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K-12 Racial Disparities in School Discipline

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<https://escholarship.org/uc/item/3687h8gz>

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Publication Date

2014-06-10

Supplemental Material

<https://escholarship.org/uc/item/3687h8gz#supplemental>

Keeping California's Kids in School: Fewer Students of Color Missing School for Minor Misbehavior

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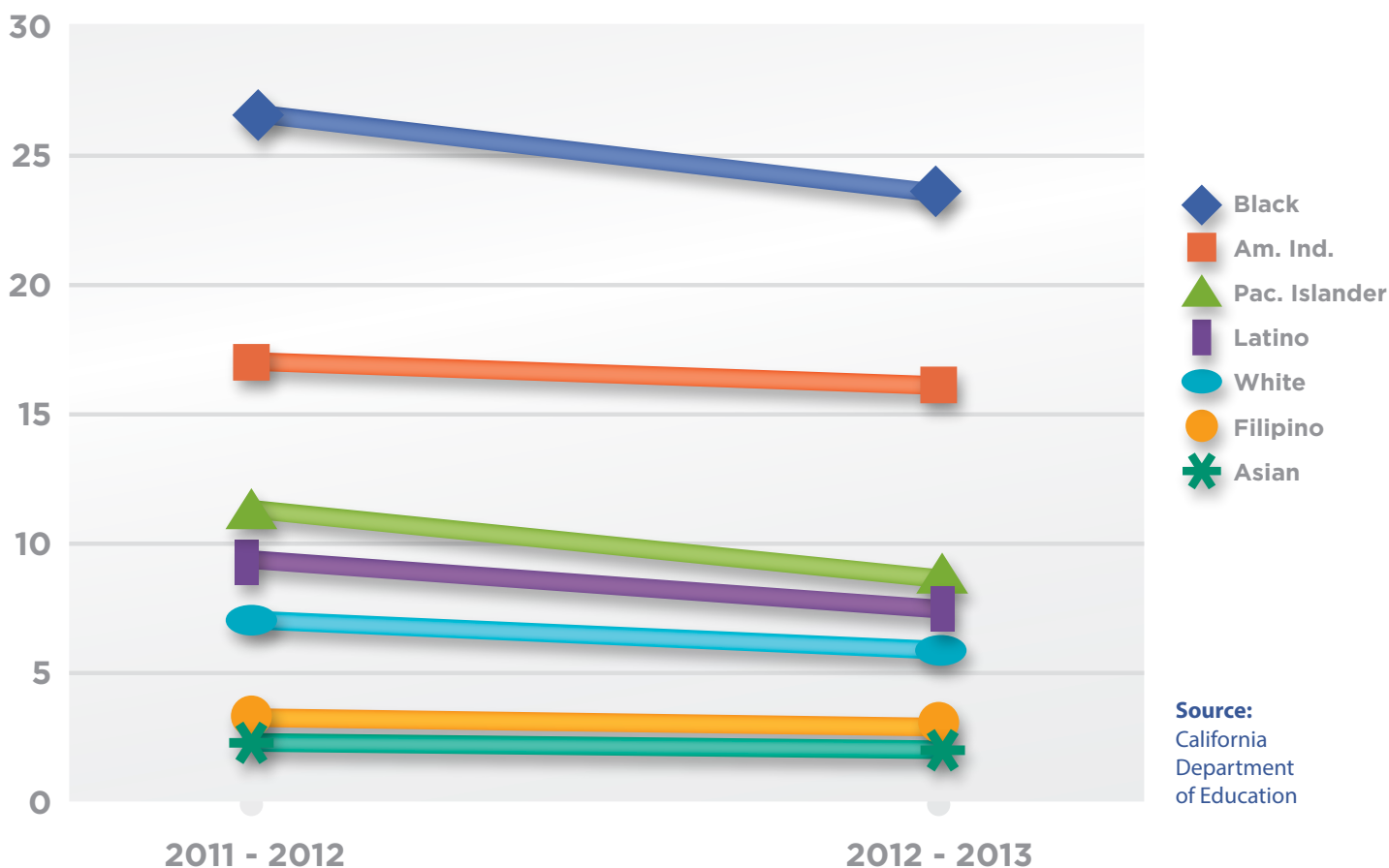


