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Lost Instruction Time in California Schools: The Disparate Harm from Post-Pandemic Punitive Suspensions

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Authors

Flories, Ramon T
Losen, Daniel J

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Lost Instruction Time in California Schools:

The Disparate Harm from
Post-Pandemic Punitive Suspensions



Ramon T. Flores and Daniel J. Losen | October 2023



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This report is the independent product of UCLA's Civil Rights Project and the National Center for Youth Law. All opinions and policy recommendations expressed in this report are solely attributable to the authors and not to our funders, UCLA, or external reviewers.

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The UCLA Civil Rights Project/Proyecto Derechos Civiles (CRP) is codirected by [Gary Orfield](#) and [Patricia Gándara](#), both of whom are researcher-professors at UCLA. Founded at Harvard in 1996, CRP's mission is to create a new generation of social science and legal research on critical civil rights issues and on equal opportunity for racial and ethnic groups in the United States. CRP has monitored the success of U.S. schools in equalizing opportunity and has been an authoritative source of statistics on segregation. CRP has commissioned more than [400 studies](#), published more than [15 books](#), and issued numerous reports by authors from universities and research centers across the country.

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NCYL is working to transform systems — classrooms, courts, the justice system, and health care spaces — to extend equity, dignity and care for children and youth.

About the Authors

Ramon T. Flores was a Graduate Student Researcher at the Center for Civil Rights Remedies (CCRR), an initiative of the Civil Rights Project/Proyecto Derechos Civiles (CRP). His research broadly investigates the intersectional disparities between race/ethnicity, gender, and disability in school discipline/punishment in P-12. Ramon's work focuses on school discipline disparities for Latinx/Hispanic students. Through his research, Ramon aims to inform and change policy so that educational opportunities and outcomes improve and are optimal for historically marginalized groups. Ramon earned a B.A. in Psychology from Pitzer College and an M.A. in Psychological Research from California State University, Long Beach. He is currently a Ph.D. Candidate in Education (focus on Human Development and Psychology) at UCLA.

Daniel J. Losen is the Senior Director for Education at the National Center for Youth Law and contributes to the organization's efforts in the area of education on behalf of all students. Dan's work includes promoting resource equity, the Honest Education campaign, and fighting against the school-to-prison pipeline at the national, state, and local levels. Dan oversees staffing for the Education Civil Rights Alliance, a National Center for Youth Law initiative that conducts research relevant to civil rights concerns, and engages in direct advocacy for systemic education reforms at the national, state, and local levels.

Dan came to the National Center for Youth Law with over 23 years of experience as a civil rights lawyer and education researcher as the Director of the Center for Civil Rights Remedies at UCLA's Civil Rights Project. Dan is the author of several books and award winning reports addressing the racially disparate impact of education policies regarding: special education; school discipline, and accountability for graduation rates of students of color. Regarded as a national expert on these topics, Dan has also testified about racial inequities in education before the United Nations, the U.S. Congress, the National Academies of Science, and the U.S. Commission on Civil and Human Rights. As a consultant, Dan has provided technical assistance to numerous states and school districts. Dan has also served as an adjunct professor at Harvard Law School, and was a public school teacher for 10 years before entering law school.

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Introduction

What we don't know about school discipline and discipline disparities may be hurting the very students who most need a stable school life. The consequences of a suspension can be grave for any child, but the potential for causing extreme harm to foster and homeless youth is rarely considered by educators who punish these children by removing them from school. The uncertain living circumstances for these children are further destabilized when educators deny them access to school for breaking a school rule. The data on lost instruction due to out-of-school suspensions (OSSs) show that students with precarious living situations—foster and homeless youth of all racial/ethnic groups—are punished far more than most other groups. This report provides a detailed review of how suspensions directly contribute to disparities in learning opportunities for students in these two groups, and along the lines of race and disability in every California school district.

While the statewide trends and disparities suggest that the rate of lost instruction in California due to OSS is about where it was before the COVID-19 school closures, this is the first report to highlight how post-COVID suspensions in 2021–2022 have added to the pandemic's harmful impact of instructional loss, especially for students from “high-needs” groups, who were most harmed by the pandemic.¹ In addition, our analysis of district-level data will demonstrate that many districts have bucked the overarching statewide trend showing a slight reduction in rates of lost instruction due to OSS in comparison to the pre-COVID years. The report also describes evidence of extreme differences in how some districts responded to student misconduct in 2021–2022. This report uses the data on student enrollment and the raw count of days lost due to OSS to establish a baseline measure for calculating comparable rates of lost instruction for every group in every district in California.

This report leaves nothing to the imagination when it comes to the disparate impact OSSs have on each group's opportunity to learn. However, we remind readers that students also lose instruction when they are transferred to disciplinary alternative schools, suspended in school, arrested, or removed from school in ways not captured by OSS. These data also do not reflect expulsions. Therefore, although this report does not represent the total degree of harm caused by disciplinary exclusion, it does provide critically important information. The rates described in this report could be created and then reviewed by the California Department of Education (CDE), as we have used publicly available raw data collected by the CDE to establish rates of lost instruction. Unfortunately, these rates are not currently published or reviewed by the CDE or school districts when they assess school climate.

We hope these findings will resonate with parents and educators more now than before the pandemic, since the COVID-19 school closures forced all of us to share the experience of losing in-person instructional time. Furthermore, even those who are reluctant to eliminate the use of suspensions can control the length of the suspensions they mete out. We hope that all educators will reflect on their practices and ask themselves how they educationally justify each day they deny a student access to school. What is the purpose of such punishment?

Finally, the data in this report raise questions about the utility of escalating punishments for minor misconduct. When a one-day suspension did not deter a student's further misconduct, why do educators think that suspending them for three days for repeated misconduct will do so? We hope that the readers of this report will understand that educators can and should do more to reduce the impact of punishment on instructional time.

In 2021–2022, before considering race/ethnicity, California educators statewide punished foster youth the most; they lost 77 days of instruction due to OSS per 100 enrolled students. Homeless youth were second, with 26 days lost per 100 students. In comparison, the statewide average for all students was 10 days lost due to OSS per 100 students.

We find it disturbing that two high-needs groups—foster and homeless youth²—had the highest rates of lost instruction. The implications of prohibiting foster and homeless youth from attending school for disciplinary reasons are grave, as these children already have unstable homes and often have experienced trauma. One can assume that, when foster and homeless youth are denied permission to attend school, they are exposed to greater risks than their counterparts with more stable living conditions.

Looking at the racial/ethnic breakdown of the rates for foster and homeless youth paints an even more disturbing picture. In each group, African American students were done the most harm. Specifically, African American foster youth lost 121 days of instruction per 100 enrolled, while African American homeless youth lost 69 days per 100 enrolled. These rates of lost instruction were much higher than for White foster and homeless youth, although they too had very high rates, at 79 and 36 days lost per 100 students, respectively. We encourage readers to take a closer look at the data from their own district, but warn them that the findings may shock their conscience.

To put the data into proper context, it is important to recount that due to the shutdown of in-person education in response to the COVID-19 pandemic, all students experienced some degree of instructional loss that might have repercussions for their future academic success. In 2021–2022, many children and adolescents returned to school after having been exposed to a myriad of adverse childhood experiences during the shutdown of in-person schooling, such as the death of a parent, child abuse, unemployment, and loss of their home due to increased poverty (Anderson et al., 2022; Felitti et al., 1998; Meade, 2021). These adverse childhood experiences manifested in poorer mental health outcomes and increased suicide rates (Anderson et al., 2022; Meade, 2021). Children’s learning and academic achievement also suffered severely (Hough & Chavez, 2022). Students of color, low-income students, and those with disabilities were disproportionately affected by the pandemic and related school shutdowns (Dvorsky et al., 2023; Hough & Chavez, 2022). As a result, students returned to school with greater academic and emotional needs.

Students may miss school for a variety of reasons that are out of educators’ control, such as being sick or having transportation issues (Losen et al., 2017). However, one reason for missing school that is within the discretion of school staff is *suspension*. School administrators make the decision of whether or not to give a student an OSS for misconduct, as well as the length of each suspension (Losen et al., 2017).

Exclusionary discipline has been linked to numerous harmful outcomes that go above and beyond the loss of instructional time. For instance, even one OSS is associated with a lower chance of graduating high school and attending college (Balfanz et al., 2015). Having ever been given an OSS or having ever been expelled is associated with increased odds of being arrested later in life (Barnez & Motz, 2018). Suspending students also leads to high economic losses for society. Rumberger and Losen (2017) estimated that students who dropped out due to being suspended among one high school cohort in California would lead to \$2.7 billion in social losses and \$809 million in fiscal costs to taxpayers over the students’ lifetimes.³ Moreover, it is well established in research that suspensions do not serve their purported purpose. The recent research summary from the Brown Center at the Brookings Institution, titled *What does the research say about how to reduce student misbehavior in schools?* points out that “suspension-promoting policies do not reduce student misbehavior, nor do they make schools safer” (Perera & Dilberti, 2023).

Of course, the lengthier a suspension, the greater the impact on a student’s opportunity to learn (García & Weiss, 2018). Furthermore, youth who are suspended may spend more unsupervised time in their homes and

communities, which can lead to a higher chance of their engaging in delinquent activities (Cuellar & Markowitz, 2015). When assessing the distribution and impact of exclusionary discipline, it is important to capture the number of suspensions and the number of students suspended. Equally, if not more important, is the number of school days students are absent as a result of being suspended.

This report assesses the most immediate impact of a suspension on educational opportunity by calculating the rate of lost instruction. The current percentage of students suspended at least one day (the suspension rate) is the only school discipline indicator that local educational agencies and schools are required to report publicly as part of California's accountability system (CDE, 2022b, 2022c, 2022d). The rate of instructional days lost due to suspension would be another valuable discipline indicator to report.

The Center for Civil Rights Remedies (CCRR) has published numerous reports on disparities in exclusionary discipline in California and nationwide (e.g., Losen & Martinez, 2020a, 2020b; Losen et al., 2022). The most recent reports that focused exclusively on California (Losen & Martinez, 2020a; Losen et al., 2022) used *rate estimates* of lost instruction, based on the number of suspensions. In this report, instead of estimating the number of days lost, we use the actual number of days absent due to OSS, which the CDE makes accessible to the public, to calculate the rates of lost instruction.

