing four videos of individual Black and White preschoolers, separated by race with gender, with one video in each of the four corners of a large screen. In the study, no students were misbehaving or about to misbehave, yet all the teachers watched the Black boys far more than the other children. Most teachers and administrators do try to treat students equally, but this study indicates that the negative racial stereotypes about behavior can corrupt our expectations and influence whom we pay attention to and whom we ignore.
These findings suggest that, in light of the deep racial differences in the amount of lost instruction time, another good reason to stop suspending students for disruption or defiance is that doing so involves highly subjective perceptions. It should come as no surprise that, in the highest suspending districts, the most subjective category contributed to more than 40% of the racial gap in lost instruction time. We do not argue that other categories are immune from these concerns or that implicit racial bias is the only kind of injustice reflected in the different outcomes, nor do we know or assert that the reason for observed racial difference in any given district is not some other factor that has nothing to do with bias. However, we do suggest that, when observing the alignment between the largest racial divides and the most subjective category, as documented in both CCRR’s Massachusetts report and the excerpted California report, there is a legitimate concern that bias may be contributing to the vastly disparate impact on lost instruction.

There Are No Quick Fixes

We have framed our testimony on racial disparities among students with disabilities and in our most recent reports on the disparate impact of excessive discipline in terms of days of lost instruction to align with one of our core research-informed recommendations: that districts should not regard implementing changes in discipline policy or practice as being isolated or distinct from their academic mission (Balfanz, Byrnes, & Fox, 2015). As in our California report, we encourage states across the country to begin reform efforts by eliminating all unnecessary suspensions, including but not limited to removing students for catch-all categories like disruption or defiance. Although we suggest that no single policy change alone would satisfy the need for effective discipline reform, we also argue that the disparate impact from unsound educational policies and practices should compel additional efforts in many districts across the country. One of our core recommendations, which is based on our observations of the most successful districts in California and the most recent research on what has worked to lower both suspension rates and racial disparities (Losen, 2015), is, namely, that districts should accompany concrete policy change with an investment in training leaders and teachers, and in providing support for students in ways that improve instruction, student engagement, and student behavior. California is making progress but clearly has more work to do.

Our state-by-state analyses suggest that a great deal more effort and committed resources would yield positive change for all students. As the chair of California’s board of education recently stated, “The Local Control Funding Formula is driving positive change in California. Graduation rates are up, suspension rates are down and college eligibility rates are at an all-time high.”

We argue that, given the economic and civil rights implications of inaction, the federal government has an obligation to assist states in pursuing more effective ways of preventing minor misbehaviors, as well as more effective responses to the same. Rescinding the joint guidance or delaying the special education regulations will have the opposite effect.
The belief that remedies inspired by a desire to avoid disparate impact will beget unlawful quotas is not supported in the evidence. Our book _Closing the School Discipline Gap_, published by Teachers College Press, provides many potentially effective alternatives and not one involves a racial quota. The book is a compilation of studies conducted by researchers across the country that examined the impact of programs and initiatives that address excessive school discipline. These include restorative justice, positive behavioral supports and interventions, improvements to academic engagement, threat assessments, professional development, and more. One randomly controlled study found that teachers who participated in a specific training program used less exclusionary discipline than teachers not receiving the training (Gregory, Allen, Mikami, Hafen, & Pianta, 2014), and that the racial disparities were all but eliminated. Other studies have found that even brief interventions that encourage empathic discipline cut suspension rates in half (Okonofua, Paunesku, & Walton, 2016).

There also is more to learn about which policies and practices are the most effective replacements for suspending students for minor misbehavior. Qualitative and quantitative analyses can help inform which avenues to pursue, but there is no definitive, proven best practice or policy that researchers can guarantee will work. Poor implementation and resource shortages can undermine discipline reform efforts that might otherwise be highly effective. Therefore, the federal government should go further by providing resources and technical assistance to help teachers and leaders improve school climate, including training focused on improving student engagement and on implementing restorative practices or other systemic approaches designed to prevent misbehavior, and to respond effectively to problematic behavior.

