

NOT MEASURING UP: THE STATE OF SCHOOL DISCIPLINE IN MASSACHUSETTS



LAWYERS' COMMITTEE
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ABOUT THE LAWYERS' COMMITTEE FOR CIVIL RIGHTS AND ECONOMIC JUSTICE

The Lawyers' Committee is a private, nonprofit, nonpartisan legal organization that provides pro bono legal representation to victims of discrimination based on race or national origin. The Committee's mission is to provide a safeguard for the civil, social, and economic liberties of residents of Greater Boston and throughout Massachusetts. Starting with its role in filing *Morgan v. Hennigan*, Boston's school desegregation case, the Lawyers' Committee has worked to protect the civil and educational rights of Massachusetts' students. Today, the Committee's Education Project addresses a variety of matters of educational equity in the Commonwealth, including school discipline, student assignment, student transportation, and teacher diversity.

ABOUT THIS REPORT

This report analyzes school discipline data from the 2012-13 school year – the most recent data available – published by the Massachusetts Department of Elementary and Secondary Education. For a host of resources related to this report, including a toolkit for communities looking to improve school discipline in their district, please visit:

WWW.LAWYERSCOM.ORG/NOT-MEASURING-UP

LAYOUT AND DESIGN

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Included is a photo from a listening action conducted by the Youth Organizers United for the Now Generation (YOUNG) Coalition, which is led by the Boston Student Advisory Council and the Boston-Area Youth Organizing Project. This action was held in October, 2014, as part of the Dignity in Schools Campaign's 2014 Week of Action Against School Pushout. Our great thanks to YOUNG for the picture and, more importantly, the work.

EXECUTIVE SUMMARY

In 2012, Massachusetts joined a growing number of states in changing its school discipline laws.¹ Given the well-documented harms of out-of-school punishments,² the new law aims to limit reliance on exclusionary discipline, particularly for more minor acts of misconduct.³ Under the new law, referred to as “Chapter 222,” Massachusetts also reports more data on school discipline, providing a clearer picture of the behaviors for which students are being removed from class or school.⁴ This report analyzes school discipline data from the 2012-13 school year — the state’s most recent data, collected before the new law took effect — and reviews steps that schools can take to improve discipline and the learning environment. The data show that:

- 1. Massachusetts’ students missed at least 208,605 days in the classroom due to disciplinary removal.**
- 2. Nearly two-thirds of all out-of-school suspensions were for “non-violent, non-criminal, non-drug” offenses.**
- 3. Students of color, students with disabilities, and low-income students experienced a disproportionate share of disciplinary removals.**
- 4. Students of color were disciplined more harshly than White students for “non-violent, non-criminal, non-drug” incidents.**
- 5. Five percent of schools accounted for almost half of the state’s disciplinary removals.**

These findings suggest there are significant reasons to be concerned with the overuse of out-of-school and in-school suspension in Massachusetts and the disproportionate use of these punishments on

students of color, students with disabilities, and students receiving free or reduced-price lunch. Chapter 222’s protections went into effect on July 1, 2014, making the 2014-15 school year the first year in which Massachusetts’ public schools must work to limit exclusionary discipline. The findings in this report must serve as a benchmark in measuring whether the new law is being followed. Our students deserve better than the status quo.

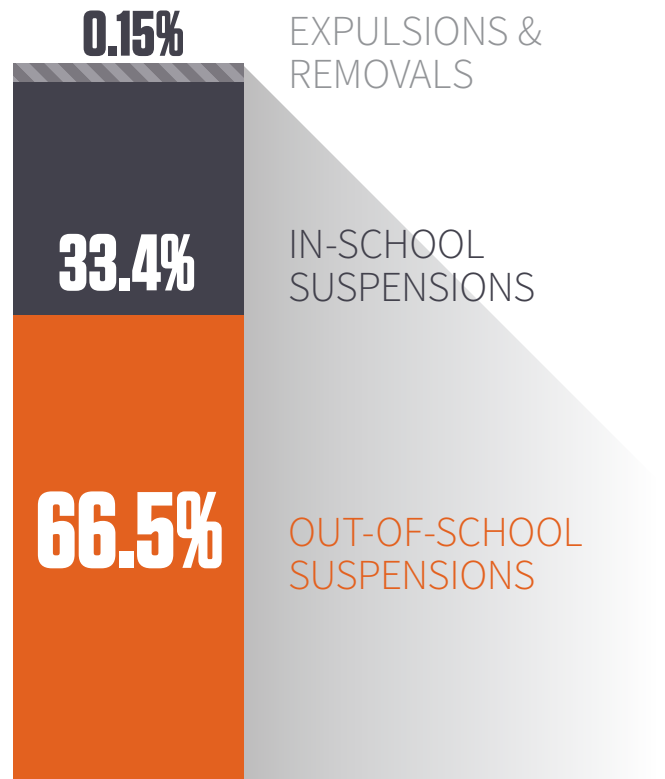
A few definitions are needed to facilitate understanding this report. The terms “discipline,” “disciplinary removal,” and “discipline rate” refer collectively to the categories of punishment published by the state: in-school and out-of-school suspension, expulsion, and removal to an alternative setting (a category of discipline applied only to students with disabilities).⁵ The state does not collect – and this report does not analyze – data on the use of school-based arrests or referrals to law enforcement.⁶ Nor do these data reflect “cool downs” or informal removals (e.g., when a parent is told to keep a child home in return for the school not listing a suspension on the child’s disciplinary record). Data collection on these practices is critical to understanding Chapter 222’s impact, as arrests and informal removals may be used more frequently to avoid compliance with the new law.⁷ Finally, our reporting of “disciplinary rates” does not include the use of alternatives to suspension like peer mediation and conflict resolution.

Effective discipline is an essential part of a successful school. The word “discipline” comes from the Latin root for “teach.” Practices like conflict resolution instill far more helpful and meaningful lessons than those taught by a reliance on suspension.

MAIN FINDINGS

1. MASSACHUSETTS' STUDENTS MISSED A MINIMUM OF 208,605 DAYS IN THE CLASSROOM DUE TO DISCIPLINARY REMOVAL.

During the 2012-13 school year, Massachusetts' public school students were suspended (in-school and out-of-school), expelled, and removed to an alternative setting a combined 128,599 times. These punishments resulted in at least 208,605 days - the equivalent of 1,160 students missing the entire school year - during which students were removed from their regular classrooms. Two-thirds (66.5%) of these days were lost to out-of-school suspension. This is especially troubling as the American Academy of Pediatrics and others have found out-of-school suspension to predict school dropout, deprive students of instruction, and reduce their sense of connection to school.⁸



2. NEARLY TWO-THIRDS OF ALL OUT-OF-SCHOOL SUSPENSIONS WERE FOR “NON-VIOLENT, NON-CRIMINAL, NON-DRUG” OFFENSES.

Massachusetts' public schools issued 85,462 out-of-school suspensions in the 2012-13 school year, most of which were not used to address serious misconduct, such as possession of drugs or weapons. Nearly two-thirds (64%) of these out-of-school suspensions were issued for incidents categorized as “non-violent, non-criminal, non-drug offenses.” These incidents were defined locally by districts and schools and range from dress code violations to acts of disrespect. They accounted for 72% of all incidents resulting in disciplinary removal, as well as 57% of all classroom days lost to discipline.

Compared with the large proportion of disciplinary removals for more minor misbehavior, the combined categories “physical fight,” “threat of physical attack,”

INCIDENTS RESULTING IN DISCIPLINARY ACTION

NON-VIOLENT NON-CRIMINAL NON-DRUG OFFENSES	72.2%
FIGHTS, ASSAULTS, & THREATS	17.5%
ILLEGAL DRUGS	3.8%
THEFT	1.4%
WEAPON USE & POSSESSION	1.2%
BULLYING	1.1%
ALL OTHERS	2.8%

and “physical assault” accounted for only 17.5% of disciplinary removals, while “bullying” accounted for just over 1% of disciplinary removals. Given the harms of out-of-school suspension, it is especially disconcerting that Massachusetts’ public schools relied on suspension to address comparatively minor misbehavior.

3. STUDENTS OF COLOR, STUDENTS WITH DISABILITIES, AND LOW-INCOME STUDENTS EXPERIENCED A DISPROPORTIONATE SHARE OF DISCIPLINARY REMOVALS.

Massachusetts’ students of color, students with disabilities, and students receiving free or reduced-price lunch were disciplined more often than their peers, with disparities comparable to, or worse than, national averages.