The Center for Civil Rights Remedies

at The Civil Rights Project | *Proyecto Derechos Civiles*

Recently the California Department of Education released new data on school discipline. This report compares this year's data release covering 2012-13 to the data released last year covering 2011-12. We find a reduction in the use of out-of-school suspension for every racial/ethnic group. Specifically, based on the statewide averages for 2011-2012 and 2012-2013, progress was made for every racial/ethnic subgroup toward reducing the rate of out-of-school suspensions (OSS) per 100 students enrolled from the prior year.

FIGURE 1: Two-Year Trend in Rates of Out-of-School Suspensions in California



As the trend lines show, OSS rates for all groups declined. Black students saw the largest decline, a reduction of nearly 3 suspensions per 100. Over the same time span, White students' OSS declined by nearly 1 per 100 enrolled. In absolute terms, Black students made the most progress. The gap with Whites narrowed considerably from 2011 for Blacks and Latinos but the Native American/White gap did not narrow.

Data source and limitations: The state and district level data used to construct this report and compare years, include data on every district in California collected by the state and made available in flat file format on the state's Department of Education website.¹ We have conducted the additional analysis on racial gaps and trends over time. We provide that information for every district in a sortable spreadsheet that accompanies this report. The state has discouraged comparisons with reported data from earlier years because the definitions, collection methods and other inconsistencies make such comparisons unreliable.

The reduction in state averages suggest that some progress has been made toward reducing the reliance on out-of-school suspensions and the racial gap in disciplinary exclusion is narrowing in California. This report only provides a summary of some of the more significant state and district level improvements. The table below shows the districts that demonstrated the greatest reductions in out-of-school suspensions (OSS) based on the absolute count for all students. The second column shows the change in the rate of out-of-school suspensions per 100 students enrolled.

TABLE 1. Districts with largest one-year declines in OSS per 100¹

DISTRICT	OSS REDUCTION #	CHANGE IN OSS PER 100
Los Angeles Unified	-11163	-1.66
Rialto Unified	-3223	-11.98
Santa Ana Unified	-3113	-5.46
Elk Grove Unified	-2388	-3.85
Riverside Unified	-2255	-5.35
San Juan Unified	-2251	-4.92
Bakersfield City	-2050	-7.58
Fresno Unified	*	*
Compton Unified	-1565	-6.29
Long Beach Unified	-1500	-1.66
Oakland Unified	-1392	-3.00
Greenfield Union	-1372	-15.77
Hesperia Unified	-1324	-5.65
Central Unified	-1313	-9.01
West Contra Costa Unified	-1243	-4.52
Moreno Valley Unified	-1242	-3.14
Fontana Unified	-1131	-2.75
Hemet Unified	-1026	-4.51
Visalia Unified	-1019	-3.89
Vallejo City Unified	-949	-5.92

*District data originally submitted to state is no longer available.²

Several districts made very large reductions in the number of OSS and rate per 100 students enrolled in a span covering just two years. These data may represent a consistent downward trend, although it is too soon to be certain. Districts with widely publicized efforts to address excessive discipline, including Los Angeles, Oakland and Vallejo City do appear to have made significant progress and each appear in the list above.