In light of students returning to in-person schooling after the pandemic and being behind in their learning and having more intense emotional needs, this report addresses one important question: *How much time did educators in California cause students from marginalized groups to lose upon resuming in-person classes in 2021–2022?* If disparities in exclusionary discipline persist for these students and high-needs groups—such as foster and homeless youth—upon resuming in-person instruction, then the profound and disproportionate harm that the pandemic caused these students will only be exacerbated. Therefore, this report also describes *the extent to which educators' use of suspension contributed to disparities in students' opportunity to learn.*

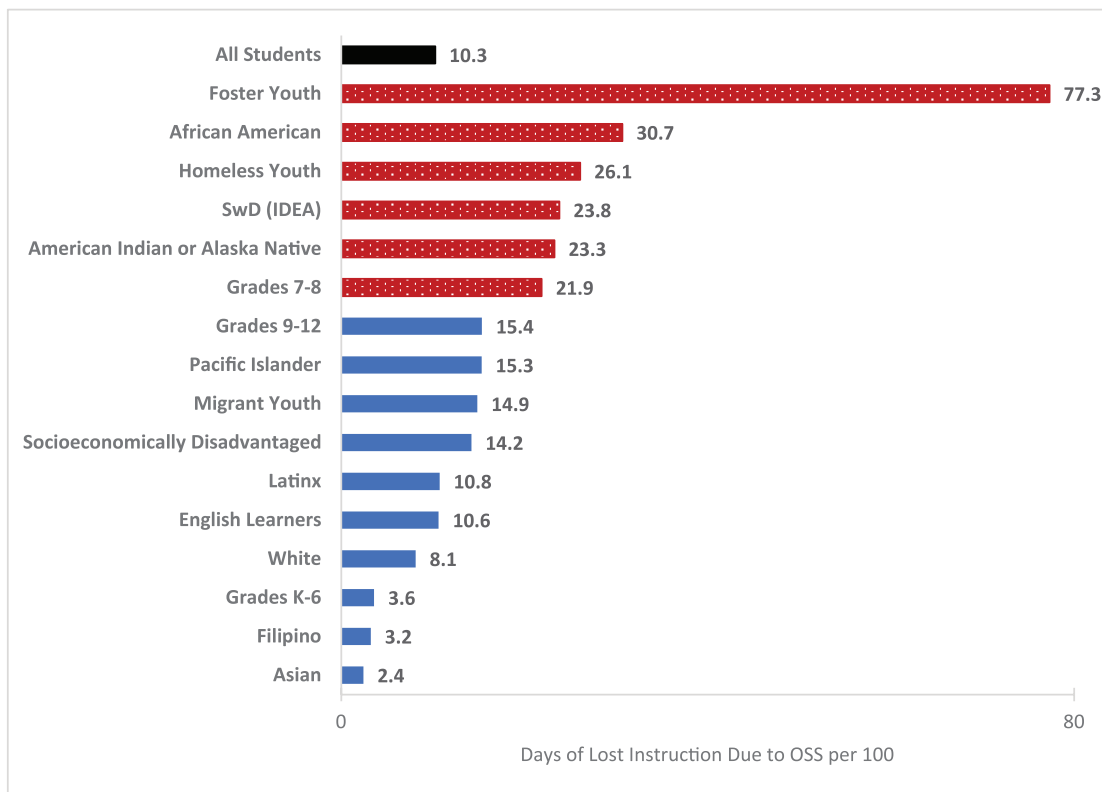
We present our findings in two parts. The first part focuses on the statewide rates of lost instruction. In this section, we examine the racial/ethnic breakdown for foster youth, homeless youth, students with disabilities (IDEA), and by grade span. In the second part, we focus on districts' rates of lost instruction. We also provide more detail on the 20 largest districts and the 20 districts with the highest rates for African American students. In both parts, and in the downloadable spreadsheets, we provide data on the rates of lost instruction.

State Level

In 2021–2022, students in California lost more than half a million days of instruction due to OSS. Specifically, this form of punishment caused these children to lose 605,275 days of instruction. This number translates into a rate of lost instruction of 10.3 days per 100 students. This represents a marginal decline from a rate of 10.6 in 2018–2019, the school year prior to the pandemic-related school shutdowns.

We calculated the rates of lost instruction by dividing the number of days absent due to OSS by the census enrollment, and then multiplying by 100.⁴ All the raw counts were collected and provided by the CDE. The number of days absent is information that is publicly available in the CDE’s Downloadable Data Files titled [Reasons for Absenteeism](#).⁵ Enrollment numbers can be found in DataQuest’s [Annual Enrollment Data](#).

Figure 1. Statewide Rates of Lost Instruction, by Group, 2021–2022



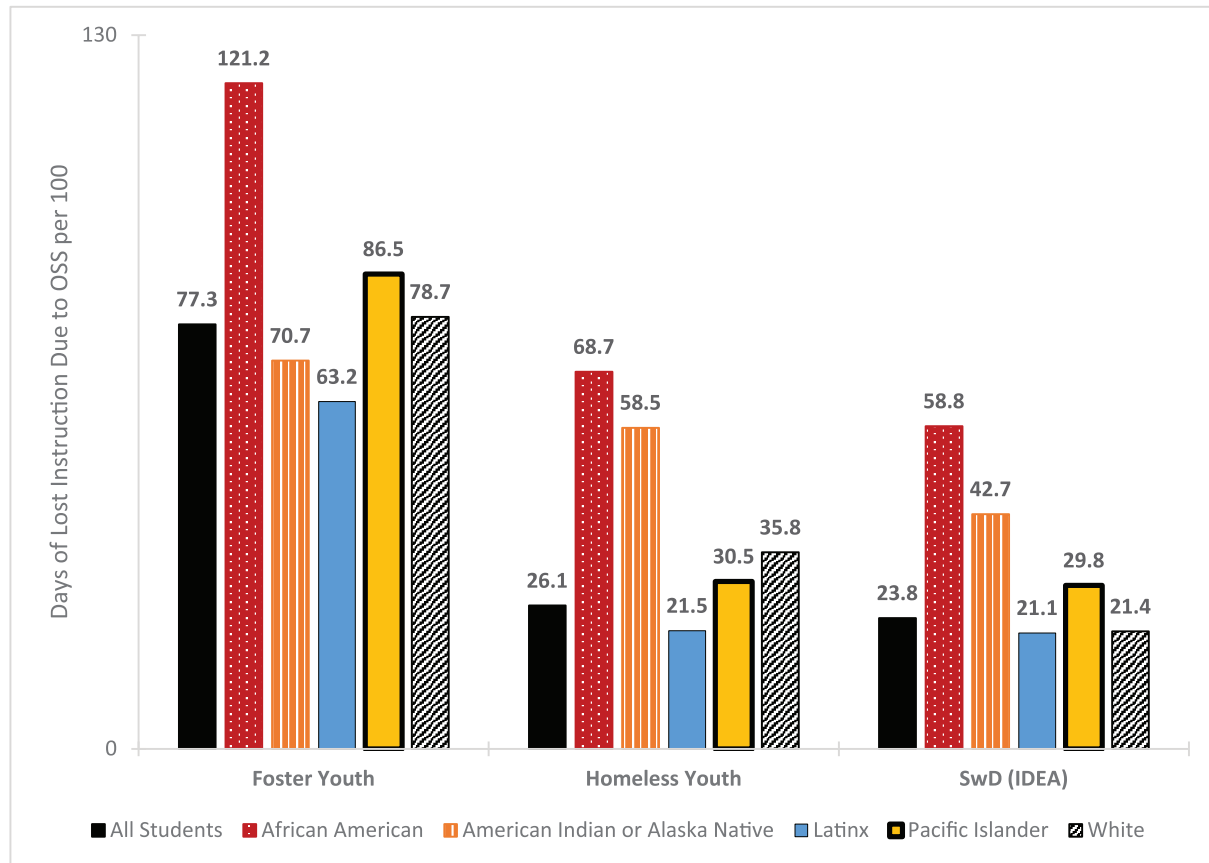
Source: CDE’s Downloadable Data Files and DataQuest reports for 2021–2022
Links to exact data sources can be found in Appendix D.

Figure 1 displays the rates of lost instruction at the state level for select groups in 2021–2022.⁶ As can be seen, foster youth have the highest rate (77.3), which is 7.5 times higher than the rate for all students (10.3). Without regard to race/ethnicity, the next highest rate is for homeless youth (26.1), followed by students with disabilities (IDEA; 23.8) and students in grades 7–8 (21.9).

It should be noted that students from two of the highest needs groups—foster and homeless youth—had some of the highest rates of lost instruction due to OSS. Foster youth are being removed from school for disciplinary reasons more than any other group, without regard for the trauma they have experienced or for the impact a suspension can have on their foster care placement. In addition, the implications of suspending a homeless child from school, especially for several days, are potentially far more serious than for those with more stable homes, as

it is uncertain whether they have shelter, and they may encounter other risk factors while out of school. In some cases, the school is literally throwing students out onto the streets, come what may.

Figure 2. Statewide Rates of Lost Instruction for Foster Youth, Homeless Youth, and Students with Disabilities (IDEA), by Race/Ethnicity, 2021–2022



Source: CDE’s Downloadable Data Files and DataQuest reports for 2021–2022

Because foster youth, homeless youth, and students with disabilities (IDEA) were the non-racial/ethnic groups with the highest rates of lost instruction, they were examined more closely and broken down by race/ethnicity, as shown in Figure 2.⁷ As can be seen among these three groups, African American students had the highest rates by far. African American foster youth had a disturbingly high rate of lost instruction (121.2). This rate is 43 days (per 100) higher than the rate for White foster youth (78.7). One can also see in Figure 2 that the second highest rate was for Pacific Islander foster youth (86.5). However, American Indian/Alaska Native students were the second highest among homeless youth (58.5) and students with disabilities (IDEA; 42.7). African American homeless youth also had the disturbingly high rate of 69 days lost due to OSS per 100 students, which was 33 days higher than for White homeless youth.

Table 1. Statewide Gaps in Rates of Lost Instruction, 2021–2022

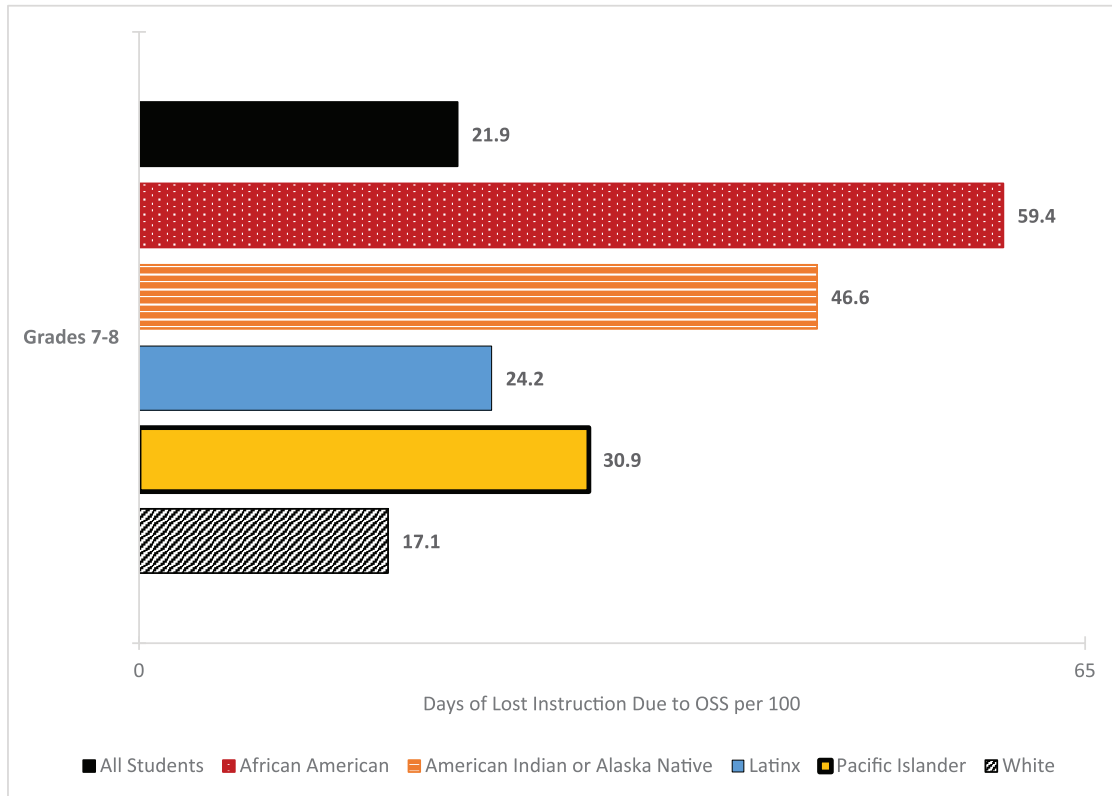
Group Comparison	Gap
Foster Youth–Non-Foster Youth	67.4
African American–White	22.6
Grades 7–8–Grades K–6	18.3
Homeless Youth–Non-Homeless Youth	16.3
SwD (IDEA)–SwoD (Non-IDEA)	15.5
American Indian or Alaska Native–White	15.1
Grades 9–12–Grades K–6	11.8
Socioeconomically Disadvantaged– Non-Socioeconomically Disadvantaged	9.8
Pacific Islander–White	7.2
Migrant Youth–Non-Migrant Youth	4.6
Latinx–White	2.6
English Learners–Non-English Learners	0.5

Source: CDE’s Downloadable Data Files and DataQuest reports for 2021–2022

Table 1 shows the gaps in rates of lost instruction between groups and their counterparts at the state level for 2021–2022.⁸ Gaps were calculated by subtracting the second group’s rate from the first group’s rate.⁹ The largest gap is between foster and non-foster youth. It is three times larger than the next largest gap, which was between African American and White students. Table 1 also shows that there is a large difference in rates of lost instruction between students in grades 7–8 and those in grades K–6, between homeless and non-homeless youth, between students with disabilities (IDEA) and without disabilities (non-IDEA), and between American Indians/Alaska Natives and Whites.