Black students received 43% of all out-of-school suspensions and 39% of all expulsions in the 2012-13 school year, despite making up only 8.7% of students enrolled in Massachusetts. While 1 in 27 White students were disciplined, 1 in 10 Latino students, and 1 in 8 Black students, were disciplined at least once. While Massachusetts’ overall out-of-school suspension rate was less than the national average, the same cannot be said for Massachusetts’ racial disparities in suspension. Black students in Massachusetts were 3.7 times as likely as their White peers to receive an out-of-school suspension, which is slightly worse than the national average (3.6). Quite disturbingly, Latino students in Massachusetts were suspended out-of-school at a rate (8.4) higher than the national average (6.8) and were 3.1 times as likely as their White peers to receive an out-of-school suspension - roughly *double* the national average (1.5).⁹

Students with disabilities were disciplined at a rate (37%) double their enrollment (18%), and were suspended out-of-school at three times the rate (8.5%) of their non-disabled peers (2.8%), a disparity much larger than the national average.¹⁰ Students receiving

RATES OF STUDENT DISCIPLINE

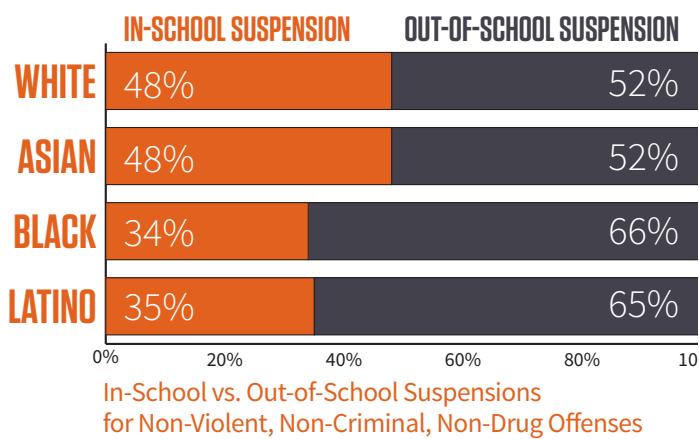


free or reduced-price lunch were disciplined at a rate almost double their enrollment as well, accounting for 38% of students enrolled but 73% of students disciplined. (There are no national data on the out-of-school suspension rates of students receiving free or reduced-price lunch.)

For students who were in multiple vulnerable groups, the rates of discipline were even higher. Twenty-nine percent of all incidents involved low-income students receiving special education. And 17% of all incidents involved low-income Black or Latino students receiving special education, a rate that is estimated to be 10 times greater than their enrollment. Massachusetts’ most vulnerable youth were those most likely to be removed from school and classroom.

4. STUDENTS OF COLOR WERE DISCIPLINED MORE HARSHLY THAN WHITE STUDENTS FOR “NON-VIOLENT, NON-CRIMINAL, NON-DRUG” INCIDENTS.

Not only did Massachusetts’ students of color experience a disproportionate share of discipline, the data suggest they were disciplined more severely than their White peers for more minor “non-drug, non-violent, non-criminal” incidents.



Schools generally treat out-of-school suspension as a harsher consequence than in-school suspension, often reserving out-of-school suspensions for more severe behaviors or repeated incidents that in-school suspension failed to stop. White students received in-school suspensions about as often as they received out-of-school suspensions for the “non-violent, non-criminal, non-drug” incidents described above. However, both Latino and Black students received out-of-school suspensions almost twice as often as they received in-school suspensions for these more minor incidents.

These disparities cannot be explained by the suggestion that students of color misbehaved more often than their White peers, thus deserving increasingly harsher punishments. Looking only at students disciplined at least once for “non-violent, non-criminal, non-drug” incidents, White students who received any discipline were repeatedly punished at a rate (2.4 punishments per student) similar to Black students and Latino students (each 2.5 punishments per student).

The category of “non-violent, non-criminal, non-drug” incidents is broad, so it is possible that some incidents warranted more severe consequences than others, and more specific reporting categories (e.g., “disrespect”) are necessary for clarity. However, the racial disparity in punishment for these incidents

echoes findings from other parts of the country where students of color were found to have been punished more harshly than their White peers for similar offenses,¹¹ especially for more subjective and discretionary acts of misconduct.¹²

5. FIVE PERCENT OF SCHOOLS ACCOUNTED FOR ALMOST HALF OF THE STATE’S SUSPENSIONS AND OTHER PUNISHMENTS.

While there were high discipline rates in different parts of the state, a mere 5% of schools accounted for 42.7% all the suspensions, expulsions, and removals to alternative school in Massachusetts. Holyoke had the highest discipline rate among districts, suspending 21.5% of its students out of school, with 6 of its 11 schools disciplining at least 20% of its students. Brockton, Fall River, Lynn, Springfield, and Worcester all had out-of-school suspension rates above 10%. And a significant number of charter schools, particularly those in the Boston area, had high discipline rates. Roxbury Preparatory Charter suspended 6 out of every 10 students out-of-school at least once, while the Edward Brooke Charter in Roslindale averaged 5.8 out-of-school suspensions – all for non-violent, non-criminal, non-drug offenses – for each suspended student. Finally, the 22 schools where over 90% of the students enrolled receive special education (therapeutic day schools, for example) had the highest average discipline rate (30.9%) by school type.

This report analyzes these findings in greater detail and highlights steps that schools and districts can take to improve discipline practices and ensure compliance with Chapter 222. Across the country, schools are adopting approaches that have been shown to reduce suspensions and improve attendance, achievement, and school safety. These are steps we can and should take in Massachusetts.

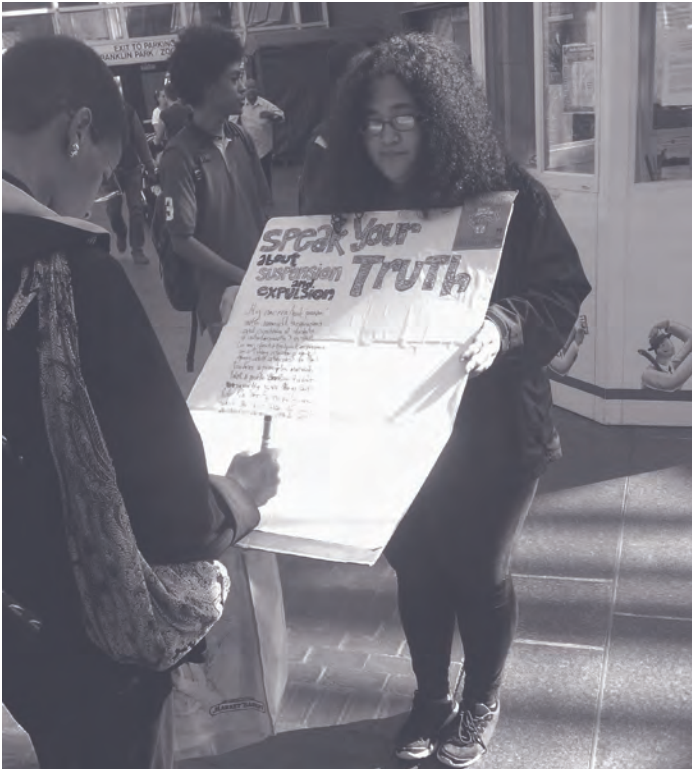


INTRODUCTION

Over the past few years, schools and districts across the country have increasingly recognized that exclusionary discipline—punishment that removes students from class or school for a day or more—is often ineffective and harmful to students’ learning.¹³ According to the American Academy of Pediatrics, the Council of State Governments, and the U.S. Department of Education, out-of-school suspension is a top predictor of school dropout, depriving students of instruction and reducing their sense of connection to school.¹⁴ One researcher showed that a single out-of-school suspension in 9th grade can double a student’s likelihood of dropping out of school, from 16% to 32%.¹⁵ Further, suspension appears to be ineffective at deterring misbehavior.¹⁶ Instead, research suggests that suspension may reinforce negative behavior by “rewarding” students with days out of school.¹⁷ And, according to the American Psychological Association, there are no proven gains to school safety from over-relying on suspension through “zero tolerance” policies.¹⁸

Research has also shown long-standing racial disparities both in which students are disciplined and in how they are disciplined, with Black students nationally nearly 3.6 times as likely to be assigned an out-of-school suspension as White students.¹⁹ Further, the racial disparities worsen among students receiving more than one out-of-school suspension. According to the U.S. Department of Education’s 2011-12 *Civil Rights Data Collection*, Black students made up just 16% of the student population, but were 33% of students assigned a single out-of-school suspension, and accounted for 42% of students receiving multiple out-of-school suspensions.²⁰ This huge disparity in school discipline has been linked to the achievement gap, showing that students of color are unlikely to catch up to their White and Asian peers in scholastic success until they are treated equitably in school discipline decisions.²¹

In 2012, Massachusetts joined a growing number of states in revising its school discipline laws.²² The



new law intends to limit the use of exclusionary discipline, particularly for more minor acts of misconduct.²³ Under the Commonwealth's new law, the Massachusetts Department of Elementary and Secondary Education (DESE) is collecting and reporting more data on school discipline, providing a clearer picture of the offenses for which students are being disciplined.²⁴

Until now, few reports have focused solely on Massachusetts' school discipline data. In 2012, Massachusetts Appleseed published *Keep Kids in Class*, examining data from 2006 through 2010.²⁵ However, the data collected at that time were much less complete, and so did not provide the type of detail that is now available. The recent legal changes, which Massachusetts Appleseed's report was integral to securing, have pushed the Commonwealth to report not only how many incidents were recorded and how many students were involved, but also the types of misconduct and disciplinary responses. The recently-released data in *DESE's School Safety Discipline Report* for the 2012-13 school year help provide a clearer picture of the state of school discipline in Massachusetts.²⁶

The results are alarming and highlight the need for change. These data show that, while Massachusetts has a lower overall rate of discipline than some other states, its disparities by race and special educational status are as bad as, and for some groups worse than, the national averages. Despite the demonstrated harm of removal, the great majority of Massachusetts' in-school and out-of-school suspensions were for non-violent, minor acts of misconduct. This reliance on suspension was especially prevalent for the Commonwealth's students of color and students with disabilities. Black and Latino students were punished more frequently and more severely for minor misconduct than their White peers, and the same distinction can be drawn between students with disabilities and their non-disabled peers.