Finally, the federal government should take immediate steps to ensure state compliance with federal law (20 USC Sec 1418(a)) that requires annual state reporting to the public on the school discipline of students with disabilities by their race and disability category.

We remind those who are highly focused on questions of efficiency that frequent suspensions are an economic burden to both state and local economies (Rumberger & Losen, 2017). We conclude by urging federal policymakers to stay the course and allow the joint DOJ/OCR discipline guidance to remain in effect, and without delay to fully implement the IDEA regulations that specifically encourage districts to review and seek remedies to profound disciplinary disparities among student with disabilities.

Thank you for this opportunity to testify. I look forward to answering any questions the commissioners may have and to providing additional and new information upon the release of our upcoming report specific to students of color with disabilities. I look forward to providing further assistance to this commission and to working with others committed to promoting equitable opportunities to learn for all.

References


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Endnotes

1 See 20 U.S.C Sec. 1418 (d).
2 For example, in our report “Suspended Education in Massachusetts” (Losen, Sun, & Keith, 2017), we found the majority of suspensions and days of lost instruction fell into category 18, which was a catch-all category that excluded all the reasons associated with violence or serious misbehaviors, as these were covered in the first 17 categories. In addition to their posting on the main website, all of our recent reports can be found at our centers’ web tool at www.schooldisciplinedata.org. CCRR’s web tool enables visitors to calculate the data for their district, including data by race with disability status, and to compare their unduplicated suspension rates to those in other districts, or within a district by secondary and elementary grade configurations.
4 In preparing this testimony, I also checked the national estimate based on the disciplinary removals against additional data published by OSEP that provided the number of short- and long-term suspensions, but with less
precision. I used our prior basis for estimating the length of suspensions in California and in Massachusetts, but made further estimates based on our prior report (https://www.civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/upcoming-ccrr-research/lozen-gillespie-opportunity-suspended-2012.pdf) that, among the Black students with disabilities that were suspended, nearly 60% were suspended two or more times. This information lead me to assign a value of 3.2 for the unduplicated counts of students with disabilities suspended 10 days or less, while keeping the conservative estimate of 11 days for students receiving an in- or out-of-school suspension of greater than 10 days. These assigned values, when applied to the number of students suspended in-school and out-of-school, produced slightly higher estimates nationally for days of lost instruction for Black students. I decided to rely on the lower values produced by the unduplicated counts of children experiencing removals of all types because the data notes revealed that students that received both in- and out-of-school suspensions could wind up being double counted. The reports of the in- and out-of-school suspension numbers can be found at this link under discipline table 5: https://www2.ed.gov/programs/osepidea/618-data/static-tables/index.html.

This analysis is easily replicable, as it relies on publicly reported data from 2014-15 (www.ideadata.org). One must add enrollment of students with disabilities by combining the reports for ages 3-5 (U.S. Department of Education, EDFacts Data Warehouse (EDW): “IDEA Part B Child Count and Educational Environments Collection,” 2014-15. Data extracted as of July 2, 2015 from file specifications 002 and 089) with ages 6-21. Because the removal numbers come from all public school students between the ages of 3 and 21, the national totals and analyses include the states and outlying areas. Data naming the states and districts by recent CEIS expenditures required be found at another federal website. They are easy to miss because they are found where the U.S. Department of Education describes IDEA funds for CEIS (both mandatory and voluntary) as well as MOE reductions are reported in the files (https://www2.ed.gov/programs/osepidea/618-data/state-level-data-files/index.html/#fmoecceis). For the purpose of this analysis, I did not count Massachusetts, which did identify districts but did not require the use of the funds in the year listed. The names of the districts are provided for each state, along with the reason the CEIS funds were required. Many of the 268 districts identified for discipline were also flagged for other reasons.

Furthermore, students removed on grounds of dangerousness can be removed for up to 45 days. By assigning 11 days of lost instruction to all the students in the “greater than ten" category, our conservative approach helps diminish the possible over-count of lost instruction, considering that we could not adjust for the students with disabilities who received one or more very lengthy suspensions but did receive instruction while removed.