It should also be noted that middle school students have alarmingly high rates of lost instruction. In Table 1, readers can see that those rates for students in grades 7–8 were 18.3 days higher per 100 than for students in grades K–6. Rate differences between these grade spans may reflect differences in educators’ expectations, but they also likely reflect a failure to have educationally and developmentally sound responses to adolescent misconduct. In middle school, youth experience various physical and social changes that include puberty, higher peer pressure, greater experimentation with risky behaviors, and resistance to authority, all of which are normal aspects of childhood development, a time when young people are forming their social identity (Mendez & Knoff, 2003). They also face a different school environment that necessitates greater self-direction and independence (Mendez & Knoff, 2003). Educators may also expect students in middle school to be able to exert greater self-control and self-regulation (Mendez & Knoff, 2003). However, other factors may be contributing to the more frequent use of suspension and the resulting higher rates of lost instruction for students in grades 7–8. This can include educators’ lower tolerance or inadequate training in how to respond to typical adolescent behavior, a bias that favors the punitive response of exclusion over research-based interventions, and a lack of awareness of the often counter-productive impact of OSS.¹⁰

Figure 3. Statewide Rates of Lost Instruction for Grades 7–8, by Race/Ethnicity, 2021–2022



Source: CDE’s Downloadable Data Files and DataQuest reports for 2021–2022

We further disaggregated the rates of lost instruction by race/ethnicity for grades 7–8, as shown in Figure 3.¹¹ To see the racial/ethnic disaggregation for the other grade spans, please see the supplemental Excel file, *Cross-Sectional Rates of Lost Instruction due to OSS for CA Statewide and Select Districts_2021–22_CRP CCRR_10.23*.

In every grade span, African American students had the highest rate of lost instruction, and every group examined lost more days than Whites. African Americans in grades 7–8 had the highest rate of all (59.4), which was 42 days more per 100 students enrolled than White 7th–8th-grade students (17.1).

Table 2. Statewide Trends in Rates of Lost Instruction, by Group, 2017–2018, 2018–2019, and 2021–2022

Group	2017–2018	2018–2019	2021–2022
All Students	12.1	10.6	10.3
African American	35.6	32.4	30.7
American Indian or Alaska Native	23.9	25.4	23.3
Asian	2.7	2.6	2.4
Filipino	5.8	3.5	3.2
Latinx	12.9	11.0	10.8
Pacific Islander	16.2	13.3	15.3
White	8.7	8.3	8.1
SwD (IDEA)	29.2	26.0	23.8
Homeless	33.3	28.5	26.1
Foster	90.0	83.0	77.3
Socioeconomically Disadvantaged	16.8	14.7	14.2
English Learners	13.4	10.2	10.6
Migrant	14.1	13.5	14.9
Grades K–6	6.9	4.2	3.6
Grades 7–8	22.0	21.8	21.9
Grades 9–12	16.2	15.9	15.4

Source: CDE’s Downloadable Data Files and DataQuest reports for 2017–2018, 2018–2019, and 2021–2022

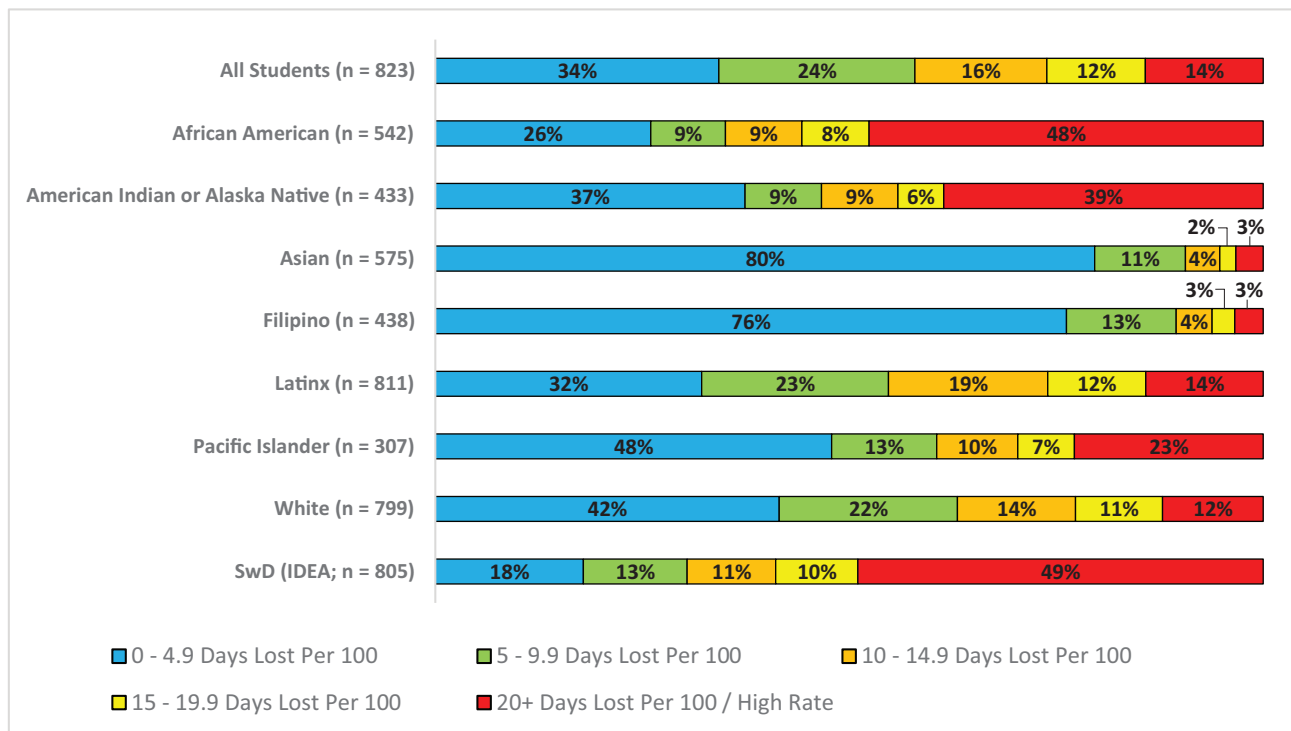
Using data for comparable years when students attended school in person, Table 2 shows the rates for 2017–2018, 2018–2019, and 2021–2022 for the various groups selected.¹² While nearly every group has experienced a decline in rates, the changes were very slight. It is also noteworthy that migrant youth experienced an increase from 2017–2018. This suggests that more needs to be done to improve the educational opportunities of all students, especially those from marginalized backgrounds, who returned to school in 2021–2022 with more intense academic and socioemotional needs due to the pandemic.

District Level

District-level rates and disparities are often more profound than the statewide rates. Districts may adopt their own policies and practices, which may lead educators to punish their students at higher or lower rates. Many districts have made more progress than the state, while other districts buck the trend and show increasing rates of lost instruction. This report highlights some of the largest differences and trends at the district level.

We first examined the distributions in the 2021–2022 rates of lost instruction across select districts for all students, for each racial/ethnic group, and for students with disabilities (IDEA). In Figure 4, we broke down the rates into five spans. The span of 20.0+ days of lost instruction per 100 students is coded red, which we designate as a “high rate,” based on our statistical analysis of the distribution.¹³ Moreover, the number of districts examined for each group (n = #) differs because we only considered districts that had five or more students enrolled and also had data on days lost, both for the respective group.¹⁴ We also excluded County Offices of Education from this distribution analysis, but their rates are included in our spreadsheet and discussed in other sections of this report.

Figure 4. District Distribution of Rates of Lost Instruction, by Race/Ethnicity and for Students with Disabilities (IDEA), 2021–2022



Source: CDE’s Downloadable Data Files and DataQuest reports for 2021–2022

Each bar in Figure 4 represents all the districts meeting the above criteria for the respective group. One can see in Figure 4 that 49% of districts had high rates of lost instruction for students with disabilities (IDEA). Similarly, African American students had rates of lost instruction in the highest range in 48% percent of the districts. The rates were also high in 39% percent of the districts for American Indian/Alaska Native students. In contrast, the rates for Asian and Filipino students were only high in 3% of districts. White students experienced rates that were high in 12% of the districts.

Rates Varied Dramatically among the 20 Districts with Largest Enrollment

We focus next on the 20 largest districts in California. We examine their racial/ethnic breakdown and rates of lost instruction for students with disabilities (IDEA) in 2021–2022. Table 3 shows a disaggregation of the rates of lost instruction for the 20 largest districts. Rates in red text are those that are high—that is, above the statistical benchmark of 20. Information in parentheses represents the amount and direction of change from 2018–2019.

Table 3. Rates of Lost Instruction in 20 Largest Districts, by Race/Ethnicity and for Students with Disabilities (IDEA), 2021–2022 (with change in rate from 2018–2019)

District (County)	All Students	African American	American Indian or Alaska Native	Latinx	Pacific Islander	White	SwD (IDEA)
1. Los Angeles Unified (Los Angeles)	0.7 (down 0.3)	2.0 (down 1.2)	2.8 (up 2.1)	0.6 (down 0.2)	0.7 (up 0.7)	0.5 (up 0.1)	1.5 (down 0.7)
2. San Diego Unified (San Diego)	7.2 (down 3.6)	16.9 (down 12.7)	5.2 (down 0.1)	9.4 (down 3.4)	7.3 (down 0.2)	3.1 (down 1.5)	17.0 (down 10.7)
3. Fresno Unified (Fresno)	19.4 (down 5.8)	48.7 (down 18.8)	25.2 (down 1.7)	18.2 (down 5.1)	14.8 (up 2.2)	18.9 (down 5.1)	39.4 (down 18.5)
4. Long Beach Unified (Los Angeles)	8.5 (up 1.4)	23.8 (up 3.4)	2.7 (down 22.6)	7.3 (up 1.4)	11.2 (down 1.3)	3.6 (up 0.5)	17.4 (up 1.0)
5. Elk Grove Unified (Sacramento)	12.2 (down 3.6)	41.6 (down 12.1)	18.6 (down 10.5)	13.0 (down 3.8)	11.9 (down 2.6)	8.8 (up 0.3)	25.9 (down 19.0)
6. San Francisco Unified (San Francisco)	5.6 (down 0.3)	30.6 (up 3.9)	11.9 (down 3.4)	6.3 (down 0.7)	12.5 (down 2.9)	2.5 (down 0.1)	19.1 (down 0.1)
7. San Bernardino City Unified (San Bernardino)	19.9 (down 4.0)	43.6 (down 12.1)	29.9 (down 8.4)	16.4 (down 3.2)	13.3 (down 24.9)	17.3 (down 2.7)	38.0 (down 16.1)
8. Corona-Norco Unified (Riverside)	12.2 (up 1.0)	31.7 (up 11.5)	13.3 (up 3.1)	14.4 (up 1.7)	22.7 (down 1.9)	7.8 (down 1.5)	28.3 (up 5.3)
9. Capistrano Unified (Orange)	4.6 (down 0.7)	7.8 (down 0.5)	0.0** (down 7.7)	7.7 (down 2.4)	1.4** (down 6.7)	3.4 (down 0.3)	18.8 (down 1.8)
10. San Juan Unified (Sacramento)	16.1 (up 0.6)	52.5 (up 1.0)	13.0 (down 12.3)	16.7 (up 0.1)	25.3 (up 8.2)	11.0 (down 0.1)	32.2 (down 0.5)
11. Oakland Unified (Alameda)	9.9 (down 2.3)	25.4 (down 2.5)	19.2 (up 13.5)	6.4 (down 2.4)	9.0 (up 2.2)	3.7 (down 0.5)	23.6 (down 9.9)
12. Santa Ana Unified (Orange)	8.8 (up 0.8)	11.0 (down 8.4)	10.3 (down 5.5)	8.9 (up 0.6)	3.1** (down 8.2)	9.3 (up 4.4)	14.7 (down 1.4)
13. Sacramento City Unified (Sacramento)	18.8 (down 2.4)	53.0 (down 5.9)	44.1 (up 17.7)	15.4 (down 3.2)	22.7 (up 3.0)	10.3 (up 1.2)	38.9 (down 9.6)
14. Kern High (Kern)	23.3 (down 0.8)	79.7 (up 12.0)	55.1 (up 42.4)	20.3 (down 2.2)	19.7 (up 4.0)	20.2 (up 0.2)	45.7 (down 6.6)
15. Clovis Unified (Fresno)	14.1 (up 0.5)	37.6 (up 2.5)	24.4 (down 5.2)	19.0 (up 0.8)	16.4 (down 2.9)	11.2 (up 0.3)	33.7 (down 6.4)
16. Riverside Unified (Riverside)	15.7 (up 0.5)	33.3 (up 8.4)	25.8 (down 25.2)	15.5 (down 0.5)	64.3 (up 50.6)	11.2 (down 0.2)	34.3 (up 1.8)
17. Stockton Unified (San Joaquin)	14.9 (down 5.1)	39.2 (down 17.9)	32.9 (up 8.8)	12.5 (down 4.0)	12.9 (down 0.4)	15.6 (down 5.5)	35.1 (down 18.4)
18. Garden Grove Unified (Orange)	8.8 (up 1.3)	15.8 (down 5.3)	12.9** (up 6.0)	12.4 (up 2.0)	35.2 (up 18.8)	7.4 (up 1.0)	22.4 (up 2.2)
19. Sweetwater Union High (San Diego)	14.9 (up 2.5)	32.8 (up 5.5)	22.9 (up 2.5)	15.8 (up 2.8)	21.9 (up 16.6)	13.2 (up 0.9)	28.7 (up 4.6)
20. Irvine Unified (Orange)	2.6 (down 0.2)	17.0 (up 1.8)	0.0** (same 0.0)	5.5 (down 1.4)	6.0** (up 6.0)	3.3 (same 0.0)	14.1 (up 1.0)