In addition to analyzing the state's new data and new law, this report provides examples of best practices in school discipline being implemented in Massachusetts. It also points to areas that require better reporting in order to bring the data into clearer focus. The 2014-15 school year marks the first year Massachusetts' new law will be in effect, and this data should serve as a yardstick for these necessary changes. This is a time for parents, educators, advocates, policymakers, and communities to support schools in implementing the new state law and adopting practices that improve school discipline to reduce harm and increase equitable treatment. Across the country, schools are implementing proven practices that have helped cut suspension rates while supporting gains in student attendance, student achievement, and safety ratings.²⁷

Thanks to a lot of good work, Massachusetts has grown accustomed to leading the nation on a host of indicators of school success. The same should be true for school discipline, and our failure to lead will only hinder our efforts to ensure that all students succeed.

BY THE NUMBERS:

ANALYSIS OF MASSACHUSETTS' 2012-13 DISCIPLINE DATA

For the purposes of this report, “discipline,” “disciplinary removal,” or “disciplinary action” refers to all of the four types of disciplinary consequences reported in the *School Safety Discipline Report* — in-school suspensions, out-of-school suspensions, permanent expulsions, and removals to an alternate setting. In some cases, a particular type of disciplinary action is the subject of specific focus, and is named directly. Please see “Methods and Data” and “Limitations” in the Appendix for additional information on the *School Safety Discipline Report* data set and the methods used to analyze it.

The research questions that guided the analysis of the 2012-13 data were as follows:

1. *How many students were disciplined during the school year? Where were these students concentrated?*
2. *For what behaviors were students disciplined most often? What disciplinary actions were taken in response to these behaviors?*
3. *What student groups were most impacted by discipline? Were there significant differences by race, socio-economic status, and special education status?*

The findings are structured according to these questions. The analysis does not report for all sub-groups in each section because of space limitations. Combined, White, Latino, and Black students make up just over 90% of the student population in Massachusetts, and the report focuses on these racial groups, as well as students with disabilities.

HOW MANY STUDENTS WERE DISCIPLINED DURING THE SCHOOL YEAR? WHERE WERE THESE STUDENTS CONCENTRATED?

During the 2012-13 school year, 5.6% of students (54,453) were involved in 128,599 incidents that resulted in disciplinary removal. Two-thirds of the incidents resulted in out-of-school suspensions, meaning that 4.3% of students spent at least one day out of school because of disciplinary action. These numbers were lower than the national average. According to the 2009-10 *Civil Rights Data Collection*, 6.8% of students nationally served at least one out-of-school suspension during that year.²⁸ However, Massachusetts’ disciplinary disparities by race and special educational status were on par with, and in some cases worse than, the national averages.

TABLE 1: HEADCOUNT VS. DISCIPLINARY REMOVAL COUNT TOTALS, 2012-13

	HEADCOUNT (UNDUPLICATED STUDENTS)	DISCIPLINARY REMOVAL COUNT (TOTAL ASSIGNED ACTIONS)
State Discipline Totals	54,453	128,599
Total Enrollment	979,613	979,613
Overall Discipline Percent	5.6%	13.1% ^a
Total Out-of-School Suspensions (OSS)	42,123	85,462
OSS percentage	4.3%	8.7% ^a

a) These rates are the duplicated rate of actions assigned—the total number of disciplinary removals over total enrollment. Although this rate is much higher than the rate of students disciplined, it may more accurately reflect the frequency with which school officials assign disciplinary consequences.

Sources: Headcount dataset and Incident count datasets, 2012-13

TABLE 2: HIGH DISCIPLINE-RATE DISTRICTS AND SCHOOLS

Type	District	District Discipline Rate	Total disciplined	Total Incidents	Repeat Rate	OSS Rate ^a	Cat 18 Rate ^b
TRADITIONAL	Boston	6.60%	3,836	6,796	1.8	6.20%	55.60%
	Brockton	13.80%	2,426	7,018	2.9	10.80%	92.30%
	Chicopee	13.30%	1,090	3,820	3.5	8.70%	97.90%
	Fall River	16.30%	1,774	5,561	3.1	14.40%	86.80%
	Holyoke	22.80%	1,443	4,974	3.4	21.50%	82.30%
	Lawrence	7.60%	1,069	2,020	1.9	5.90%	43.90%
	Lowell	12.50%	1,852	5,622	3	9.70%	80.80%
	Lynn	15.50%	2,321	6,219	2.7	12.70%	83.80%
	Springfield	14.10%	3,884	9,113	2.3	10.50%	70.50%
	Worcester	10.50%	2,783	6,372	2.3	10.50%	72.90%
REGIONAL	Montachusett RVT ^c	20.30%	293	490	1.7	4.20%	90.10%
	South Middlesex RVT ^c	21.30%	154	243	1.6	15.30%	79.90%
CHARTER: The state reports charter schools as separate districts	Academy of the Pacific Rim	22.80%	115	268	2.3	17.00%	87.00%
	Boston Preparatory Charter	22.70%	85	117	1.4	20.80%	76.50%
	City On A Hill Charter	41.20%	131	450	3.4	40.90%	93.90%
	Community Charter School of Cambridge	25.50%	99	247	2.5	18.60%	86.90%
	Edward Brooke Charter - East Boston	23.90%	44	175	4	23.90%	100.00%
	Edward Brooke Charter - Mattapan	20.30%	57	249	4.4	20.30%	100.00%
	Edward Brooke Charter - Roslindale	24.20%	120	693	5.8	24.20%	99.20%
	Excel Academy Charter - Boston II	26.20%	17	33	1.9	23.10%	76.50%
	Excel Academy Charter - Chelsea	20.40%	23	30	1.3	20.40%	87.00%
	Lowell Middlesex Academy Charter	28.50%	43	65	1.5	22.50%	79.10%
	Roxbury Preparatory Charter	59.80%	339	1,146	3.4	59.80%	93.80%
	Spirit of Knowledge Charter School	28.00%	52	114	2.2	27.40%	94.20%
UP Academy Charter School of Boston	40.10%	196	802	4.1	26.00%	83.20%	

Notes: a) OSS stands for out-of-school suspension. b) “Cat 18 Discipline” refers to the percentage of all discipline in the district/school for non-violent, non-criminal, non-drug-related behaviors. c) “RVT” stands for “Regional Vocational Technical”
Source: Incident count by school dataset and Headcount dataset, 2012-13

Just 5% of schools were responsible for nearly 43% of all disciplinary removals, emphasizing that schools and districts can make policy choices that impact how often students are disciplined and must miss classroom time. Table A in the Appendix lists these 94 schools and their discipline rates. Table 2 includes all traditional school districts with more than 3 schools with discipline rates over 20%, as well as all regional and charter schools with discipline rates over 20%. Massachusetts’ largest school districts varied in the

percentage of their schools in the high-discipline category, from only 7 of 119 schools (5.8%) in Boston to 16 of 53 schools (30%) in Springfield and 6 of 11 schools (54.5%) in Holyoke. A few large districts were standouts in their high discipline rates and number of disciplinary removals. Holyoke had the highest discipline rate of any major district, at 22.8% overall. Chicopee had the highest rate (3.5) of disciplinary removals per student disciplined (“repeat rate”), indicating that Chicopee students who were removed

TABLE 3: DISCIPLINE TYPE ASSIGNED, BY DAYS MISSED, 2012-2013^a

DISCIPLINE TYPE	Range of Days Missed					TOTAL (% of assigned discipline)
	1 to 2	3 to 5	6 to 10	11 to 20	>20	
IN-SCHOOL SUSPENSION	40,284	2,461	155	23	17	42,940 (33.4%)
OUT-OF-SCHOOL SUSPENSION	60,742	20,300	3,642	309	469	85,462 (66.5%)
PERMANENT EXPULSION	2	1	12	3	98	116 (.09%)
REMOVED TO ALTERNATE SETTING	47	6	9	3	16	81 (.06%)
TOTAL (% OF OVERALL ASSIGNED DISCIPLINE)	101,075 (78.60%)	22,768 (17.70%)	3,818 (3%)	338 (0.26%)	600 (0.47%)	128,599
MINIMUM DAYS MISSED^a	101,075	68,304	22,908	3,718	12,600	208,605

a) Because days missed were reported in ranges, this figure is a minimum number, calculated by multiplying the number of incidents by the low-end days of the range. Source: Incident count datasets, 2012-13

once were highly likely to be removed again. And Springfield had the highest number of schools with discipline rates over 20% — fully one-third of Springfield’s public schools met this criterion. Further, many regional schools, including vocational-technical schools, also had high discipline rates, averaging 9.1% statewide.

Massachusetts’ charter schools had higher than average discipline and out-of-school suspension rates. While charter schools enrolled only 3% of students in Massachusetts in 2012-13, charters accounted for 6% of all disciplinary removals. On average, charter schools in the state had a 10.7% discipline rate. And while only 4% of Massachusetts’ public schools are charter schools, they accounted for nearly 14% of the schools with discipline rates over 20%. Additionally, charter schools in the city of Boston had an average discipline rate of 17.3%, and rates well over 20% were not uncommon. Roxbury Preparatory Charter suspended 59.8% of its students out-of-school at least once, for example. By comparison, Boston Public Schools had an average discipline rate of only 6.6% and its non-charter middle and high schools, including disciplinary alternative schools, had a discipline rate of 11.1%.²⁹ This indicates that for a similar student body, Boston-area charter schools were much more likely to use exclusionary discipline, particularly in response to minor student behavior violations (the “non-

violent, non-criminal, non-drug” disciplinary incidents discussed below).