Readers are cautioned not to confuse the average cumulative days lost per student removed with the average length of each removal. In our earlier research, we discovered that the unduplicated counts of students with disabilities and Black students were both more likely to be suspended out-of-school two or more times. For Black students with disabilities, I reexamined the data and calculated that it is nearly a 60 to 40 split. The suspected students from most other subgroups are more likely to have received just one suspension in a given year than they are to have received multiple suspensions.

These removal rates do not distinguish between in- and out-of-school suspensions. Removals are defined by DOED as follows: “Disciplinary removal—Any instance in which a child with a disability is removed from his/her educational placement for disciplinary purposes, including in-school suspension, out-of-school suspension, expulsion, removal by school personnel to an interim alternative educational setting for drug or weapon offenses or serious bodily injury, and removal by hearing officer for likely injury to the child or others.” According to the U.S. Department of Education, these estimates are based on unduplicated counts that are reported as follows:

How are counts reported by removal length? The removal length (IDEA) is the cumulative length of removals during the school year.

- A child with less than 0.5 cumulative days should not be reported.
- A child with greater than or equal to 0.5 and less than 1.5 cumulative days should be counted in the “LTOREQ1” category.
- A child with greater than or equal to 1.5 and less than or equal to 10.0 cumulative days should be added into the “2TO10” category.
- A child with greater than 10.0 cumulative days should be counted in the “GREATER10" category.

For example, a child who was suspended four times for three days each during the school year and who was removed 12 cumulative days would be reported once as greater than 10 days in the "GREATER10" category.” In most states, out-of-school suspensions are far more common than in-school suspensions. Although an increasing number of districts in some states have reduced out-of-school suspensions, which are replaced by in-school suspensions, other districts have eliminated in-school suspensions as part of an overarching effort to cut down on disciplinary removal. The lack of capacity to distinguish removals that are in-school from those that are out-of-school using the OSEP data is an issue that we urge OSEP to address in future data collection. The statute clearly provides the authority and does require states to report in-school and out-of-school suspensions. On the flip side, the count of removals for students with IEPs only include removals the student received once determined eligible. Many students who wind up evaluated and eligible during the school year exhibit behavior problems and receive suspensions. Even if they occurred in the same year, the suspensions prior to eligibility were not counted according to OSEP’s instructions (https://www.idea.front/sites/default/files/media/documents/2017-09/discipline_data_qa_04-03-17_v2.pdf). In estimating the days lost and assigning 11 days for children removed for
more than 10 days, keep in mind that these are cumulative counts of days for what could be multiple suspensions. Longer removals are far less common. According to the 2016 Report to Congress, “Only 490 children and students ages 3 through 21 served under IDEA, Part B, or 1 for every 10,000 children and students served in 2013, in the states for which data were available were removed to an interim alternative educational setting by a hearing officer for likely injury to themselves or others in school year 2013–14.” Moreover, removals that are considered changes of placement, such as to a more restrictive setting for behavioral reasons, even if done for disciplinary reasons, are not counted as days of removal if they are not designated as temporary and if the changed IEP treats the new disciplinary placement as a permanent change.

Note on enrollment counts: Two enrollment files were combined to create the number of students from each racial group who had an IEP and were age 3-21. These enrollment files skew discipline rates downward because private schools and restrictive settings often do a poor job of reporting discipline data.

**Which children should be reported in this file (3-5)?**

Include all children with disabilities (IDEA) who are ages 3 through 5 receiving special education and related services, according to an individual education program or services plan in place on the count date. This includes children enrolled in private school by a parent but who are still receiving special education services through the LEA under a services plan.

**Which students should be reported in this file at the SEA level (6-21)?**

Include all students with disabilities (IDEA) who are ages 6 through 21, receiving special education and related services according to an IEP or services plan in place on the state’s child count date, including children who are:

- Placed by parents in private schools and receive services under a services plan
- In correctional facilities
- In state-operated educational facilities
- In public schools

Wyoming had insufficient enrollment data to calculate a rate. In most cases, the districts that were identified by states were listed as having been identified in 2013-14, with a handful identified in 2014-15. Some states listed, including Texas, identified just one district, while California, New York, and Louisiana identified numerous districts. California does not provide information to make more specific estimates that would capture the even greater differences that likely exist between schools and districts and between racial/ethnic groups.