Moreover, of the districts reporting data in both years, approximately 500 districts serving nearly 4.7 million students registered decreases in OSS rates. On the other hand, approximately 245 districts representing 1.2 million students registered an increase in OSS rates. Moreover, even in many of the improving districts, including some of those with the largest declines highlighted in this report, there are still very high suspension rates and very large racial disparities.³

At the district level, this report describes a mixed picture of progress. While several large districts serving high percentages of poor and minority youth are finding effective ways to reduce exclusionary discipline, other districts are not recognizing the issue of excessive discipline or are failing to take effective action. We know from research and news reports on districts in other states that several large school districts that have lowered suspension rates recently have simultaneously made academic gains. Two recent examples are Baltimore City, where decreases in suspensions preceded improvements in graduation rates in subsequent years,⁴ and in Denver, Colorado, where steady and consistent achievement gains coincided with large reductions in suspensions attributed to restorative practices.⁵

The efforts in these progressing California districts reflect a growing understanding among educators and stakeholders that far too many students are being denied educational opportunity because of behavioral issues. The groundswell of activities that states and districts are engaging in to reduce the use of suspensions and expulsions is well documented in the Council of State Governments (CSG) Justice Center report, *The School Discipline Consensus Project Report: Keeping Students in School and out of the Juvenile Justice System*, released on June 3. This report provides policy and practice recommendations that are field-driven and consensus-based around how to improve conditions for learning for all students, provide targeted interventions for students with behavioral health needs, design effective school-police partnerships, and divert students away from courts. The report reflects consensus among educators, law enforcement officials, juvenile justice leaders, behavioral health specialists, advocates, policy-makers, youth, and families, to keep students engaged in school and out of the juvenile justice system. This Center for Civil Rights Remedies report was released to coincide with the Consensus Project report because we hope to put the powerful findings and recommendations into the context of the picture of significant signs of progress in California. The positive developments suggest that there are effective policies and practices worth replicating or building upon and that the status quo of high rates and large racial disparities can be rejected. Further research should explore why some districts improved much more than others.

District analysis disaggregated: Not only have some districts made much more progress than others, some have made large gains in reducing the suspension rates of historically disadvantage subgroups. The following two tables highlight the districts making the largest improvements for Black (Table 2.) and Latino (Table 3.) students. While we recognize these declines, it should be noted that many of the districts with the largest declines started with very high rates and most are still well above the state average. The spreadsheet that accompanies this report enables users to see both the rates, and the declines in the aggregate and disaggregated by racial/ethnic groups and to generate similar lists for each racial/ethnic group for which data were reported by the California Department of Education.

TABLE 2. 10 districts with largest decrease in Black OSS per 100

DISTRICT	OUT OF SCHOOL SUSPENSIONS PER 100 BLACK STUDENTS, 1112	OUT OF SCHOOL SUSPENSIONS PER 100 BLACK STUDENTS, 1213	DECREASE IN BLACK OSS PER 100
Central Unified	44.30	22.34	-21.96
Rialto Unified	46.71	25.01	-21.70
Bakersfield City	62.27	41.72	-20.55
Compton Unified	33.80	15.88	-17.92
Vallejo City Unified	72.91	55.58	-17.33
Visalia Unified	44.75	28.33	-16.42
San Juan Unified	53.71	39.00	-14.71
Monterey Peninsula Unified	20.49	7.69	-12.79
Modesto City Elementary	53.05	41.21	-11.84
Madera Unified	39.91	28.18	-11.74

Source: California Department of Education.

Note: Only districts with overall enrollments of 10,000 or more and black student enrollment of at least 300 were included.

TABLE 3. 10 districts with largest decrease in Latino OSS per 100

DISTRICT	OUT OF SCHOOL SUSPENSIONS PER 100 LATINO STUDENTS, 1112	OUT OF SCHOOL SUSPENSIONS PER 100 LATINO STUDENTS, 1213	DECREASE IN LATINO OSS PER 100
Santa Rosa High	35.59	22.90	-12.69
Rialto Unified	17.16	7.11	-10.05
Central Unified	16.32	7.45	-8.86
Livermore Valley Joint Unified	13.17	6.19	-6.98
Tracy Joint Unified	21.88	15.59	-6.29
Bakersfield City	17.73	11.67	-6.06
Alameda Unified	13.00	6.99	-6.01
Santa Ana Unified	13.58	7.81	-5.78
La Mesa-Spring Valley	11.27	5.56	-5.71
Riverside Unified	13.40	7.72	-5.67

Source: California Department of Education.