FOR WHAT BEHAVIORS WERE STUDENTS DISCIPLINED MOST OFTEN? WHAT DISCIPLINARY ACTIONS WERE TAKEN IN RESPONSE TO THESE BEHAVIORS?

Collectively, students missed over 200,000 days of instruction in their schools or regular classrooms for disciplinary reasons (see Table 3). Out-of-school suspensions comprised 66.5% of the disciplinary actions reported by the state. In-school suspensions accounted for 33.4% of the remaining disciplinary actions, while permanent expulsion and removal to an alternate setting were only 0.15% of the disciplinary actions report in 2012-13. Over three-quarters (78.6%) of all assigned consequences were for 1-2 days - in-school or out-of-school - and only 5% lasted longer than 5 days.

Due to expanded data reporting, the 2012-13 data reveal that over 72% of all discipline in Massachusetts was assigned for non-violent, non-criminal, non-drug incidents. Previous data collections only recorded the punishment of minor offenses for students receiving special education, not including the large proportion

TABLE 4: NUMBER OF DISCIPLINARY REMOVALS, BY BEHAVIOR TYPE

SSDR Category	Incident Type	# of Incidents	Percent of Total
1	Illegal Drugs	4,903	3.81%
2	Physical Fight	6,491	5.05%
3	Threat of Physical Attack	5,641	4.39%
4	Physical Assault	10,369	8.06%
5	Sexual Harassment	1,213	0.94%
6	Sexual Assault	99	0.08%
7	Theft	1,754	1.36%
8	Threat of Robbery	20	0.02%
9	Robbery Using Force	15	0.01%
10	Vandalism	1,275	0.99%
11	Arson	91	0.07%
12*	Kidnapping	1	0.00%
14*	Weapon Use and Possession	1,582	1.23%
15	Other Violent or Criminal Incident	835	0.65%
16	Felony Conviction- Out of School	51	0.04%
17	Bullying	1,469	1.14%
18	Non-Violent, Non-Criminal, Non-Drug Related	92,790	72.15%

* Note: Category 13 is Homicide. No recorded incidents.
Source: Incident Count data, 2012-13

of disciplinary removals that these incidents actually constituted. These disciplinary incidents were recorded as “Category 18” in the *School Safety and Discipline Report*; the other 17 categories range from illegal drug offenses to weapon use and possession to fighting and bullying. Although the Commonwealth did not release the specifics of what is included in Category 18, they were likely behaviors that could be addressed through consequences that are less severe than the four covered in this report. Most of these minor violations (59%) resulted in out-of-school suspensions, accounting for 57% of all classroom days missed for disciplinary reasons. Table 4 shows the full breakdown of discipline removals by behavior category. Categories 2-4, related to physical fights and assaults, accounted for about 17.5% of all incidents, and drug offenses — use, possession, and intent to sell — accounted for just under 4% of incidents. All other categories combined, including bullying and theft,

accounted for only 6.5% of behaviors resulting in disciplinary consequences (approximately 8,400 incidents).

Massachusetts does not report the number of disciplinary removals an individual student receives. Averaging all disciplinary removals across all students disciplined produced a repeat rate of 2.4 disciplinary removals per disciplined student. However, in 2009-10, the federal *Civil Rights Data Collection* began requiring schools across the country to report whether students were given out-of-school suspensions once or more than once.³⁰ According to the 2011-12 *Civil Rights Data Collection*’s statewide data for Massachusetts, approximately 65% of students assigned any out-of-school suspensions were given this consequence only once, while the other 35% had more than one out-of-school suspension in the 2011-12 school year.³¹ Applying this *Civil Rights Data Collection* standard to the *School Safety and Discipline Report* data, which show

42,123 students assigned out-of-school suspensions 85,462 times (see Table 1), we can estimate that a very small group of students (about 14,750, 1.5% of enrollment) were assigned out-of-school suspensions an average of 3.9 times each over the course of the 2012-13 school year. While this calculation is an extrapolation from two separate data sources, it emphasizes the fact that for a small number of students, exclusionary discipline was a frequent part of school life that regularly disrupted their learning. Even if each of these suspensions only lasted one or two days, these students would have missed around a week of classroom instruction due to out-of-school suspension alone, having to catch up on missed work each time they returned to class.

TABLE 5: DISCIPLINE RATES, DISCIPLINARY REMOVALS, AND REPEAT RATES, BY SUB-POPULATION^a

	Total students enrolled	% of Enrollment	Total students disciplined	Disc. Rate ^b	OSS Rate ^c	Total incidents	% of incidents	Repeat Rate
STATE TOTALS	979,613	100.00%	54,453	5.60%	4.30%	128,599	100.00%	2.4
Male	503,255	51.40%	38,043	7.60%	5.90%	91,843	71.40%	2.4
Female	476,358	48.60%	16,410	3.40%	2.60%	36,756	28.60%	2.2
Low Income	384,771	39.30%	39,516	10.30%	8.10%	99,060	77.00%	2.5
Special Education	174,418	17.80%	18,495	10.60%	8.50%	47,250	36.70%	2.6
White	639,136	65.20%	23,576	3.70%	2.70%	52,417	40.80%	2.2
Black	85,482	8.70%	10,378	12.10%	10.00%	25,995	20.20%	2.5
Latino	165,576	16.90%	17,253	10.40%	8.40%	42,826	33.30%	2.5
Asian	58,751	6.00%	1,164	2.00%	1.40%	2,307	1.80%	2
2+ Races	27,213	2.80%	1,832	6.70%	5.10%	4,400	3.40%	2.4
Other	3,455	0.40%	250	7.20%	5%	654	0.50%	2.6

Note: a) Columns do not sum to 100; b) Disc= Disciplined; c) OSS= Out-of-school suspension
Sources: State headcount totals and Incident count by demographics dataset, 2012-13

WHAT STUDENT GROUPS WERE MOST IMPACTED BY DISCIPLINE? WERE THERE SIGNIFICANT DIFFERENCES BY RACE, SOCIO-ECONOMIC, AND SPECIAL EDUCATION STATUS?

While the overall discipline rate of 5.6% is not unusually high, the large number of disciplinary removals is concentrated on a relatively small number of students, and masks the inequitable distribution of punishments. Males, just under 52% of enrollment, were involved in 71% of all disciplinary removals, slightly higher than the national average.³² Students receiving free or reduced-price lunch (“low income students”) experienced 77% of all disciplinary removals—about double their representation in the student population (39%).

Students receiving special education were also significantly overrepresented in discipline, with an overall discipline rate of 10.6% (see Table 5). Students without disabilities, by comparison, had an overall discipline rate of only 4.7%. Statewide, 18% of students were receiving special educational

services, but were involved in 37% of incidents. Special education students were three times as likely to receive out-of-school suspensions as their non-disabled peers, a disparity much larger than the national figures (see Table 6). Perhaps most disturbingly, the 22 schools in the state with over 90% of their student population receiving special education - often therapeutic day schools - had the highest average discipline rate, at 30.9%. (See Appendix Table A.) This suggests that these schools may have failed to adequately address the behavioral needs of their students.

Massachusetts fared no better than the national averages for racial disparities in school discipline. As seen in Table 3, 12.1% of Black students (1 in 8) and 10.4% of Latino students (1 in 10) were disciplined in 2012-13, compared to only 3.7% (1 in 27) of White students. This means that Black students were 3.3 times as likely, and Latino students 2.8 times as likely as White students to be disciplined. More specifically, Black and Latino students were 3.7 times and 3.1 times as likely, respectively, as White students to be assigned out-of-school suspensions. Nationally,

TABLE 6: OUT-OF-SCHOOL SUSPENSION RATES NATIONALLY AND IN MASSACHUSETTS, BY RACE AND SPECIAL ED STATUS

	NATIONAL		MASSACHUSETTS	
	Rate	Risk Ratio ^a	Rate	Risk Ratio ^a
White	4.60%	--	2.70%	--
Black	16.40%	3.6	10.00%	3.7
Latino	6.80%	1.5	8.40%	3.1
General Education	6.00%	--	2.80%	--
Special Education	13.00%	2.2	8.50%	3

a) The risk ratio is the relative likelihood of one sub-group being suspended compared with the reference group, here either White students, or those without disabilities.

Sources: *Civil Rights Data Collection*, 2011-12; Massachusetts Headcount dataset, 2012-13

according to the 2011-12 *Civil Rights Data Collection*, the out-of-school suspension rates were 16.4% and 6.8% for Black and Latino students, respectively, while White students' out-of-school suspension rate was only 4.6%.³³ In other words, nationally, Black students were 3.6 times as likely to be suspended as White students, while Latinos were 1.5 times as likely. By comparison, Massachusetts' disparity in suspensions for Black students was slightly worse than the national average. For Latino students in Massachusetts, the suspension rate was worse than the national average, and the disparity between Latino and White students was double the national gap (see Table 6).

Massachusetts followed national trends in that Black students in particular were punished more harshly than White students, even for similar incidents of misconduct.³⁴ While Black students were only 8.7% of students enrolled in Massachusetts' public schools, Black students alone accounted for 43% of all out-of-school suspensions, and served at least 20% of the days of school missed for disciplinary reasons. Indeed, of the 116 permanent expulsions assigned in 2012-13, more of them were given to Black students (45, or 38.8%) than to White students (37, or 31.9%).