Source: CDE’s Downloadable Data Files and DataQuest reports for 2021–2022

** = had fewer than 100 students in that particular group

Note that African American students had the highest rates of all racial/ethnic groups in 17 of the 20 largest districts. And of these 20 districts, Kern High had the highest rate for African Americans, approximately 80 days lost per 100 students. The three exceptions were Los Angeles Unified School District (LAUSD), where American Indians/Alaska Natives had the highest rate (2.8) and Riverside Unified and Garden Grove Unified, where Pacific Islanders had the highest rates, at 64.3 and 35.2, respectively.

All but five of California's largest districts had high rates (20 or higher) for at least one subgroup. The five exceptions were Irvine, Santa Ana, Capistrano, San Diego, and LAUSD. In just two of these five, Capistrano and San Diego, the most recent rates (2021–2022) for every group represented a decline in the rate since 2018–2019.

The rates of lost instruction at LAUSD are most notable for how low they are for each racial/ethnic group and for students with disabilities (IDEA). In addition, their rates declined from 2018–2019 for all students, African Americans, Latinx, and students with disabilities (IDEA). However, the rates for American Indians/Alaska Natives, Pacific Islanders, and Whites increased, albeit slightly.

In 2015, LAUSD became the first California district to prohibit suspensions in grades K–12 for disruptive behavior or willful defiance. The district's school discipline reform efforts appear to be paying dividends in terms of keeping students in the classroom and reducing disparities in educational opportunity. LAUSD is far from perfect and, as CRR has reported in the past, it has had higher than average rates of referrals to police. Nevertheless, other districts can learn from what LAUSD is doing with regard to OSS; in fact, the large differences in rates among the largest districts in California beg the question, "Why can't all districts have rates of lost instruction as low as those observed in LAUSD?"

Comparisons to LAUSD: The fact that California's largest district has some of the lowest rates of lost instruction and has been among the lowest for many years makes it a suitable district to use as a comparison point. The "All Students" average is just 0.7 days per 100 students, and no group lost more than 3 days per 100. Every other large district in California has at least one group with a rate of lost instruction at least four times higher than the all student rate in LAUSD. The worst is the Kern High district, whose rate for African American students is 40 times higher than the rate for all students in LAUSD. African American rates are at least 15 times higher than those in LAUSD in 12 of the districts. Similarly, the rate for students with disabilities (IDEA) is 15 times higher than the LAUSD average in 12 districts.

To the extent that the differences in rates are caused by different policies and practices, they raise questions about the legality of the harsher discipline used in so many California districts. Specifically, the observed disparate impact between schools using harsher discipline and those that are using viable alternatives suggests a possible violation of the rights of students who are denied access to more effective discipline practices. All students deserve to be protected from policies and practices with suspect educational justification, especially considering the availability of alternative approaches. In addition to adopting the LAUSD policy of eliminating "disruption or defiance" as grounds for suspension or expulsion, even in high school, districts could make the simple policy change of reducing the maximum number of days of instruction a student can lose for any rule infraction.

Although every district with high rates in 2021–2022 should be required to make meaningful changes or be subject to further investigation, we would like to draw particular attention here to the districts that not only had high rates in 2021–2022 but also showed an increase over their rates in 2018–2019. Of the 20 largest districts, 11 had both high rates and showed an increase.

The following eight districts had high rates of lost instruction for African American students in 2021–2022 that increased over their rates in 2018–2019.

- Kern High (79.7, up 12.0)
- San Juan Unified (52.5, up 1.0)
- Clovis Unified (37.6, up 2.5)
- Riverside Unified (33.3, up 8.4)
- Sweetwater Union High (32.8, up 5.5)
- Corona-Norco Unified (31.7, up 11.5)
- San Francisco Unified (30.6, up 3.9)
- Long Beach Unified (23.8, up 3.4)

The following four districts had high rates for students with disabilities (IDEA) in 2021–2022 that showed an increase over their rates in 2018–2019:

- Riverside Unified (34.3, up 1.8)
- Sweetwater Union High (28.7, up 4.6)
- Corona-Norco (28.3, up 5.3)
- Garden Grove Unified (22.4, up 2.2)

The following four districts had high rates for American Indians/Alaska Natives that increased over their rates in 2018–2019:

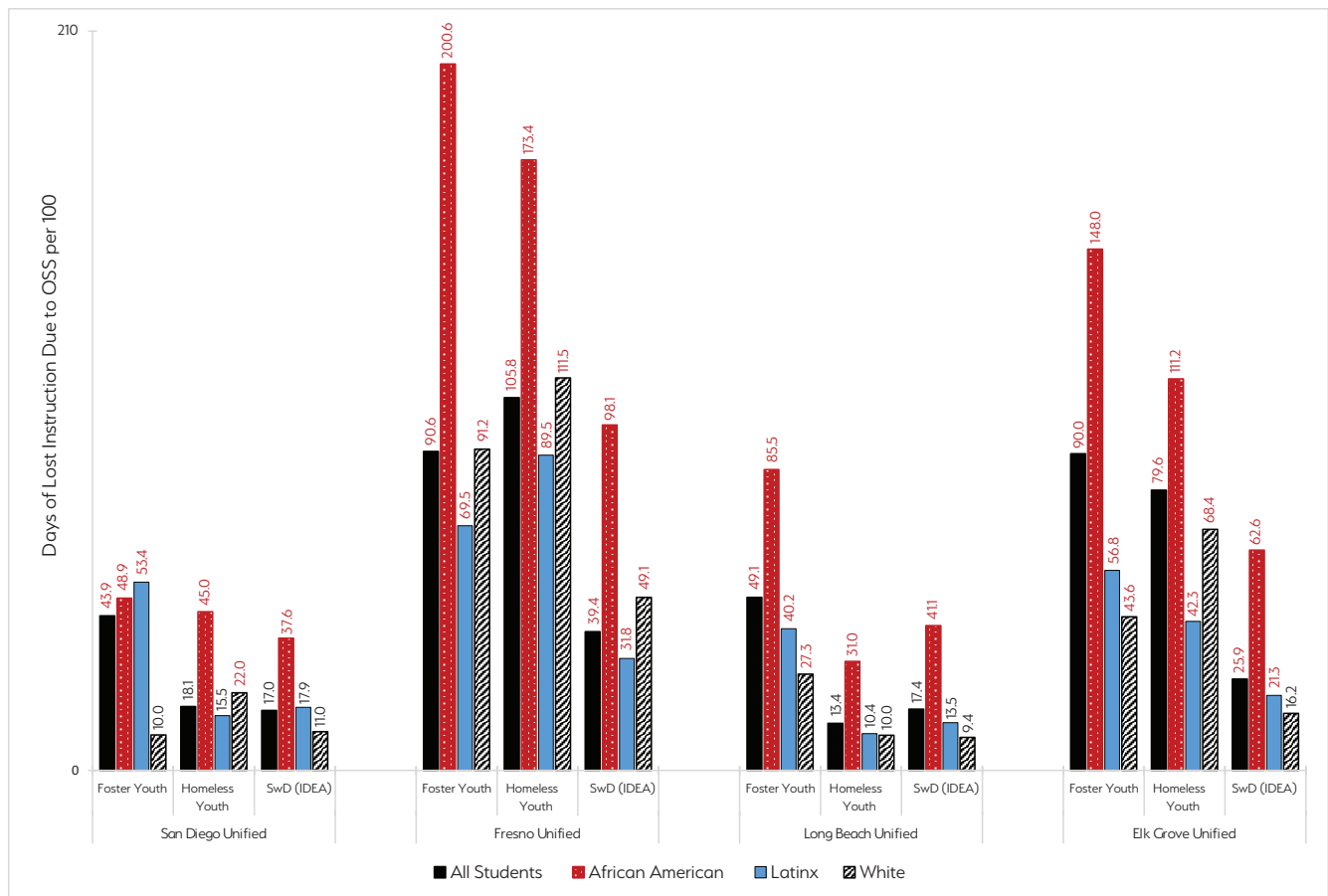
- Kern High (55.1, up 42.4)
- Sacramento City Unified (44.1, up 17.7)
- Stockton Unified (32.9, up 8.8)
- Sweetwater Union High (22.9, up 2.5)

Finally, the following six districts had high rates for Pacific Islanders in 2021–2022 that showed an increase over their rates in 2018–2019:

- Riverside Unified (64.3, up 50.6)
- Garden Grove Unified (35.2, up 18.8)
- San Juan Unified (25.3, up 8.2)
- Sacramento City Unified (22.7, up 3.0)
- Sweetwater Union High (21.9, up 16.6)
- Kern High (19.7, up 4.0)

The high and increasing rates at Kern High, Riverside Unified, and Sweetwater Union High raise serious questions. It is noteworthy that in these three districts, three or more student groups were suspended from school at a high rate in 2021–2022—each with an increase over 2018–2019 rates.

Figure 5. Rates of Lost Instruction for Foster Youth, Homeless Youth, and Students with Disabilities (IDEA) in Four of the Five Largest Districts, by Race/Ethnicity, 2021–2022



Source: CDE’s Downloadable Data Files and DataQuest reports for 2021–2022

The rates of lost instruction due to OSS for the groups featured in Figure 5 are among the highest in the state.¹⁵ Four of the five largest districts are presented.