Note: Only districts with overall enrollments of 10,000 or more and Latino student enrollment of at least 300 were included.

We find that many large districts made strong progress and in particular Central Unified, Bakersfield City and Rialto Unified all indicate significant reductions for both Black and Latino students. Other districts, including Los Angeles, which tops the list (Table 1) for total reductions in the number of OSS, made noteworthy improvements from a baseline that was already lower than the state average. All improving districts' efforts are worthy of closer analysis. To the extent that progress was due to purposeful efforts and changes to policy and practice, they may present strong examples for replication.

Disruption and Willful Defiance: Reporting on school discipline in California would be incomplete without an analysis of the extent to which students are suspended for the minor category of "Disruption" or "Willful Defiance." California reports on suspensions for 24 different violations of the state's code of conduct. The offense "disrupted school activities or otherwise willfully defied the valid authority" is a catch-all category covering a wide range of less serious misbehavior (including not paying attention, failing to do homework, talking back). Yet, in 2012-2013 nearly 34% of all out-of-school suspensions were for this one category.

A review of district data across the state shows that it is also the category where the largest racial disparities are observed. For example, as depicted in Table 4., a tremendous amount of the Black/White gap in OSS can be attributed to this one subjective category of minor offenses. The first column in Table 4 provides the out-of-school suspensions (OSS) per 100 Black students enrolled for all offenses. The second column subtracts the rate for Whites (not in table) to show the difference expressed as the Black/White Gap. The third and fourth columns repeat the process of calculating the gap but just for the OSS per 100 in the category of Disruption/Willful Defiance. The last column describes how much of the total Black/White discipline gap can be attributed to the use of OSS in this one category by dividing the fourth column by the second column. Table 5 presents the identical analysis as applied to the Latino/White discipline gap.

TABLE 4. Five districts with the largest Black/White discipline gap 2012-2013 10 districts with largest decrease in Black OSS per 100

DISTRICT	OSS BLACK RATE, ALL OFFENSES	OSS BLACK/WHITE GAP ALL OFFENSES	DISRUPTION/WILLFUL DEFIANCE BLACK OSS RATE	BLACK WHITE GAP DISRUPTION/WILLFUL DEFIANCE	PERCENTAGE OF GAP ATTRIBUTABLE TO DISRUPTION/WILLFUL DEFIANCE
Lodi Unified	63.09	50.21	41.43	35.62	71%
Antelope Valley Union High	55.22	44.70	25.88	22.24	50%
West Contra Costa Unified	50.77	40.36	23.30	19.34	48%
Kern Union High	57.31	38.61	27.31	19.62	51%
Vallejo City Unified	55.58	37.11	16.36	11.17	30%

Source: California Department of Education.

Note: Only districts with enrollments of 10,000 or more were included. Gaps were rounded to one decimal and percentages to whole numbers.

TABLE 5. Five districts with the largest Latinos/White gap 2012-2013

DISTRICT	OSS LATINO RATE, ALL OFFENSES	OSS LATINO/ WHITE GAP ALL OFFENSES	LATINO OSS RATE FOR DISRUPTION/ WILLFUL DEFIANCE	LATINO/ WHITE GAP DISRUPTION/ WILLFUL DEFIANCE	PERCENTAGE OF GAP ATTRIBUTABLE TO DISRUPTION/ WILLFUL DEFIANCE
Fremont Union High	15.26	11.78	4.09	3.08	26%
Santa Rosa High	22.90	11.50	9.94	5.33	46%
Salinas Union High	15.46	7.98	6.74	4.04	51%
Roseville Joint Union High	15.80	7.94	6.40	2.95	37%
Gilroy Unified	14.55	7.59	6.84	4.37	58%

Source: California Department of Education.