Among the worst racial disparities in discipline were those for non-violent, non-criminal, non-drug related (Category 18) incidents, which likely included the behaviors for which school officials had the most discretion in deciding whether and how to discipline students (compared to incidents involving weapon or drug possession, which are addressed by federal and state laws) (Table 7). For these behaviors, only 2.5% of White students were disciplined, compared with 8.7% and 7.6% of Black and Latino students, respectively. In other words, Black students were 3.5 times and Latino students 3 times as likely as Whites to be disciplined for minor behavior violations. In addition, Black and Latino students were much more likely to be given out-of-school suspensions for these violations, compared with their White and Asian peers. Category 18 behaviors resulted in in-school suspensions about half (48%) of the time for White and Asian students, with out-of-school suspensions for the other half (52%). For Black and Latino youth, on the other hand, similar incidents resulted in in-school suspensions only one-third (34.6%) of the time, with out-of-school suspensions for two-thirds (65.4%) of Category 18 behaviors.

These disparities cannot be explained by the suggestion that students of color misbehaved more often than their White peers, thus receiving out-of-school suspensions only after receiving in-school ones for similar offenses. Among students punished for Category 18 offenses, White students received 1.136 in-school suspensions per offending student, while Black students received 0.848 in-school suspensions per offending student. Therefore, it is not possible that all Black students received an in-school suspension before getting an out-of-school suspension for repeated Category 18 offenses, but it is possible that all White students suspended out-of-school for a Category 18 offenses received an in-school suspension for an earlier Category 18 offense first. Moreover, examining the repeat rate (discussed in Question #2 above) for students disciplined for non-violent, non-criminal, non-drug incidents, White students who received any discipline (2.4 punishments

TABLE 7: CATEGORY 18 DISCIPLINE—NON-VIOLENT, NON-CRIMINAL, NON-DRUG BEHAVIORS—BY RACE

	Students	# of students disciplined	Cat 18 ^c Discipline Rate	Total Incidents	# Expel or Remove	# resulting in ISS ^a	% given ISS	# resulting in OSS ^b	% given OSS	Repeat Rate
WHITE	639,136	15,886	2.49%	37,524	23	18,060	48.13%	19,441	51.81%	2.4
BLACK	85,482	7,432	8.69%	18,725	17	6,307	33.68%	12,401	66.23%	2.5
LATINO	165,576	12,548	7.58%	31,194	9	11,058	35.45%	20,127	64.52%	2.5
ASIAN	58,751	773	1.32%	1,653	0	786	47.55%	867	52.45%	2.1
2+ RACES	27,213	1,310	4.81%	3,164	1	1,389	43.90%	1,774	56.07%	2.4
OTHER	3,455	188	5.44%	530	2	243	45.85%	285	53.77%	2.8
TOTAL ALL RACES	979,613	38,137	3.89%	92,790	52	37,843	40.78%	54,895	59.16%	2.4

Notes: a) ISS = In-School Suspension b) OSS = Out-of-School Suspension c) Cat18=non-violent, non-criminal, non-drug behaviors

Sources: State headcount totals and Incident counts by demographics, 2012-13

per student) were repeatedly punished at a rate similar to Black students (2.5 punishments per student) and Latino students (2.5 punishments per student).

The category of “non-violent, non-criminal, non-drug” incidents is broad, so it is possible that some incidents warranted more severe consequences than others, and more specific reporting categories (e.g., “disrespect”) are necessary for clarity. However, the racial disparity in punishment for these incidents echoes findings from other parts of the country where students of color have been found to be punished more harshly than their White peers for similar offenses,³⁵ especially for more subjective acts of misconduct.³⁶ This is an area that warrants further study, as there are some more objective offenses in Massachusetts that demonstrate no racial disparities in punishment, such as use and possession of illegal drugs.³⁷

The way the DESE reports special educational and low-income status by race makes it difficult to know how being a member of multiple overrepresented groups impacted a student’s risk of discipline involvement. However, 17% of disciplinary removals involved students

who were Black or Latino and received both free/reduced-price lunch and special educational services. Using the state’s data for special education enrollment by race, and the state average for low-income status, Black and Latino students who were both low-income and receiving special educational services should only make up about 1.6% of enrollment.

As schools and districts work to align their policies with state law and federal guidance that caution against the use of exclusionary discipline, these new data can serve as a starting point against which to measure future changes and may help students, parents, teachers, and advocates to push for reforms to school policies like those discussed below.

THE LAW: CHANGES TO STATE LAW AND FEDERAL CIVIL RIGHTS ENFORCEMENT

CHAPTER 222

Massachusetts' new school discipline law, referred to as Chapter 222, was signed into law in August 2012, and went into effect on July 1, 2014. The goal of the law is to reduce the amount of time a student is suspended for violations of school-based rules, such as disrupting class, rather than more significant statutory violations.³⁸

Before reviewing Chapter 222, it is important to note that discipline for more serious incidents is still covered by other sections of state law (Mass. Gen. Laws ch. 71 sections 37 H and 37 H ½). These include punishments for possession of a dangerous weapon, possession of a controlled substance, and assault on educational staff at school or at a school-sponsored event. Section 37H ½ applies to students who are facing a felony complaint or who are convicted, plead guilty, or admit guilt in court to a felony charge related to incidents that occurred either on or off school grounds.

Under Chapter 222, principals are required to exercise discretion to limit the use of suspension as a consequence for conduct that falls under school-based rules.³⁹ In doing so, principals must “avoid using long-term suspension from school as a consequence until alternatives have been tried.”⁴⁰ These alternatives include “evidence-based strategies and programs such as mediation, conflict resolution, restorative

DISCIPLINE DEFINED

(603 Mass. Code Regs. 53.02)

In-School Suspension: A student is removed from regular classroom activities, but not from the school itself. If used for more than 10 days consecutively or cumulatively in a school year, then the In-School Suspension is treated as a Long-Term Suspension and is subject to increased due process protections.

Short-Term Suspension: A student is removed from the school premises for 10 days or less. If used more than 10 cumulative days in a school year, then it is treated as a Long-Term Suspension and is subject to increased due process protections.

Long-Term Suspension: An in-school or out-of-school suspension for more than 10 consecutive or cumulative school days in any school year.

Expulsions: Expulsions (removal from school for more than 90 days) have been effectively removed for all offenses except: Possession of a dangerous weapon, possession of a controlled substance, and assault of educational staff at school or at a school-sponsored event. Additionally, students can be expelled if they are charged with felonies or convicted of felonies for criminal offenses which occurred on or off school grounds.

justice, and positive behavior interventions and supports.”⁴¹

Under Chapter 222, students must be given the opportunity to make academic progress during in-school suspensions as well as short-term and long-term out-of-school suspensions (see sidebar for definitions).⁴² This means that a student serving an in-school suspension or a short-term suspension has the opportunity to earn credits and take quizzes and tests that she missed during her time away from the classroom.⁴³ During a long-term suspension, the student is to be provided with alternative education services through a school-wide education service plan that is consistent with state standards.⁴⁴ Principals must notify students, along with their families, of these opportunities to make academic progress in writing. Alternative education services are now also required during expulsions for the more serious offenses described above.⁴⁵

Students and their families are also entitled to a host of due process protections that they were not previously afforded. For in-school suspensions, a principal must make reasonable efforts to inform parents of the decision to issue an in-school suspension on the day the decision is made. Principals must also invite parents to discuss strategies for engaging the student, ideally during the day the in-school suspension is served. For both short-term and long-term out-of-school suspensions, parents and students must receive oral and written notice — in the family’s home language — of the pending suspension as well as the opportunity to participate in a suspension hearing.⁴⁶ Parents and students may present information and mitigating facts during these hearings. And, for long-term suspensions only, parents and students have additional rights, including the opportunity to review a student’s record before a hearing, the right to be represented by counsel or a lay person (at the student’s/parent’s expense), and the right to both produce and cross-examine witnesses.⁴⁷ Long-term suspensions may be appealed, with parents and students having the same rights during

an appeal hearing that they do during a long-term suspension hearing.⁴⁸ Finally, no long-term suspension may last for more than 90 days, and suspensions cannot continue beyond the school year in which they were issued.⁴⁹

With the new law also come new rules on what schools must report to the DESE. All schools must now review their discipline data and report all suspensions and expulsions to DESE.⁵⁰ DESE will then do two things to address schools with high or disparate rates of discipline. First, DESE will identify schools that have high rates of expulsions and long-term suspensions and share models those schools can use to reduce these numbers.⁵¹ Secondly, DESE will use data to identify schools and districts with “significant disparities in the rate of suspension and expulsion by race, ethnicity, and disability,” and require them to adopt plans to reduce such disparities.⁵² Additionally, principals are tasked with periodically reviewing their schools’ discipline data and assessing the impact of disciplinary actions by race and special educational status.⁵³

FEDERAL GUIDANCE ON SCHOOL DISCIPLINE

In addition to the changes to state law, there has been significant activity on school discipline at the federal level. In January, 2014, the U.S. Departments of Justice and Education released guidance on school discipline.⁵⁴ While the guidance does not create new law, it articulates how the federal government is interpreting and enforcing federal civil rights laws in the disciplinary context in schools receiving federal funding (including charters and traditional public schools).