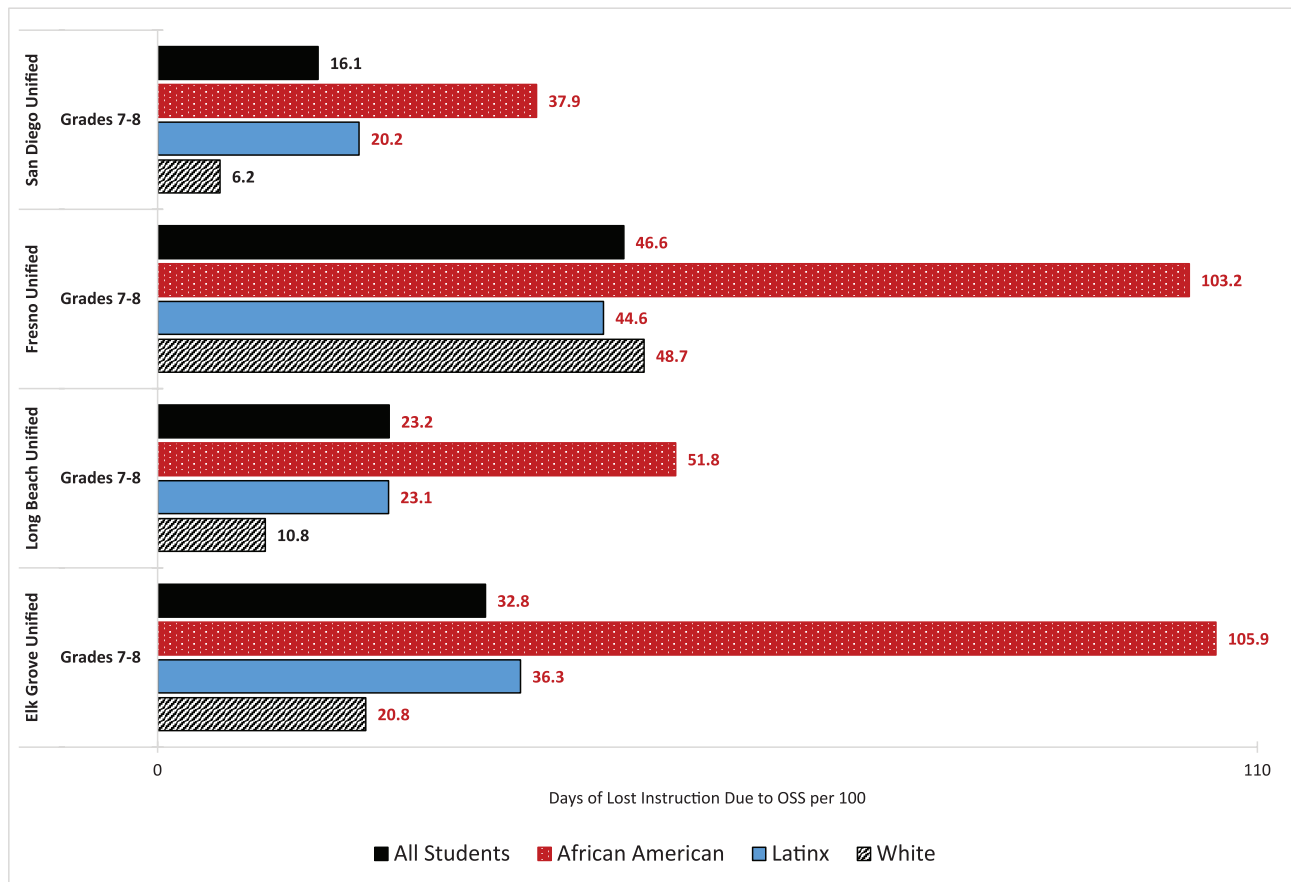
We took a closer look at the racially disaggregated rates for foster youth, homeless youth, and students with disabilities (IDEA) because they provide a stark contrast to LAUSD, California’s largest district, where no group had high rates. **Fresno Unified’s rate of 200.6 and Elk Grove Unified’s rate of 148.0 for African American foster youth stand out because they are 7–10 times higher than the high threshold (20) determined by our statistical analysis.** Latinx foster youth had the highest rate (53.4) of any group in the San Diego Unified district.

Rates for African American homeless youth were also high in each of the four large districts featured in Figure 5. **Again, the rates for African American homeless youth in Fresno Unified (173.4) and Elk Grove Unified (111.2) stand out because they are 5–9 times the statistical threshold for high rates.** These two districts also had very high rates for Latinx and White homeless youth.

African American students with disabilities (IDEA) also had high rates of lost instruction in these four large districts, and they were particularly high in Fresno Unified (98.1) and Elk Grove Unified (62.6). In these two districts, Latinx students with disabilities (IDEA) also had high rates.

The rates of lost instruction for students from high-needs groups are extreme outliers in Fresno Unified and Elk Grove Unified. It is noteworthy that in 2017, the CDE directed Fresno Unified to redirect funds they had planned to spend on police and janitorial services (as indicated in their 2016–2017 Local Control and Accountability Plan) toward supporting high-needs students, as required by law.¹⁶ The funds came from supplemental and concentration grants, which required that they be used to improve services for students belonging to high-needs groups, which includes foster youth, low-income students, and English learners (Conner et al., 2018; Losen & Martinez, 2020a). Fresno’s extremely high rates of lost instruction due to OSS raises questions as to whether they corrected their inappropriate spending of funds designated for high-needs students. Unfortunately, the CDE neither calculates nor analyzes the rates of lost instruction on a routine basis. Moreover, as CRR has asserted in prior reports, the evidence suggests that greater transparency and accountability is needed to ensure that the funds earmarked for “high needs” students are in fact spent on resources to improve their learning opportunities and outcomes (Losen et al., 2022).

Figure 6. Rates of Lost Instruction for Grades 7–8 in Four of the Largest Districts, by Race/Ethnicity, 2021–2022



Source: CDE’s Downloadable Data Files and DataQuest reports for 2021–2022

As shown in Figure 6, we broke down the rates of lost instruction for students in grades 7–8 by select racial/ethnic groups for four of California’s largest districts: Fresno Unified, San Diego Unified, Long Beach Unified, and Elk Grove Unified.¹⁷ We present the rates only for grades 7–8 because the rates are the highest for these middle grades in the vast majority of districts.

African American 7th–8th-grade students in these four largest districts had the highest rates of lost instruction, and the rates were extremely pronounced in Fresno Unified (103.2) and Elk Grove Unified (105.9). Rates were the lowest for White students in three of the four districts (San Diego Unified, Long Beach Unified, and Elk Grove Unified).

Large disparities between African American and White students were also clearly evident in each of the four districts. There were also notable disparities between Latinx and White 7th–8th-grade students in three of the four districts (San Diego Unified, Long Beach Unified, and Elk Grove Unified).

20 Districts with Highest Rates for African Americans

Of the 20 largest districts, 14 had rates of lost instruction for African American students that exceeded our statistical benchmark of 20. Among large districts in California—those with 5,000 or more students—that have at least 100 African American students enrolled, 134 districts had high rates for African Americans in 2021–2022. In Table 4, we hone in on 20 of these 134 districts with the highest rates for African American students.¹⁸ The rates in red text are high, and the information in parentheses indicates the rate of change from 2018–2019.

The 20 districts in Table 4 had rates for African American students that were 6–15 times higher than the state average rate and 3–8 times higher than the threshold for “high” rates. In 15 of the 20 districts, the African American rate of lost instruction increased from 2018–2019 to 2021–2022. In 14 of these districts, the African American-White rate gap for 2021–2022 was higher than the 2018–2019 gap.

The African American rates and African American-White disparities for all 20 districts presented in Table 4 are disconcerting; they are most disturbing for those at the top of the list. Two of the three worst districts for African American students in 2021–2022—**Lodi Unified** and **Victor Valley Union High**—were under a resolution agreement **intended to remedy racial disparities in discipline** with the U.S. Department of Education’s Office for Civil Rights (OCR). A summary of these agreements is provided below.

Table 4. 20 Districts with Highest Rates of Lost Instruction for African American Students, 2021–2022

District (County)	All Students	African American	White	African American–White Gap
1. Snowline Joint Unified (San Bernardino)	30.4 (up 5.5)	153.7 (up 84.3)	18.1 (down 4.3)	135.6 (up 88.6)
2. Lodi Unified (San Joaquin)	27.1 (up 7.4)	105.1 (up 40.6)	19.6 (up 2.8)	85.5 (up 37.8)
3. Victor Valley Union High (San Bernardino)	37.8 (up 1.2)	96.2 (up 9.0)	29.2 (up 3.4)	67.0 (up 5.6)
4. Morongo Unified (San Bernardino)	43.3 (up 10.2)	89.3 (up 11.4)	33.7 (up 3.2)	55.6 (up 8.2)
5. New Haven Unified (Alameda)	10.2 (up 2.0)	88.5 (up 59.0)	5.4 (down 3.0)	83.1 (up 62.0)
6. Antelope Valley Union High (Los Angeles)	29.7 (down 3.2)	84.2 (down 2.7)	15.8 (up 1.1)	68.4 (down 3.8)
7. Sierra Sands Unified (Kern)	40.3 (up 19.6)	83.3 (up 32.7)	36.7 (up 19.0)	46.6 (up 13.7)
8. Kern High (Kern)	23.3 (down 0.8)	79.7 (up 12.0)	20.2 (up 0.2)	59.5 (up 11.8)
9. Kern County Office of Education (Kern)	11.1 (down 6.0)	77.2 (down 12.8)	6.2 (down 1.7)	71.0 (down 11.1)
10. Lincoln Unified (San Joaquin)	39.3 (up 11.4)	76.8 (up 21.4)	33.6 (up 10.0)	43.2 (up 11.4)
11. Folsom-Cordova Unified (Sacramento)	12.5 (down 2.0)	71.4 (down 2.3)	7.4 (down 1.9)	64.0 (down 0.4)
12. Napa Valley Unified (Napa)	14.0 (up 5.8)	71.4 (up 55.0)	9.5 (up 3.9)	61.9 (up 51.1)
13. Adelanto Elementary (San Bernardino)	34.8 (up 6.4)	68.5 (down 3.0)	32.2 (up 12.4)	36.3 (down 15.4)
14. Natomas Unified (Sacramento)	25.0 (up 7.0)	65.4 (up 21.2)	12.0 (up 0.4)	53.4 (up 20.8)
15. Twin Rivers Unified (Sacramento)	23.0 (down 0.5)	65.1 (up 5.6)	17.1 (down 0.4)	48.0 (up 6.0)
16. Tracy Joint Unified (San Joaquin)	27.3 (up 4.2)	63.4 (up 20.5)	22.3 (up 4.9)	41.1 (up 15.6)
17. Turlock Unified (Stanislaus)	25.4 (up 8.4)	59.4 (up 7.4)	16.9 (up 5.0)	42.5 (up 2.4)
18. Hesperia Unified (San Bernardino)	28.2 (up 0.2)	59.1 (down 5.8)	26.5 (down 0.4)	32.6 (down 5.4)
19. San Lorenzo Unified (Alameda)	13.0 (down 0.6)	56.6 (up 12.5)	30.6 (up 15.7)	26.0 (down 3.2)
20. Morgan Hill Unified (Santa Clara)	13.7 (up 0.8)	56.4 (up 39.3)	6.9 (down 0.2)	49.5 (up 39.5)

Source: CDE’s Downloadable Data Files for 2021–2022

Victor Valley Union High had a rate of 96.2 in 2021–2022 for African American students, an increase of 9.0 from 2018–2019. The worst districts highlighted by this report should trigger an investigation by the CDE and/or the attorney general’s office for further possible discriminatory discipline. Victor Valley Union High was in fact the subject of a U.S. Department of Education OCR investigation and resolution agreement:

On August 16, 2022, OCR resolved an investigation of Victor Valley Union High School District in Victorville, California, that evaluated whether the district discriminated against Black students in violation of Title VI by disciplining them more frequently and more harshly than similarly situated white students. As part of the investigation, OCR reviewed and analyzed the district’s discipline records and data, policies and procedures, and memoranda of understanding with local law enforcement. OCR also interviewed district staff and students.