Note: Only districts with enrollments of 10,000 or more were included.

The purpose of this report is to highlight what is possible and that the status quo is not destiny. Therefore, it is critically important to note that among the districts highlighted in tables 4 and 5, (all large districts with large racial/ethnic gaps in OSS), many were in the process of addressing the high rates and racial disparities. The data reviewed in this report would not reflect the progress made by districts in 2013-2014 to bring their rates and disparities down. However, these sobering statistics demonstrate that despite important progress, many districts still suspend high and disparate numbers of students out of school for minor infractions of the school code of conduct. Further, it is in the least serious offense category, one that entails a great deal of subjectivity, that we tend to see the largest racial disparities. In the districts with the largest racial/ethnic gaps between Blacks and Whites and Latinos and Whites, the gap in the least serious and most subjective offense category accounted for between 26% and 71% of the racial/ethnic divide.

Several districts have recently eliminated this offense as grounds for suspension. In Los Angeles, for example, the school board passed a school climate bill of rights that included eliminating this offense category as grounds for suspension. Moreover, the California state legislature has sought passage of a change to the school code that would substantially reduce the use of suspensions in this offense category.

Despite the progress being made, in too many districts large racial disparities persist, especially in OSS for the category of “disruption/willful defiance.” Further, large disparities in other categories are also highly problematic. Generally speaking, the size of the racial disparities in OSS rates remains an issue for many subgroups of students and is especially large between Black and White students. Further, although this report does not describe disparities by disability status, gender, or English learner status, our forthcoming complete report will reveal similarly troubling disparities found in many districts for these subgroups as well.

The need for changes to policy and practice includes civil rights obligations: Not only should high-suspending districts pursue changes as a matter of good policy for their students, in some circumstances, civil rights law may obligate districts to pursue changes. Specifically, the U.S. Departments of Justice and Education put together guidance for schools about the civil rights implications of school discipline disparities, which they released on January 8, 2014. In this joint DOJ/OCR guidance they outline how school districts are obligated to review their school discipline policies and practices for unnecessary reliance on school exclusion and the possibility that their disciplinary policies and practices could have an unlawful disparate impact by race. The following is an edited excerpt from that legal guidance: ⁷

Schools also violate Federal law when they evenhandedly implement facially neutral policies and practices that, although not adopted with the intent to discriminate, nonetheless have an unjustified effect of discriminating against students on the basis of race...

In determining whether a facially neutral policy has an unlawful disparate impact on the basis of race, the Departments will engage in the following three-part inquiry...

- 1.** Has the discipline policy resulted in an adverse impact on students of a particular race as compared with students of other races?...an adverse impact may include, but is not limited to, instances where students of a particular race, as compared to students of other races, are disproportionately: sanctioned at higher rates; disciplined for specific offensesIf there were an adverse impact, then:
- 2.** Is the discipline policy necessary to meet an important educational goal?...If the policy is necessary to meet an important educational goal, then the Departments would ask:
- 3.** Are there comparably effective alternative policies or practices that would meet the school's stated educational goal with less of a burden or adverse impact on the disproportionately affected racial group?...

Most important is that if the answer is yes to the last question, the enforcement agency would find unlawful discrimination. The purpose of such a finding would be to compel a district to improve its discipline policy and practice. As the recent California data suggest, many districts are already moving in this direction.