At the outset, the Departments warn schools that they can be liable, not just for the actions of teachers and administrators, but also for the actions of school resource officers and other external agents should the schools delegate some disciplinary responsibility to them.⁵⁵



The Departments describe several examples of “different treatment” that result in intentional discrimination. As a textbook example, if a White student and a Latino student with similar disciplinary records got into a fist fight, and the Latino student received a harsher punishment even though there was no evidence that he instigated or escalated the fight, the harsher punishment would raise an inference of discrimination. The Departments would then ask if the school could articulate a “legitimate, nondiscriminatory reason” for the different punishments, and, if so, the Departments would determine if such reason were simply a pretext for discrimination.

Selective enforcement of certain provisions of a disciplinary code can also constitute discrimination through different treatment. For example, if both White and African-American students engaged in behaviors considered disruptive, but only African-American students were punished for being disruptive, the different treatment of African Americans would raise an inference of discrimination. The intentional targeting of students of a certain race can also raise an inference of discrimination. If students of one race were more likely to wear a particular style of otherwise acceptable clothing, and the school prohibited such clothing as a means of penalizing students of one race, the school would have violated federal civil rights law.

The Departments also provide examples of disciplinary policies and practices that have a “disparate impact” on students of a particular race. Unlike the examples of “different treatment” above, these incidents would involve a disciplinary policy that is enforced in a racially neutral manner yet still results in racially disproportionate discipline. The guidance pays particular attention to unsound practices like “zero tolerance” and suspending for truancy (an ineffective punishment, to say the least) as examples of policies whose disparate impact may result in a civil rights violation.⁵⁶

Where significant racial disparity exists, the Departments would question whether the school or district’s practices are educationally necessary and, if so, whether there are comparable practices that would result in less disparity. If there are alternative practices that meet the school district’s needs but result in less racial disproportionality, the school has violated federal civil rights law. This approach to addressing discrimination is both legally and educationally sound. If one way to teach a subject helps 90% of students pass, there is no reason to stick with a way that only enables 60% to do so.

The guidance and its supporting documents contain a host of suggested remedies and best practices that schools can implement proactively to address racial disparities in discipline and reduce the risk of possible civil rights violations in the school discipline context.⁵⁷ Several of these are discussed in greater detail below.

WHAT'S WORKING: BEST PRACTICES IN SCHOOL DISCIPLINE

Massachusetts' disciplinary regulations highlight “mediation, conflict resolution, restorative justice, and positive behavior interventions and supports” as alternatives to suspension that the Commonwealth's schools can employ.⁵⁸ This section highlights examples of the latter two frameworks the regulations suggest. It is important to note that these approaches are not “by-the-book” programs but frameworks that can be adapted to, and embedded in, a school's practices. As with any aspect of school culture, these approaches may fall into disuse with a change in administration, turnover in staff, or lack of administrative support. Finally, there are many straightforward, immediate steps schools can take to address improper behavior without relying on suspension. (See the sidebar “Non-Exclusionary Disciplinary Responses.”)

RESTORATIVE PRACTICES

Restorative practices help students and educators develop a common language and process for addressing issues that arise at school. Many schools have come to address disciplinary incidents with restorative practices as a means to promote mutual responsibility and reconciliation.⁵⁹ Restorative practices engage all members of a school community affected by a conflict in addressing and resolving it. Students work together in a guided discussion to

identify the harms caused by an action and develop solutions to them. Both the solutions and process are often far more meaningful to addressing an incident and repairing a relationship than a simple out-of-school suspension can be. Implementation of restorative justice has led to significant decreases in out-of-school punishments as well as reductions in racial disciplinary disproportionality.⁶⁰

At the **Curley K-8 School** in Boston, restorative practices are an integral part of the approach to student health that the school and its community partners take. “Restorative practices ensure everybody has a voice,” says Susan Trotz, the school's guidance counselor.

POSITIVE BEHAVIOR INTERVENTIONS AND SUPPORTS (PBIS)

PBIS is a framework for creating and sustaining a healthy learning environment. Schools using PBIS teach clear expectations for student behavior and encourage it through positive recognition. Members of the school community serve to regularly monitor the school's discipline data, best tracked through office disciplinary referrals, and work with school leadership and staff to develop interventions to address trends in the data. For example, if most of a school's referrals were related to incidents at lunch, the school would

look for ways to place more teachers or community partners in the lunchroom or develop smoother transitions from lunch to recess. These steps create a more positive learning environment and allow PBIS schools to prioritize more intensive behavioral interventions for the students who need them most. PBIS has been shown to reduce disciplinary referrals while supporting gains in achievement, attendance, and perceptions of safety.⁶¹

Dartmouth Public Schools is implementing PBIS in its middle school and its four schools serving pre-K-through-5 students. Dartmouth Middle School dropped the number of days lost to out-of-school suspension from 143 in 2012-13 to 37 in 2013-14, while Potter Elementary reduced office disciplinary referrals from 35 in 2011-12 to 10 in 2013-14. DESE'S **Office of Tiered System of Supports (OTSS)** is providing training in PBIS, and is working with 29 schools from 12 districts during the 2014-15 school year.

NON- EXCLUSIONARY DISCIPLINARY RESPONSES

- ▶ Behavioral Contract
- ▶ Conflict Resolution
- ▶ Community Service
- ▶ Daily/Weekly Check-Ins
- ▶ Loss of a Privilege
- ▶ Mentoring Program
- ▶ Parent Contact
- ▶ Teacher Conference with Parent and Student
- ▶ Peer Mediation
- ▶ Referral to Community-Based Organizations for Additional Support
- ▶ Schedule Adjustment
- ▶ Other Restorative Practices (asking the student and those harmed by the student's actions to identify how to "make it right")

WHAT SCHOOLS, DISTRICTS, AND THE STATE CAN DO TO IMPROVE SCHOOL DISCIPLINE

SCHOOLS:

- ▶ Work with teachers, students, and parents to identify best practices in school discipline to adopt school-wide;
- ▶ Provide support and professional development for teachers in classroom management;
- ▶ Provide training for administrators and teachers in culturally responsive pedagogy and addressing implicit racial bias;
- ▶ Engage students in establishing school rules and expectations, and train students to serve as peer mediators;
- ▶ Implement the new state law with fidelity to “avoid using long-term suspension from school as a consequence until other alternatives have been tried;” and,
- ▶ Regularly review school discipline data and address trends following state requirements.

DISTRICTS:

- ▶ Work with parents and community to revise codes of conduct to adhere to the state’s new laws and regulations and the new federal guidance;
- ▶ Identify district-level staff to support schools in implementing best practices in school discipline (by providing training in classroom management, disciplinary data monitoring, tiered support for students, etc.);
- ▶ Train school administrators on Chapter 222 and monitor implementation to ensure students receive the alternative disciplinary approaches and due process protections the law affords them (e.g., ensure that students do not receive “off the book” punishments);
- ▶ Include information on school discipline and climate in school reviews and reports to the public;
- ▶ Encourage sharing between schools on best practices for school discipline to ensure all students benefit from useful alternatives to suspension; and,
- ▶ Ensure all schools in the district annually report their school discipline data to the Massachusetts Department of Elementary and Secondary Education.

MASSACHUSETTS DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION (DESE):

- ▶ Monitor implementation of Chapter 222 to ensure that students receive proper due process, and, where determined to be necessary, quality alternative educational services (e.g., once a student has received 11 cumulative days of short-term suspension, does the school hold a long-term suspension hearing? Do the school-wide education service plans in place for students allow them to make academic progress?);
- ▶ Provide training in the best practices highlighted in Chapter 222's regulations (i.e. mediation, conflict resolution, restorative justice) to complement the professional development DESE is now offering on Positive Behavioral Interventions and Supports;
- ▶ Report school discipline data by grade level as well as by school and district;
- ▶ Collect and report data on student contact with law enforcement, such as school-based arrests and referrals to law enforcement; and,
- ▶ Clarify Chapter 222's application to disciplinary incidents that occurred prior to the law's effective date (July 1, 2014).

MASSACHUSETTS LEGISLATURE:

- ▶ Strengthen Chapter 222 to limit the use of short-term suspensions, in addition to long-term suspensions, to that of a last resort;
- ▶ Provide funding for school districts to support the implementation of best practices in school discipline district-wide;
- ▶ Convene hearings to monitor implementation of Chapter 222;
- ▶ Address the overuse of school-based arrests and referrals to law enforcement – particularly for school disciplinary incidents – in Massachusetts' public schools;
- ▶ Revise the due process protections of Massachusetts' school discipline laws for more serious offenses (Mass. Gen. Laws ch. 71 §§ 37H and 37H ½) to comply with those for long-term suspensions in Chapter 222; and,
- ▶ Limit the application of Mass. Gen. Laws ch. 71 §37H 1/2, which allows for the suspension of students charged with – and the expulsion of students adjudicated for – committing felonies, to serious violent felonies only. The juvenile justice system should be allowed to perform its duty of determining whether a student is a threat to public safety. Further, to allow pre-trial diversion programs to succeed for the youth involved in them, amend the law to apply at the time of arraignment, and not upon the issuance of a criminal complaint.

APPENDIX

METHODS AND DATA

The analyses presented here are based solely on the 2012-13 data collected in the *School Safety and Discipline Report*, which were released in March and June 2014. Because this was the first year of this type of data collection in Massachusetts, there may be anomalies that skew the data. New data for the 2013-14 school year should be released in late 2014, allowing both a greater understanding of those anomalies and potential mitigation of problems caused by them because the analysis may be averaged over the two years.