OCR’s investigation found a pattern of harsher and more frequent disciplinary actions across types of discipline, schools, and grade levels for Black students than their white peers, resulting in significantly greater lost learning time for Black students. (U.S. Department of Education & U.S. Department of Justice, 2023, p. 2).

It is possible that the resolution agreement will be successful in reducing the high rates and large racial disparities. However, we suggest that additional monitoring by state enforcement agencies is warranted, given that federal enforcement efforts do not always yield the desired reductions, as appears to be the case with Lodi Unified.

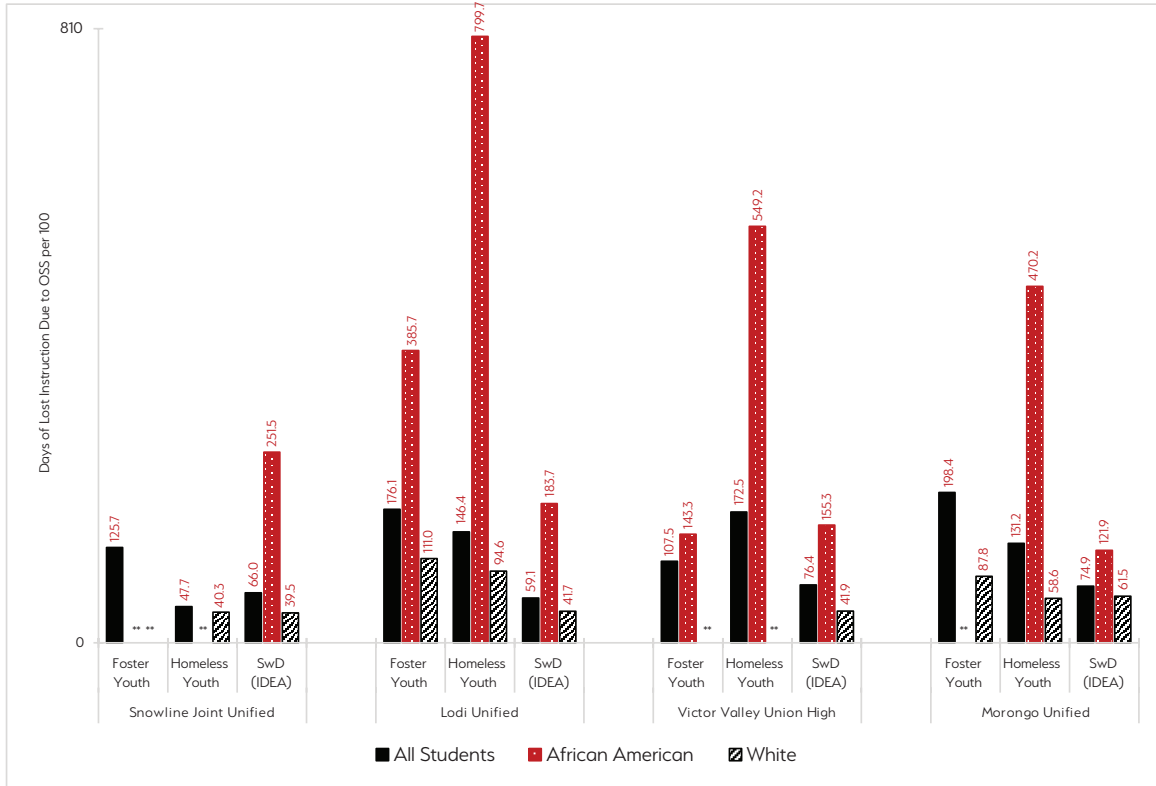
Lodi Unified had a rate of 105.1 in 2021–2022, an increase of 40.6. Like Victor Valley Union High, Lodi Unified was once the subject of an OCR investigation for discriminatory discipline and entered into a resolution agreement with OCR more than seven years ago. However, this more recent data suggests that serious problems remain and, based on rates of lost instruction, appear to have gotten worse over the last four years:

On August 24, 2016, OCR resolved a complaint alleging racial discrimination in student discipline in Lodi Unified School District in California. OCR investigated whether the district discriminated against a Black student who was disciplined for hitting a white student after the white student called him a racial epithet. OCR also investigated whether the district treated Black students more harshly than white students in disciplinary procedures and whether the district’s discipline policies and procedures had an unjustified discriminatory effect on Black students in violation of Title VI and its implementing regulations.

OCR’s investigation (prior to the 2016 agreement) determined that, while the district followed its written discipline policies in disciplining the Black student, the district did not follow these policies in disciplining the white student, who was given more lenient consequences than the written policy called for. OCR also identified compliance concerns with respect to whether the district treated Black students overall more harshly in discipline than white students. (U.S. Department of Education & U.S. Department of Justice, 2023, pp. 12–13)

It is disconcerting that Lodi Unified’s rates of lost instruction for African American students are extremely high and that they continued to rise, despite earlier civil rights enforcement actions by the OCR that resulted in the passing of a resolution agreement in 2016 aimed at reducing high rates and large racial disparities. This suggests that future resolution agreements should be more closely monitored. This would ideally involve local community groups as well as the CDE, and possibly state civil rights enforcement agencies.

Figure 7. Rates of Lost Instruction for Foster Youth, Homeless Youth, and Students with Disabilities (IDEA) in the Four Districts with Highest Rates for African American Students, by Race/Ethnicity, 2021–2022



Source: CDE’s Downloadable Data Files and DataQuest reports for 2021–2022
 ** = had fewer than 20 students

Earlier in this report, we noted that four of the largest districts in California (San Diego Unified, Fresno Unified, Long Beach Unified, and Elk Grove Unified) had alarmingly high rates of lost instruction due to OSS for African American foster youth, homeless youth, and students with disabilities (IDEA). When we looked at the same breakdowns for the four districts with the highest rates for African Americans, which are provided in Figure 7, the rates for African American foster, homeless, and students with disabilities (IDEA) dwarf the high rates in the largest districts.

African American homeless youth in Lodi Unified, Victor Valley Union High, and Morongo Unified had the highest rates of lost instruction per 100 students—800, 549, and 470 (days lost per 100), respectively. *This should shock the conscience.* In Lodi Unified and Morongo Unified, White homeless youth also had high rates—95 and 59, respectively—but these rates were still significantly lower than those for the African American homeless youth in these districts. It is clear that educators in these districts are denying African American homeless youth access to school for disciplinary reasons. This means that they are sending these students back to their unstable home environments, or in some cases the streets, thereby exposing them to a host of additional risks.

African American foster youth at Lodi Unified and Victor Valley Union High had extremely high rates of lost instruction, 386 and 143, respectively. Moreover, across all four districts, African American students with disabilities (IDEA) had very high rates of lost instruction per 100 students—substantially higher than the rates for White students with disabilities (IDEA) in these districts. Are these students being punished and denied access to education for behaviors caused by their disability?

Discussion

When considering the impact suspensions have on youths' educational opportunity, it is important to realize that suspensions are merely punishments and are not designed to teach appropriate behavior. Suspensions are essentially non-interventions that have counterproductive effects (APA Zero Tolerance Task Force, 2008). Suspension is a punishment that, in fact, has not proven effective in improving the achievement of suspended youth or had the desired long-term impact on the learning environment. Out-of-school suspensions are hard to justify as educationally necessary because they do not produce the desired improvement to behavior, they harm the educational outcomes of the suspended students, and they are less effective than the numerous alternatives, less punitive approaches to student misconduct (Brookings, 2023). When properly implemented, alternative approaches such as restorative practices have proven to be more effective. For example, a study with California students on restorative practices by Sean Darling-Hammond and WestEd researchers (2021) found that a higher level of exposure to restorative justice practices actually reduces Black-White suspension gaps. It also is associated with higher GPAs. Teacher training designed to improve student engagement has also been shown to both help improve achievement and reduce office referrals for student misconduct (Gregory, 2015). Considering the many alternative interventions available and the harm done by suspending a student, the utility and legality of continuing an ineffective practice with a disparate impact by race and disability comes into question (Losen, 2011).

Although a complete legal analysis is beyond the scope of this report, the descriptive data presented raise concern that the policies and practices contributing to the disparate impact of a punitive discipline policy may be unlawful. In New Jersey, for example, the state attorney general recently issued guidance with many examples of common discipline policies that may violate that state's law (State of New Jersey, Office of the Attorney General, 2023). Recently available federal resources on discipline detail how OCR and the U.S. Department of Justice have investigated discipline policies and practices that appeared to have a disparate impact, along with the resulting legal settlements (U.S. Department of Education & U.S. Department of Justice, 2023). The disparate impact a punitive discipline policy or practice can have on homeless youth may also violate the McKinney Vento Act. Moreover, as we cover in great detail in CCRR's report, *Disabling Inequity*, it is a well-established form of disability discrimination to punish students with disabilities for behaviors that they cannot control, and/or to deny them the behavioral supports and procedural protections against unjust punishment that are required by law (Losen, 2021). Ultimately, common sense should drive policymakers to end the use of counterproductive policies and practices and to meet the behavioral needs of students so they can remain in school. If viable alternatives cause less lost instruction time, sticking with an approach that causes greater lost instruction is not only bad policy, it also likely violates the civil rights of certain students groups who suffer disparate harm.

Based on the findings in this report, we see that California educators in 2021–2022 caused foster and homeless youth—two groups the CDE considers high need—to lose the highest number of instructional days. We also see a confluence of race/ethnicity, as African American foster and homeless youth often had the highest rates of lost instruction due to out-of-school suspension.

Although California has made substantial strides in its school discipline reform efforts, foster and homeless youth—especially those who are African American—are losing their right to equal educational opportunity because they are being suspended from school in a manner that causes extreme disparities in lost instruction. We hope this report will convince policymakers and stakeholders of the need to investigate these issues further, to hold the state and the offending districts accountable, and to devote the necessary resources to keeping California's high-needs students—in particular foster and homeless youth—in school.

Recommendations

Transformative changes are needed at the state and district levels to protect all of California's students from losing valuable instruction time by being removed from school. Although not the topic of this report, CCRR and others have published research exploring the many reasons for students' misconduct. They also address the numerous interventions that are more effective than suspension, can help prevent a reoccurrence of misconduct, and can improve learning conditions for all students. Based on the observed disparities in this report, we recommend that education agencies in California invest more heavily in alternative practices that will improve behavior and reduce suspensions, including but not limited to investing in restorative justice practices in California that were the focus of the research by Darling-Hammond and Wested (2021) referenced earlier, and the type of teacher training program focused on improving student engagement that was the subject of research by Anne Gregory (2015). The latter was included in the CCRR book, *Closing the School Discipline Gap: Equitable Remedies for Excessive Exclusion* (Losen, 2015).

Further, as with our prior reports, we point out that the research does not support using disciplinary removal for minor misconduct, including suspending students for disruption or willful defiance. The research supports eliminating disciplinary removal for all categories of minor misconduct and responding, instead, by using restorative practices, social and emotional learning, additional supports and training for teachers, and school-wide tiered systems of positive behavioral interventions and supports. Therefore, we applaud Governor Newsom for extending the prohibition on the use of suspension and expulsion to the disruption/defiance category, and urge district administrators to not only fully implement this limit, but to also eliminate other grounds, such as tobacco use, profanity, and vulgarity as grounds for suspension or expulsion. As the new law is implemented it will be important to track the total amount of lost instructional time to ensure that suspensions for these and other misconduct categories do not simply replace suspensions for disruption or defiance. Below we offer some additional recommendations for systemic changes in California schools that will help keep all students in the classroom, especially those from high-needs groups (Losen et al., 2022).