Many Californians do not realize that in 2011, LAUSD entered into a resolution agreement with the U.S. Department of Education's Office for Civil Rights on a number of education equity issues including agreement concerning disparities in the suspension rates of Black students.⁸ Among the terms of the resolution agreement was that, "The District shall modify its policies, procedures and practices to eliminate the disproportionality and shall also implement, as appropriate, behavioral intervention programs, supports and other methods to minimize subjectivity in the imposition of disciplinary sanctions."⁹

Although there is unquestionably more work to be done, the data from LAUSD show significant reductions in the use of OSS. Black rates fell from 12.1 to 7.1 OSS per 100 for all offenses; Latino rates fell from 3.1 to 1.7; and White rates fell from 2.4 to 1.0. This suggests that the work in Los Angeles contributed to one of the state's lowest Black/White gaps, of just 6 points and a Latino/White gap of seven tenths of one percentage point. The observed reductions suggest that reform efforts were underway even before the implementation of the new student Bill of Rights was adopted. Now that no students can be suspended out of school for behavior that falls in the disruptive defiant category, the new district rules should eliminate all disparities in this subjective category while further helping reduce the overall disparities.

In addition to the signs of progress in LAUSD, prompted in part by civil rights requirements, the recent "Local Control Funding Formula" (LCFF) requires districts to submit an accountability plan (LCAP) for district-wide improvement, including how it will meet goals for improving student engagement and address concerns about school climate and discipline. As a matter of policy, a great deal can be accomplished if the new funds are spent wisely, including on efforts to reduce excessive and disparate suspensions.

Conclusion: The new federal guidance and the LCAP requirements should stimulate districts in California to review the status of their school climate, and the impact of their discipline policy by race/ethnicity, gender and disability status. Despite the progress cited in this report we believe the data should prompt most districts that they need to reduce disciplinary exclusion especially as it pertains to students of color. Therefore we conclude with the following three recommendations for action at the district level that could be written into the LCAP to support the goals of improving student behavior and engagement and reducing or eliminating the disparate impact from less effective discipline policies or practices.

- 1. Ensure strong discipline data public reporting and use and set clear goals for the reduction in overall levels and disparities in the use of exclusionary discipline:** Districts should consider publicly reporting suspensions down to the school level disaggregated by race, gender, disability status and other subgroups and setting clear and aggressive goals for reducing reliance on exclusionary discipline. Other local measures should also be reported, including surveys of pupils, parents, and teachers on the sense of safety and school connectedness. These data can be analyzed side by side with other measures of student engagement and academic achievement to evaluate efforts to improve the school climate such as those described below. Districts should invest in personnel, training and software to support effective use of the data relevant to these state priority areas.
- 2. Eliminate disruption/willful defiance as grounds for disciplinary removal and involve community groups in revising the code of conduct to reflect a positive and constructive framework:** There are several examples of schools and districts that have done so successfully. Districts should engage members of the school community in these efforts while also taking into consideration successful efforts in other districts including the School Climate Bill of Rights adopted by LAUSD.
- 3. Invest in alternatives to disciplinary exclusion and provide appropriate training of teachers and leaders to ensure implementation integrity:** District-wide efforts are varied and include teacher training programs, systemic adoption of a framework of positive behavioral interventions and supports, restorative practices and social and emotional learning approaches that would help correct behavior and reduce the thousands of hours of lost instruction due to disciplinary exclusion.

These remedies are consistent with the recommendations from the new School Discipline Consensus Report released on June 3rd by the Council of State Governments Justice Center. Specifically, The consensus recommendations represent more than 100 expert advisors over the past three years who worked to identify evidence-based recommendations to change the system of discipline in public schools to keep more kids in the classroom and out of the juvenile justice system. Moreover, these recommendations also reflect the recommendations from a series of briefing papers released by the Discipline Disparities Research Collaborative in March, 2014. Disparities in Discipline Research Collaborative research-based briefing papers on addressing discipline disparities: <http://www.indiana.edu/~atlantic/briefing-papers/> Several of the remedies are featured in a edited book, Closing the School Discipline Gap: Research to Policy, slated for publication later this year by Teachers College Press. Real people power, funding, and professional development and specific research-based solutions to tackle the issues identified.