The state released district- and school-level data in March 2014.⁶² These data report the unduplicated headcounts of students disciplined at each school, meaning that an individual student may have been disciplined more than once, but those multiple disciplinary removals would not change the school's overall discipline rate. These data are broken down by student behavior type and punishment type, and by race, gender, and special education status, but report only the total number in a given category and the rates of response for each disciplinary type.

In June 2014, the state released researcher data sets, available on request from DESE, which report incident-level information in two separate data sets: a demographics-linked dataset and a school-linked dataset. The incident-level information provides more detail about each instance in which disciplinary actions (in- and out-of-school suspension, expulsion, removal to an alternative setting) were taken, but does not permit us to determine how many individual disciplinary actions involved an individual student. These files report student behaviors, disciplinary responses, schools, race, gender, socio-economic status and special education eligibility in such a way

that individual students cannot be identified. Please note, in this Appendix, we use the term “incident” to describe an instance of misconduct where disciplinary action has been taken. However, in the text of the report, we refer to the consequence (e.g., expulsion) and the underlying behavior (e.g., bullying) distinctly — and not as an “incident” — to avoid any confusion between the two.

Understanding the distinction between the incident count and headcount data is important, as the numbers presented in this report are drawn from both datasets. Generally, the rates reported are calculated from within a single dataset. For example, to report the overall discipline rate in the state, we use the total headcount of students disciplined divided by the total student enrollment. However, we also calculate a repeat ratio for some analysis, in which the incident count is divided by the headcount in order to understand, on average, how frequently students in a given subgroup were assigned disciplinary action. In Table 1, we also calculate a duplicated rate for discipline, meaning that each incident resulting in disciplinary action was included in the rate. This much higher rate, while over-representing the number of individual students involved, may provide a clearer indication of the frequency with which schools respond to incidents with disciplinary consequences. Finally, we use a repeat rate in several tables to show how often a student involved in any disciplinary action would have been assigned a consequence if they were evenly distributed across all disciplined students.

Throughout the report, we refer to student behaviors or offenses, and disciplinary actions or types. Schools are responsible for reporting which of 18 possible “offense” categories of student behavior were involved in a given incident, and which of four possible

disciplinary actions were taken in response to the behavior. The 18 categories of behavior are as follows:

1. Illegal Substances
2. Physical Fight
3. Threat of Physical Attack
4. Physical attack, assault (non-sexual)
5. Sexual Harassment
6. Sexual Assault (including Rape)
7. Theft
8. Threat of Robbery
9. Robbery using Force
10. Vandalism/ Destruction of Property
11. Destruction of Property using Arson
12. Kidnapping
13. Homicide
14. Weapon on school premises
15. Other violent, drug, or criminal incident
16. Felony Conviction outside of school
17. Bullying
18. Non-Drug, Non-Violent, Non-Criminal Offenses

The last category, which accounts for the vast majority of incidents, is the least well-defined, and the state does not have a complete list of what is included because it varies by district; the category is likely to include behaviors such as tardiness, dress code violations, and perceived disrespectful or disobedient behavior, and other minor infractions of school codes of conduct.

School officials also report the action taken in response to the behavior in one of these four disciplinary types:

1. In-School Suspension (ISS)
2. Out-of-School Suspension (OSS)
3. Permanent Expulsion
4. Removal to an Alternate Setting

An in-school suspension generally involves a student who is required to attend school, but is sent to a room other than her regular classroom to fulfill her assigned discipline. What takes place in that room and what staff is available to the student while there varies by school. Out-of-school suspensions require a student to remain home from school for the duration of the disciplinary consequence. Permanent expulsions result in a student's permanent removal from their

school; in 2012-13, this consequence was allowable for all behavior types. Beginning in 2014-15, permanent expulsions will only be allowed for certain serious offenses including possession of a dangerous weapon or controlled substances, or felony conviction out of school. Removals to an alternate setting are assigned to students who receive special educational services under the Individuals with Disabilities Education Act (IDEA);⁶³ removals are decided upon by a hearing officer or school administrator who determines what services the student should receive in their temporary alternative placement. The state does not currently require schools and districts to report referrals to law enforcement or arrests on school property, a category that is collected by the national *Civil Rights Data Collection*, and may be an important one to include in the Massachusetts collection.

LIMITATIONS

This report has a number of important limitations of both the data and the analysis:

This analysis is based only on one year's data; if new data is released at the end of 2014, an analysis incorporating the new data will be more reliable because of cross-year averaging. The 2012-13 school year was also the first year of full reporting; therefore, there may be inconsistencies in how data was reported because of unfamiliarity with reporting practices.

DESE's data withholds values if there were fewer than 6 students in any category, and does not make a distinction between data withheld by DESE and schools or districts that report zero. DESE states that this is necessary to protect students' identities under the Family Educational Rights and Privacy Act.⁶⁴ This becomes a particular issue when attempting to understand the frequency of discipline for students in specific sub-groups, such as Low-income, Special-Education Latino males. While the incident count data does allow a rate calculation for this sub-group's

likelihood of disciplinary action, the reporting standards for overlapping special education/race/low-income students do not permit precise calculations of their representation in schools' or districts' enrollment.

DESE does not report its disciplinary removals by grade level, foregoing a potentially important area of analysis — what stages in a student's school career they are most vulnerable to being involved in disciplinary incidents.

Finally, the way enrollment is reported presented some challenges in analysis. Schools are required to report their enrollment as of October 1, which is used to determine funding. However, the discipline reports are due at the end of the school year, and schools re-report their total enrollment for the full year — meaning all students who were enrolled at a given school at any point during the year are included in the end-of-year data. This means that some students were counted in enrollment at multiple schools. Because it is impossible to know how long a student was at a given school, calculations for sub-groups of schools have some error, as a student may be counted multiple times across those groups. Additionally, students who were new to the state during the school year appear in the end-of-year count, but not the beginning. This means the end-of-year count is higher than the October 1 count. For statewide rates, this is not a concern, as the state reports a total number of students enrolled without double-counting. All calculations were done using end-of-year counts, producing a conservative estimate of discipline rates.

For individual schools and smaller groupings of schools (e.g., special educational, vocational schools), exact calculation of the rates is more difficult. Further analysis should incorporate the churn rate (rate at which students come into or leave a school) at schools in groupings of interest. For the purposes of this report, when possible, we used district-level data for such grouping, as students are more likely to move between schools within a district than move between

districts, thus limiting the statistical noise of some school changes.

Table A lists the 94 schools in the state with discipline rates over 20%. These schools (just over 5% of schools statewide) are responsible for over 42% of all disciplinary incidents. The table is sorted by the overall percent of students disciplined (Total % Disc.) from highest to lowest.

Table Notes: School types are defined as follows: “Sp-Ed” are schools with over 90% Special Education Enrollment. “Alt-Ed” are schools with a specialized focus for a group of students with specific needs, such as academic, emotional or behavioral challenges, that are not necessarily students with disabilities. “Charter” schools are independently run schools funded with public money. “Reg/Voc” are schools that serve students from the surrounding region, or have a technical/vocational focus. “Trad” schools are those operated within traditional districts.

If no district is listed, the school is a charter school. The “repeat rate” is the average number of incidents per student disciplined.

Abbreviations: Disc. = “disciplined”; Incid. = “Incidents”; Cat18 = “category 18 behaviors”; OSS = “Out-of-school suspensions”; RVT = “Regional Vocational Technical.”
Sources: Headcount dataset, and Incident count by school dataset, 2012-13.