The state of Massachusetts annually reports the enrollment and the percentage of all enrolled students with disabilities that were suspended 1 day; 2-3 days; 4-7 days; 8-10 days; and over 10 days. Our method was to assign the average of the range and backfill the number of students based on the percentages provided. Our report at page 6 provides the estimates for all students with disabilities at 32 days lost for all offenses and 19 days lost for the subset of category 18 behaviors, which is 59.4% of the total (Losen et al., 2017).

LAUSD students lost 8,841 days of instructions from suspensions in the 2013-14 school year, compared to 5,160 in the 2016-17 school year. Data available online (http://schoolinfosheet.lausd.net/budgetreports/disciplinereports.jsp).

This same analysis was referenced to make the same chaos causal assertion by Max Eden in an opinion piece published by the National Review, available at http://www.nationalreview.com/article/453640/school-discipline-federal-rules-not-helping

We present the selected information in the discussion section as a response to a widely publicized misleading claim, not as a comprehensive analysis of school climate in LAUSD. We hope to include a thorough and rigorous analysis of the school climate survey data in future reports. Another concern is that, to best comprehend whether there is a safety or climate issue under current policy, the focus should not overemphasize the change in any particular indicator and overlook new information entirely. Ideally, new questions are added to the wording changed to improve the quality and accuracy of responses and are valuable to understanding the status of the current climate, even if the change in wording makes them less than ideal as indicators of the impact of a particular policy. However, a change in one indicator among many would not be assumed to have been caused by a new policy if other factors also contribute to school climate and were not controlled for, or if other indicators showed improvements or held steady in the same period.

It is worth noting that Max Eden, also of the Manhattan Institute, released a report and set of graphic maps about LAUSD and New York City. The research ignores any question that addresses climate but is not currently worded in exactly the same way as it was on the survey given four years ago. While this is arguably a justified safeguard to ensure the accuracy of the before and after policy analysis, it means that the researchers ignore a mountain of recent evidence that contradicts the strong assertions that the new policy is currently causing chaos. If the current evidence does not support a conclusion that the current climate is chaotic, one cannot assume that a policy change has caused chaos. We argue that, if one wants to fully and accurately understand how current policies and practices are actually affecting the learning environment, readers should avoid drawing conclusions about causality from a correlation with a change in one year from a single survey item (among many), such as the conclusions drawn by Jason Riley.
Riley and Brookings both reference another Manhattan Institute report on New York City, which treated a decline in some of the district’s climate survey results as proof that discipline reform caused chaos. However, as the report’s author states, “Critics of discipline reform might have expected that schools where suspensions were reduced would, on balance, deteriorate more than schools where suspensions stayed roughly similar. But, as Figure 7 shows, this was not the case” (see Eden, 2017). What is stunning about the Manhattan Institute report is that, amid all the graphs and charts that are supplied and suggested to be causal evidence of chaos, the author admits that the school-level evidence contradicts his chaos theory. The author goes on to say that, in both Period 1 and Period 2, the distribution of differences between schools with neutral suspension rates and those with declining suspension rates was similar for all questions. The significant shift between the two periods and the lack of a significant differential between schools that saw neutral and lower suspension rates suggests that the number of suspensions “may matter less for school climate than the dynamics fostered by a new set of disciplinary rules” (R-ME-0217v2.pdf, p. 20).

National Education Policy Center commentary and author Gary Ritter’s response and an additional rejoinder are available at http://nepc.colorado.edu/thinktank/review-discipline.

If all the teachers watched the Black boys most when not one was misbehaving, one can imagine their conclusion if the experiment pre-condition was that all the students misbehaved in equal degrees. If the teachers accurately reported what they saw, they would have seen Black boys exhibit more misbehavior simply because they predominantly watched the Black boys. None would realize that the students were all misbehaving in equal amounts. By directing our attention in this manner, our initial racial biases can wind up reinforced with real data without us even knowing that our data collection was skewed. This example is offered not as proof of intentional different treatment but to suggest that implicit racial bias can influence how differently we observe children’s behavior. Our biased observations can in turn reinforce negative perceptions, making it more likely they will be triggered again.