See the following resources: www.schooldisciplinedata.org

APPENDIX

For all analyses we used the public use flat file posted by CDE at <http://www.cde.ca.gov/ds/sd/sd/filesesd.asp>. This file included all data on out of school suspensions disaggregated by race/ethnicity and type of offense. CDE censored any cells which that included less than 10 suspensions to protect students' privacy by replacing the true value with an asterisk. In order to estimate rates across race/ethnic categories, we recoded all censored cells by replacing these asterisks with "1's" – the lowest value possible. This results in a slight undercount of the total number of suspensions when compared to the total numbers available on the CDE website. Hence, all estimates are conservative.

ACKNOWLEDGEMENTS

This report was made possible with support from The California Endowment.

- ¹ Data retrieved on 4/30/2014 from <http://www.cde.ca.gov/ds/sd/sd/filesesd.asp>. For more details on methods see the Appendix.
- ² Data on Victor Valley demonstrating a near elimination of all out of school suspensions from the prior year was removed because it conflicts with data on the district's website regarding the annual evaluation of their Local Educational Agency Plan stating on page 2 that suspensions were reduced by 29% from 2011-12 to 2012-13. <http://vvhs.vvuhd.org/ourpages/auto/2013/9/24/55971888/Evaluation%20for%20Victor%20Valley%20High%20School%202013%20on%20School%20site%20action%20plan.pdf>. We believe that there was likely a clerical error, and as a matter of policy we remove data from our reports until such large differences in publicly reported can be reconciled.
- ³ A comprehensive report we are preparing for release this year will cover a wider range of discipline, both in-school and out-of-school suspensions, more details on offense categories and disaggregate data by race, poverty, disability status, English learner status, gender, and include some analysis down to the school level. Further, a spreadsheet containing combined in and out-of-school suspension rates posted to www.schooldisciplinedata.org has now been replaced with the spreadsheet for this report which only covers out-of-school suspensions.
- ⁴ Alonso, A. (2013). School discipline and student achievement. Baltimore city: Retrieved from <http://www.nycourts.gov/ip/justiceforchildren/PDF/NYS%20Summit-PPTs%20for%20Web/P3-Alonso.pdf>
- ⁵ Gonzalez, T. (in press). Socializing schools: Addressing racial disparities in discipline through restorative justice. In D.J. Losen (Ed.), *Closing the School Discipline Gap*. Columbia, NY: Teachers College Press. (Available from Daniel Losen upon request).
- ⁶ The SSDI reflects a groundswell of interest and activity by states and school districts across the nation to improve school climate and the conditions for learning without relying on frequent exclusion from school to accomplish these goals. An overview of the SSDI can be found here: <http://www2.ed.gov/policy/gen/guid/school-discipline/index.html>
- ⁷ <http://www.justice.gov/crt/about/edu/documents/dcl.pdf>
- ⁸ Agreement to Resolve, Between the Los Angeles Unified School District and the U.S. Department of Education, Office for Civil Rights October 11, 2011, available online at <http://www2.ed.gov/about/offices/list/ocr/docs/investigations/09105001-b2.pdf>
- ⁹ Id at p. 3
- ¹⁰ Specifically, these recommendations reflect very similar yet more detailed recommendations found in the following sections of the School Discipline Consensus Report: Our recommendations on data collection and use are reflected in the Conditions for Learning, Policy Statement I, recommendation 1 and 2 (p. 23) as well as Data Collection Policy Recommendations 1 and 2 (p. 350; 357, 360, 363) and the Conclusion at p. 367: Our recommendation to eliminate suspensions for the minor offense of Disruption/Willful defiance as part of revising the code of conduct with community input is reflected partially in Conditions for Learning, Policy Statement III (p. 24) and recommendations 1 and 3 (starting at p. 71). The recommendation to invest in alternatives to exclusionary discipline and provide support and training for implementation is reflected in the Conditions for Learning chapter. In that chapter, Policy Statement II (p. 23) directly discusses school improvement plans like LCAP; Policy Statement IV (p. 25) calls for training of teachers and leaders.