1. The rates of lost instruction due to OSS should be included as part of California's school (and district) dashboard, school accountability report card, and added to California's accountability system. Suspension rates are currently the only state discipline indicator in California's accountability system. Including discipline in the accountability system may have contributed to the slight decline in rates of lost instruction, yet this added piece of accountability has not effectively addressed the disparate impact of suspensions on foster and homeless youth, or for any of the groups whose performance is reported on each school's and district's data dashboard and report card. There also is insufficient accountability for districts that continue to show very high rates of lost instruction, and where racial disparities have widened. We suggest that, to address the impact of exclusionary discipline on educational opportunity more effectively, the state accountability system should take into account the increase or decrease in the rates of lost instruction, as calculated in this report using census enrollment.

2. The CDE should make the data on the number of school days absent due to OSS more visible and accessible. Currently, the data from the CDE that this report analyzed must be downloaded from files the CDE posts regarding data on reasons for absenteeism. There is no indicator on the website that the raw counts of days lost due to OSS are available. The raw data are provided by the CDE, but CDE calculates no rates of lost instruction. It is unlikely that district-level educators calculate or track rates of lost instruction. Moreover, the data are only provided on a broad level for groups (e.g., across all foster youth and homeless youth), but not

for cross-sections with race/ethnicity (e.g., Black foster youth and White foster youth). On DataQuest, one can request these cross-sections, but only the relative share or the contribution to chronic absenteeism is presented. This is an abstract and relative reference to the impact from suspensions. Because it is only made in the context of chronic absenteeism, the direct impact of OSS on the opportunity to learn remains mostly hidden from public view. Moreover, because the data are counts of days lost, and not of students, there is little to no risk of disclosing personally identifiable information.

3. The data on the number of days absent due to OSS should be disaggregated by reason of offense. It is well established that students of color are suspended at substantially higher rates than White students for offenses that require greater subjective interpretation from educators—offenses that are susceptible to educators’ racial stereotypes (Okonofua et al., 2016). However, the data on days of lost instruction are not further disaggregated by reason for suspension in the way data on the counts of suspensions are. CDE could make the disparate impact of policies on race and disability clearer if they were to publicly report the raw counts of days lost with further disaggregation by type of offense.

4. Closer scrutiny of district Local Control and Accountability Plans is needed. In prior CCRR reports, we included several studies of the Local Control Funding Formula. We also pointed out a general lack of oversight and transparency over the spending of funds earmarked to support the achievement of high-needs groups, including foster youth and homeless youth (Losen et al., 2022; Losen & Martinez, 2020a). As part of the Local Control Funding Formula, districts are provided with supplemental and concentration grants that are required to be used to increase or improve services for high-needs students, including foster youth, homeless youth, low-income students, and English learners. CCRR’s prior reports have noted that many districts have spent these funds inappropriately (Losen et al., 2022). We note here that Fresno Unified—one of the largest districts that had high rates of lost instruction for foster and homeless youth—had previously used money from their supplemental grants for police and custodial services (Conner et al., 2018). The high rates of lost instruction across the districts examined here further support our prior call to ratchet up the monitoring of and accountability for the use of the supplemental and concentration grants. Greater oversight will help to ensure that districts obey the spending rules and devote the necessary resources to support students who are in foster care and/or experiencing homelessness.

5. Districts should eliminate the practice of spending education funds on school policing and provide more funding to identify and support students with behavioral needs. In CCRR’s prior reports, we demonstrated that there was a positive correlation at California’s high schools between having higher numbers of police on campus and higher rates of lost instruction, especially for Black high school students (Losen & Martinez, 2019). Other research has demonstrated that increasing the police presence at schools does not improve safety, and is associated with higher suspension rates, especially for students of color (Losen, 2015; Perera & Diliberti, 2023). Research also indicates that there are insufficient resources dedicated to behavioral supports for students and insufficient numbers of student support staff (Learning Policy Institute, 2023; Perera & Diliberti, 2023). Further, many districts in California are failing to identify and support students who have disabilities and are eligible pursuant to Section-504 only (Losen et al., 2021).

6. More extensive monitoring and enforcement by California’s state agencies is needed to protect students from harmful district policies and practices. The CDE should do more to provide technical assistance to districts that are struggling to improve the school climate. The districts with the highest rates of lost instruction

and the largest disparities should be held accountable for making meaningful changes to improve the school climate. Districts that fail to take meaningful steps should be subject to intervention by state enforcement agencies and subsequent monitoring.

7. Urgent attention and increased accountability is needed to protect the students most seriously harmed by discriminatory discipline. It goes without saying that there should be greater oversight and accountability whenever data indicate a systemic failure to meet the needs of children. However, when educationally unsound, ineffective, and punitive exclusionary discipline practices are the most frequent response to students who are both high needs and among the racial/ethnic groups exposed most often to racially discriminatory discipline policies, the state should be prompted to take much stronger action.

Unfortunately, the children who need the most support and lifting up—foster and homeless youth of color—are the ones being harmed most severely by educators’ decisions to remove them from school and send them home. The data provided in this report indicate that current federal and state interventions provide insufficient protection from these harms. We hope this report will catch the much-needed attention of policymakers, stakeholders, and advocates on the ground. These students have a right to improved oversight and increased district accountability, especially in districts where the data show that they are being disparately denied their educational opportunity, due to the unjustifiable use of exclusionary discipline.

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Appendix A. Rationale for Using Census Enrollment versus Cumulative Enrollment

The enrollment number used in this report is recorded on the first Wednesday of October each year, also known as Census Day (CDE, 2023a).

The U.S. Department of Education's Office for Civil Rights uses similar enrollment data, which is a snapshot from October 1st (or school day closest to this date), in calculating discipline rates for every school and district in the nation, including in California (U.S. Department of Education, 2020–2021, n.d.). The U.S. Department of Education's Office of Special Education Programs also uses enrollment data from October in calculating California's suspension rates for students with disabilities (U.S. Department of Education, 2023). Moreover, in California, the Local Control Funding Formula requires Local Educational Agencies to report census enrollment numbers for foster youth, low-income students, homeless youth, and English learners, for the purposes of calculating supplemental and concentration grants to districts (California Department of Education [CDE], 2023c). This report is born out of the well-established concern that discipline disparities may implicate unjustified policies and practices that violate the rights of students. Therefore, we calculate the rates of lost instruction consistent with these well-established practices of education agencies that have been analyzing discipline disparities for decades.

Cumulative enrollment is the total unduplicated enrollment number for the entire academic year (CDE, 2022e). As the name implies, students who attend for any part of the school year, even just for one day, are included in the cumulative enrollment counts. It is quite possible that a school district can have a census enrollment of 200 and a cumulative enrollment of 600, and yet never have an average daily attendance of 200 students. For example, if three groups of 200 students were each enrolled for a third of the year and we prorated their total enrollment count by their actual time enrolled, that would be the equivalent of 200 full-year students. Another reason we used census enrollment is that, during our work with school districts, we became aware that the use of census enrollment seriously and artificially deflated the suspension rates for Black students and students with disabilities (Losen & Martinez, 2020a).¹⁹ The distortion is likely to occur because cumulative enrollment does not subtract any students when they leave, and students who are enrolled only for a small part of the year cannot contribute to the days of lost instruction to the same degree as a student who is enrolled all year. Using cumulative enrollment becomes especially problematic when looking at highly mobile student populations, such as foster and migrant youth, who may be moving between schools in an academic year and enrolled in each for a limited amount of time (Losen & Martinez, 2020a).

The cumulative enrollment number will almost always be larger than the census enrollment number. Because enrollment is the denominator used in calculating the rates of lost instruction, a larger enrollment number will deflate the rate. As an example, let us consider statewide African American foster youth in grades 7–8 in 2021–2022. The number of days lost due to out-of-school suspension (OSS) is 1,785. The census enrollment is 706 and the cumulative enrollment is 987. Using census enrollment, the rate of lost instruction for African American foster youth in 7th and 8th grades is 252.8 per 100 enrolled, whereas the rate based on the cumulative enrollment is 180.9 per 100; this is a large rate difference, 71.9 days of lost instruction per 100 students.

Appendix B. Methodology for Calculating Cross-Sectional Rates of Lost Instruction

In order to calculate the intersectional rates of lost instruction for foster youth, homeless youth, and students with disabilities (IDEA) by race/ethnicity, we had to use the DataQuest data to impute the *number of days absent due to OSS* for such intersections. This is because the intersectional data was not provided in the downloadable files made available to the public. However, DataQuest provides enough information to impute the number of days absent due to OSS for such disaggregation. DataQuest's *Absenteeism data* gives data on the *count of students with one or more absences*, *average days absent*, and *OSS absences as percentages*, which enables us to back-fill the *number of days absent due to OSS* for these intersections.

For example, consider DataQuest's *Absenteeism data* for African American foster youth at the state level for 2021–2022. Their *count of students with one or more absences* is 7,031 and the *average days absent* is 25.7. DataQuest provides the *percentages of absences due to OSS*, which was 3.7%. The first step was to multiply the count of students with one or more absences by the average days absent ($7,031 \times 25.7$). In this example, the *total days absent* equaled 180,697. Then we multiplied the total days absent by the percentage of absences due to OSS ($180,696.7 \times 0.037$) to produce the *number of days absent due to OSS* for African American foster youth at the state level. In 2021–2022, that number was 6,686.

The calculated *number of days absent due to OSS* may contain small error due to rounding. To get a sense of how much error the rates of lost instruction may contain, the actual rates for broad groups (i.e., all students with disabilities [IDEA]) without imputation were compared to the imputed rates using this method.²⁰ Subtracting the imputed rates from the actual rates, the lowest difference was 0.0²¹ and the greatest absolute difference was 2.6.²² Therefore, where this report used imputed rates, we determined that they are highly accurate.

Specifically, besides the racial/ethnic disaggregation of rates for foster youth, homeless youth, and students with disabilities (IDEA), imputed rates were also calculated for the racially disaggregated rates for socioeconomically disadvantaged students, English learners, and migrant youth. These imputed cross-sectional rates by race/ethnicity are provided in the supplemental Excel file, *Cross-Sectional Rates of Lost Instruction Due to OSS for CA Statewide and Select Districts_2021-22_CRP CCRR_10.23*.

It should be noted that, where DataQuest reported 0.0% for OSS absences (percentage), by cross-referencing with other sources in some cases we determined that there had been days lost, and it would be misleading to replicate that error.

In the Excel file, *Cross-Sectional Rates of Lost Instruction Due to OSS for CA Statewide and Select Districts_2021-22_CRP CCRR_10.23*, the 0.0% instances for *OSS absences (percentage)* are color coded yellow to indicate that it is in fact 0 (*total suspensions* = 0), orange to indicate that it is not 0 (*total suspensions* > 0), and blue to indicate that it is unknown whether or not it is 0. For additional information on how we treated 0.0% for OSS absences, please contact the authors. We did this because, in districts where students lost instructional time due to OSS, it otherwise would have appeared as having no loss of instruction.

Note, in Figures 5-7 where cross-sectional rates are provided at the district level, we only provided data for a cross-sectional group if their enrollment was 20 or more students.

Appendix C. Methodology for Calculating the Per-District 1 Standard Deviation above the Mean for All Students

For each district, a method was created for determining whether rates were “high.” The benchmark used to flag high rates was a rate equal to or greater than one standard deviation ($\geq 1SD$) above the statewide per-district average rate for all students. Researchers commonly use this statistical technique of calculating the standard deviation and adding it to the average to get a sense of scores that are low and high, relative to the average (Johnson, 2009; Losen & Martinez, 2020a, p. 48).

Note that only districts that met the following criteria were included in producing this benchmark: (1) the count of days lost due to OSS was not missing, (2) African American enrollment was greater than 4, and (3) it was not a county offices of education district. This inclusion criteria was adopted from CCRR’s 2020 report, *Is California Doing Enough to Close the School Discipline Gap?* by Losen and Martinez.

In 2021–2022, 635 districts met the inclusion criteria; across these districts, the mean rate of lost instruction was 10.54, and 1SD was 9.19, which resulted in the **benchmark rate of 20**. Eighty-five percent (85%) of districts had a rate of lost instruction for all students that did not reach or exceed the 1SD above the mean mark, whereas 15% of districts had a high rate. Therefore, a district with a high rate will be higher than the rate of most other districts.

Appendix D. Data Sources for Figures

Figure 1. Statewide Rates of Lost Instruction, by Group, 2021–2022

- Data used in calculating the rates were obtained from the CDE’s Downloadable Data Files titled [Absenteeism Reason](#), and DataQuest reports titled [Enrollment Multi-Year Summary by Ethnicity](#) and [Enrollment by Ethnicity and Grade](#).

Figure 2. Statewide Rates of Lost Instruction for Foster Youth, Homeless Youth, and Students with Disabilities (IDEA), by Race/Ethnicity, 2021–2022

- Data used in calculating the rates were obtained from the CDE’s Downloadable Data Files titled [Absenteeism Reason](#), and DataQuest reports titled [Absenteeism by Reason](#) and [Enrollment Multi-Year Summary by Ethnicity](#).

Table 1. Statewide Gaps in Rates of Lost Instruction, 2021–2022

- Note: Data used in calculating the rates were obtained from the CDE’s Downloadable Data Files titled [Absenteeism Reason](#), and DataQuest reports titled [Enrollment Multi-Year Summary by Ethnicity](#) and [Enrollment by Ethnicity and Grade](#).

Figure 3. Statewide Rates of Lost Instruction for Grades 7–8, by Race/Ethnicity, 2021–2022

- Data used in calculating the rates were obtained from the CDE’s Downloadable Data Files titled [Absenteeism Reason](#), and DataQuest reports titled [Absenteeism by Reason](#) and [Enrollment by Ethnicity and Grade](#).

Table 2. Statewide Trends in Rates of Lost Instruction, by Group, 2017–2018, 2018–2019, and 2021–2022

- Data used in calculating the rates were obtained from the CDE’s Downloadable Data Files titled [Absenteeism Reason](#), and DataQuest reports titled [Enrollment Multi-Year Summary by Ethnicity](#) and [Enrollment Multi-Year Summary by Grade](#).

Figure 4. District Distribution of Rates of Lost Instruction by Race/Ethnicity and for Students with Disabilities (IDEA), 2021–2022

- Data used in calculating the rates were obtained from the CDE’s Downloadable Data Files titled [Absenteeism Reason](#) and [Census Day Enrollment by School](#), and DataQuest reports titled [Enrollment for Charter and Non-Charter Schools \(with district data\)](#).

Table 3. Rates of Lost Instruction in 20 Largest Districts, by Race/Ethnicity and for Students with Disabilities (IDEA), 2021–2022 (with change in rate from 2018–2019)

- Data used in calculating the rates were obtained from the CDE’s Downloadable Data Files titled [Absenteeism Reason](#) and [Census Day Enrollment by School](#), and DataQuest reports titled [Enrollment for Charter and Non-Charter Schools \(with district data\)](#).

Figure 5. Rates of Lost Instruction for Foster, Homeless, and IDEA Youth in Four of the Five Largest Districts, by Race/Ethnicity, 2021–2022

- Data used in calculating the rates were obtained from the CDE’s Downloadable Data Files titled [Absenteeism Reason](#), and DataQuest reports titled [Absenteeism by Reason](#) and [Enrollment Multi-Year Summary by Ethnicity](#).

Figure 6. Rates of Lost Instruction for Grades 7–8 in Four of the Largest Districts, by Race/Ethnicity, 2021–2022

- Data used in calculating the rates were obtained from the CDE’s Downloadable Data Files titled [*Absenteeism Reason*](#), and DataQuest reports titled [*Absenteeism by Reason*](#) and [*Enrollment by Ethnicity and Grade*](#).

Table 4. 20 Districts with Highest Rates of Lost Instruction for African American Students, 2021–2022

- Data used in calculating the rates were obtained from the CDE’s Downloadable Data Files titled [*Absenteeism Reason*](#) and [*Census Day Enrollment by School*](#).

Figure 7. Rates of Lost Instruction for Foster, Homeless, and IDEA Students in the Four Districts with Highest Rates for African American Students, by Race/Ethnicity, 2021–2022

- Data used in calculating the rates were obtained from the CDE’s Downloadable Data Files titled [*Absenteeism Reason*](#), and DataQuest reports titled [*Absenteeism by Reason*](#) and [*Enrollment Multi-Year Summary by Ethnicity*](#).

Endnotes

¹ This report uses the term “high needs” the same way it is used by the California Department of Education in published reports. It includes English learners, students from low-income households, as well as foster youth and homeless youth (CDE, 2020, 2022f). These are the same student groups that are used by the state in the Local Control Funding Formula to weight funding to districts, including the supplemental and concentration grant funds that are earmarked for supporting the academic success of students in these groups (CDE, 2022f; Hill & Ugo, 2015; Rose & Weston, 2013).

² Foster youth are children and youth who are either “dependents of the court due to the presence or risk of abuse and neglect” or “wards of the court due to the child’s violation of certain criminal laws” (CDE, 2020, p. 188). They may have been removed from their home and placed in foster care (CDE, 2020). Homeless youth are children and youth who “lack a fixed, regular, and adequate nighttime residence” (CDE, 2023b). They may be living in motels or hotels, vehicles, shelters, or other dwellings (CDE, 2020, 2023).

³ Rumberger and Losen (2017) indicate that *social losses* include losses that are personally incurred, such as higher healthcare costs and having a lower income, and *fiscal costs* include losses by local, state, and federal government (p. 8).

⁴ The rationale for using census enrollment versus cumulative enrollment is provided in Appendix A.

⁵ We calculated/imputed the number of days absent due to OSS for cross-sections (i.e., racial/ethnic breakdowns for foster youth) using DataQuest’s [Absenteeism Data](#), since the CDE does not provide the raw counts for such disaggregation. See Appendix B for details on how we calculated these data and rates for cross-sections.

⁶ Each group consisted of 100 or more students. The racial/ethnic groups “Two or More Races” and “Race/Ethnicity Not Reported” were not included in any chart or table because it is unknown what the racial/ethnic breakdowns are in those groups.

⁷ Each “All Students” group and cross-sectional group consisted of 100 or more students. See Appendix B for more details on how we calculated the cross-sectional rates. “Asian” and “Filipino” were not included in charts that disaggregated groups (i.e., foster youth, grade K) by race/ethnicity and in tables that provided breakdowns for racial/ethnic groups and students with disabilities for select districts. They were not included because both groups tended to have low rates that were lower than the other racial/ethnic groups, and this was consistent when looking at rates for racial/ethnic groups broadly or within each group at the state level and for select districts. Data for all racial/ethnic groups for all tables and charts in this report can be found in the supplemental Excel file, *Cross-Sectional Rates of Lost Instruction due to OSS for CA Statewide and Select Districts_2021–22_CRP CCRR_10.23*.

⁸ Each group had 100 or more students. For comparisons between racial/ethnic groups, White students were the comparison because “these students are the least likely to face racial discrimination in school discipline” (Losen et al., 2022, p. 11). For comparisons between grade spans, students in grades K–6 were the comparison because elementary school students tend to have the lowest out-of-school suspension rates (Losen et al., 2015). The CDE (n.d.) describes elementary as consisting of K- through 6th-grade students, middle grades as consisting of 6th- through 8th-grade students, and high school as consisting of 9th- through 12th-grade students. It would be ideal to lump 6th grade with 7th and 8th grades, since middle school is typically comprised of grades 6–8, as students in 6th grade enter adolescence and undergo various physical and social changes. Educators’ expectations of students shift in middle school, such that students may be expected to be more independent and able to exert more self-control (CDE, n.d.; Mendez & Knoff, 2003). In other words, the experiences and treatment of 6th-grade students may be more similar to those of 7th- and 8th-grade students than K–5 students. Unfortunately, we could not disaggregate the 6th grade and lump it with 7th and 8th grades because the CDE lumps it with 4th and 5th grades in the publicly available data in the downloadable data files and DataQuest. For non-foster youth, non-homeless youth, non-IDEA, non-socioeconomically disadvantaged, and non-English learners, the number of days they were absent due to out-of-school suspension was calculated by subtracting their counterpart’s number of days absent due to out-of-school suspension from the number for all students.

⁹ The rate differences provided may differ slightly from when the presented rates are subtracted because of rounding.

¹⁰ Readers should note that the data in this report were provided after the conclusion of the school year and do not include days lost from expulsions or other exclusionary discipline, such as days lost resulting from disciplinary transfers, in-school suspensions, or interim removals that would ultimately be attributable to an expulsion.

11 The “All Students” group and each cross-sectional group consisted of 100 or more students. See Appendix B for more details on how we calculated the cross-sectional rates.

12 Each group in each academic year consisted of 100 or more students. The absenteeism data are not reliable for 2019–2020 and 2020–2021. The CDE (2022a) states: “The COVID-19 pandemic resulted in statewide physical school closures in February/March 2020 followed by the widespread implementation of distance learning during the 2020–21 academic year. The California Department of Education (CDE) has determined that absenteeism data are **not** valid and reliable for the 2019–20 academic year; therefore, the CDE has not processed these data and they are unavailable for public release. The CDE recommends caution when comparing *absenteeism* data across academic years.”

13 This benchmark of 20.0 represents the per-district one standard deviation above the mean rate, which statistically indicates that the majority of districts will have an “All Students” rate that is less than the benchmark. Therefore, we consider 20.0 a “high rate” because districts with this rate will be higher than most other districts. See Appendix C for more details on how we calculated the benchmark, and its interpretation.

14 The number of districts for each group that had 5–99 students were as follows: 31 districts for all students; 280 districts for African American students; 379 districts for American Indians/Alaska Natives; 242 districts for Asians; 220 districts for Filipinos; 108 districts for Latinx; 255 districts for Pacific Islanders; 140 districts for Whites; and 225 districts for students with disabilities (IDEA).

15 Each “All Students” group and cross-sectional group consisted of 20 or more students.

16 Elk Grove Unified, in their Local Control and Accountability Plan for 2021–2022, also planned to spend money from the supplemental grant that was meant for high-needs students on custodial services (Elk Grove Unified School District, 2021; Losen & Martinez, 2020a).

17 Each “All Students” group and cross-sectional group consisted of 20 or more students.

18 Each group in each district consisted of 100 or more students.

19 See, e.g., *Vancouver Public School committee hears consultant’s report on discipline equity*.
<https://vansd.org/vps-committee-hears-consultants-report-on-discipline-equity/>.

20 The broad groups included all students, each racial/ethnic group, students with disabilities (IDEA), students without disabilities (non-IDEA), socioeconomically disadvantaged, non-socioeconomically disadvantaged, homeless youth, non-homeless youth, foster youth, non-foster youth, English learners, non-English learners, migrant, non-migrant, and each grade span.

21 The following groups had the lowest rate difference of 0.0: at the *state level*, Asian students, English learners, students in grades 1–3, and students in grades 7–8; for *San Diego Unified*, homeless youth; for *Fresno Unified*, Asians and those who did not report their race/ethnicity; for *Long Beach Unified*, students without disabilities (non-IDEA), non-socioeconomically disadvantaged, and 7th- and 8th-grade students; for *Elk Grove Unified*, students without disabilities (non-IDEA); for *Snowline Joint Unified*, Pacific Islanders and K students; for *Victor Valley Union High*, Filipinos; for *Morongo Unified*, English learners; for *Lincoln Unified*, students without disabilities (non-IDEA), socioeconomically disadvantaged, and homeless youth; for *Gilroy Unified*, Pacific Islanders; for *Turlock Unified*, Filipinos and 7th- and 8th-grade students; for *Santa Rosa High*, Whites, K students, and 1st- through 3rd-grade students; and for *Chico Unified*, 1st- through 3rd-grade students.

22 Students in grades 4–6 for Lodi Unified had the greatest rate difference, 2.6.