TABLE A: MASSACHUSETTS SCHOOLS WITH DISCIPLINE RATES OVER 20%

DISTRICT	SCHOOL	SCHOOL TYPE	TOTAL ENROLL	TOTAL #DISC.	TOTAL % DISC.	INDIC. COUNT	REPEAT RATE	CAT18 DISC. COUNT	CAT18 INDIC. COUNT	OSS%
Somerville	Next Wave Junior High	Alt-Ed	41	29	70.73	90	3.1	23	48	70.7
Chicopee	Chicopee Academy	Alt-Ed	126	89	70.63	410	4.61	89	406	69
Lowell	Leblanc Therapeutic Day School	Sp-Ed	49	31	63.27	80	2.58	20	33	63.3
Wareham	West Wareham Academy	Alt-Ed	24	15	62.5	42	2.8	9	14	62.5
	Roxbury Preparatory Charter School	Charter	567	339	59.79	1,146	3.38	318	1018	59.8
Holyoke	Center for Excellence	Alt-Ed	177	102	57.63	407	3.99	68	151	57.6
Lynn	William R Fallon	Sp-Ed	59	34	57.63	82	2.41	33	76	57.6
Bellingham	Primavera Junior/Senior High School	Sp-Ed	33	19	57.58	58	3.05	16	48	57.6
Brockton	B B Russell/Alternative School	Alt-Ed	113	63	55.75	170	2.7	50	105	54.9
Fall River	Stone Therapeutic Day Middle School	Sp-Ed	37	20	54.05	75	3.75	14	26	48.6
Lowell	Laura Lee Therapeutic Day School	Sp-Ed	32	17	53.13	54	3.18	12	25	53.1
Lynn	Fecteau-Leary Junior/Senior High School	Alt-Ed	191	101	52.88	312	3.09	79	208	52.9
Haverhill	Haverhill Alternative School	Sp-Ed	60	29	48.33	82	2.83	10	12	46.7
Fall River	Resiliency Preparatory School	Alt-Ed	316	141	44.62	519	3.68	133	475	42.1
Springfield	Balliet Middle School	Alt-Ed	111	47	42.34	109	2.32	11	12	42.3
Boston	Boston Middle School Academy	Alt-Ed	38	16	42.11	35	2.19	10	15	42.1
New Bedford	New Bedford High	Trad.	2,641	1094	41.42	4,283	3.91	1059	4119	17.6
	City On A Hill Charter Public School	Charter	318	131	41.19	450	3.44	123	413	40.9
Somerville	Full Circle High School	Alt-Ed	79	32	40.51	79	2.47	24	43	40.5
	UP Academy Charter School of Boston	Charter	489	196	40.08	802	4.09	163	608	26
New Bedford	Trinity Day Academy	Alt-Ed	80	32	40	144	4.5	11	22	20
Boston	William McKinley	Sp-Ed	515	200	38.83	433	2.17	106	168	38.8
Springfield	Springfield High School	Alt-Ed	185	70	37.84	131	1.87	37	60	33.5
Holyoke	Holyoke High	Trad.	1,445	535	37.02	2,208	4.13	525	2140	37
Brockton	Goddard Alternative School	Sp-Ed	69	25	36.23	71	2.84	11	15	36.2
Lynn	Lynn Vocational Technical Institute	Reg/Voc	742	263	35.44	747	2.84	224	622	24.9
Fitchburg	Arthur M Longsjo Middle School	Trad.	581	203	34.94	714	3.52	200	675	9.1

TABLE A: MASSACHUSETTS SCHOOLS WITH DISCIPLINE RATES OVER 20% (continued)

DISTRICT	SCHOOL	SCHOOL TYPE	TOTAL ENROLL	TOTAL #DISC.	TOTAL % DISC.	INDIC. COUNT	REPEAT RATE	CAT18 DISC. COUNT	CAT18 INDIC. COUNT	OSS%
Medford	Curtis-Tufts	Sp-Ed	26	9	34.62	32	3.56	9	30	34.6
Springfield	High School Of Commerce	Trad.	1,500	504	33.6	1487	2.95	448	1211	22.3
Lynn	Classical High	Trad.	1,666	559	33.55	1784	3.19	536	1662	22.7
Lawrence	UP Academy Lawrence	Trad	130	42	32.31	143	3.4	36	113	32.3
Holyoke	Wm J Dean Vocational Technical High	Reg/Voc	543	175	32.23	522	2.98	152	413	30.9
Springfield	Liberty Preparatory Academy	Alt. Ed	53	17	32.08	31	1.82	9	15	32.1
Lynn	Lynn English High	Trad.	1,759	549	31.21	1,426	2.6	526	1343	31.2
Springfield	South End Middle School	Trad.	341	103	30.21	232	2.25	74	139	24.9
Fall River	Henry Lord Middle	Trad.	533	160	30.02	722	4.51	132	544	30
Brockton	Brockton High	Trad.	4,271	1270	29.74	4,732	3.73	1222	4565	21
Springfield	Chestnut Street Middle	Trad.	1055	312	29.57	751	2.41	201	431	28.8
Springfield	John F Kennedy Middle	Trad.	745	220	29.53	554	2.52	126	282	29.1
Springfield	Van Sickle Middle School	Trad.	1,111	320	28.8	852	2.66	215	539	22.7
Chicopee	Chicopee High	Trad.	1,114	320	28.73	1662	5.19	316	1632	19.7
Fall River	B M C Durfee High	Trad.	2,400	687	28.63	2,352	3.42	643	2196	23.5
Boston	Lowell Middlesex Academy Charter School	Charter	151	43	28.48	65	1.51	34	52	22.5
Boston	Harbor School	Trad.	329	93	28.27	222	2.39	50	91	28.3
Springfield	M Marcus Kiley Middle	Trad.	815	230	28.22	500	2.17	135	265	21.7
Boston	Washington Irving Middle	Trad.	522	146	27.97	316	2.16	114	214	27.8
Springfield	Spirit of Knowledge Charter School	Charter	186	52	27.96	114	2.19	49	95	27.4
Springfield	Forest Park Middle	Trad.	655	180	27.48	401	2.23	121	217	24.9
North Adams	Drury High	Trad.	561	154	27.45	506	3.29	148	475	13.2
Fall River	Morton Middle	Trad.	569	151	26.54	395	2.62	121	297	21.8
Springfield	Springfield Public Day Middle School	Sp-Ed	87	23	26.44	34	1.48	3	3	23
Springfield	John J Duggan Middle	Trad.	618	163	26.38	434	2.66	108	279	21
	Excel Academy Charter School Boston II	Charter	65	17	26.15	33	1.94	13	19	23.1
Fitchburg	Fitchburg High	Trad.	1,205	315	26.14	923	2.93	285	820	10.3

TABLE A: MASSACHUSETTS SCHOOLS WITH DISCIPLINE RATES OVER 20% (continued)

DISTRICT	SCHOOL	SCHOOL TYPE	TOTAL ENROLL	TOTAL #DISC.	TOTAL % DISC.	INCID. COUNT	REPEAT RATE	CAT18 DISC. COUNT	CAT18 INCID. COUNT	OSS %
Springfield	High School/Science-Tech	Trad.	1,562	406	25.99	797	1.96	316	594	19.4
Gardner	Gardner High	Trad.	639	165	25.82	468	2.84	148	409	8.6
Worcester	Worcester East Middle	Trad.	740	190	25.68	530	2.79	137	351	25.7
Holyoke	Community Charter School of Cambridge	Charter	388	99	25.52	247	2.49	86	217	18.6
	William R. Peck School	Trad.	761	191	25.1	741	3.88	150	502	20.2
Webster	Bartlett Jr Sr High School	Trad.	855	214	25.03	953	4.45	199	858	16.8
Springfield	STEM Middle Academy	Trad	298	74	24.83	204	2.76	57	143	20.1
Bourne	Bourne High School	Trad	582	144	24.74	526	3.65	138	484	9.8
Lynn	Thurgood Marshall Mid	Trad	1,059	259	24.46	618	2.39	194	421	13.9
Boston	Community Academy	Alt-Ed	107	26	24.3	54	2.08	20	41	23.4
Southbridge	Southbridge Middle/High School	Trad	1,129	274	24.27	674	2.46	213	472	21.4
	Edward Brooke Charter School	Charter	495	120	24.24	693	5.78	119	690	24.2
Lowell	Lowell High	Trad.	3,322	803	24.17	3,040	3.79	760	2778	11.7
Revere	Edward W. Brooke Charter School 3	Charter	184	44	23.91	175	3.98	44	175	23.9
	Seacoast School	Alt-Ed	185	44	23.78	111	2.52	38	91	23.8
Oxford	Oxford High	Trad	570	133	23.33	682	5.13	126	658	7.5
Westfield	Westfield Vocational Technical High	Reg/Voc	473	109	23.04	220	2.02	104	205	10.8
Springfield	Springfield Central High	Trad	2,074	473	22.81	1,187	2.51	443	1048	7.4
	Academy of the Pacific Rim Charter School	Charter	505	115	22.77	268	2.33	100	206	17
Middleborough	Middleborough High	Trad	876	199	22.72	815	4.1	188	741	9.7
	Boston Preparatory Charter Public School	Charter	375	85	22.67	117	1.38	65	81	20.8
Boston	TechBoston Academy	Trd	1,058	239	22.59	433	1.81	176	269	18.4
Lynn	Pickering Middle	Trad	696	157	22.56	497	3.17	130	376	14.2
Holyoke	E N White Elementary	Trad	511	114	22.31	295	2.59	67	160	19.6
Worcester	South High Community	Trad	1,426	318	22.3	895	2.81	286	792	22.3
Lowell	Henry J Robinson Middle	Trad	711	158	22.22	459	2.91	116	325	22.2

TABLE A: MASSACHUSETTS SCHOOLS WITH DISCIPLINE RATES OVER 20% (continued)

DISTRICT	SCHOOL	SCHOOL TYPE	TOTAL ENROLL	TOTAL #DISC.	TOTAL % DISC.	INDIC. COUNT	REPEAT RATE	CAT18 DISC. COUNT	CAT18 INDIC. COUNT	OSS%
Boston	Dearborn	Trad	279	62	22.22	110	1.77	38	65	22.2
Springfield	Springfield Public Day High School	Sp-Ed	163	36	22.09	46	1.28	17	20	18.4
Lawrence	Business Management & Finance High	Trad	477	105	22.01	194	1.85	61	108	19.7
Worcester	North High	Trad	1,430	306	21.4	748	2.44	248	613	21.4
South Middlesex RVT	Joseph P Keefe Technical High School	Reg/Voc	724	154	21.27	243	1.58	123	182	15.3
Ralph C Mahar	Ralph C Mahar Regional	Reg/Voc	748	159	21.26	464	2.92	149	431	8.3
Lawrence	School for Exceptional Studies	Sp-Ed	241	51	21.16	106	2.08	20	26	19.9
Chicopee	Chicopee Comprehensive High School	Trad	1,497	314	20.98	845	2.69	308	815	10.6
Blackstone-Millville	Blackstone Millville Regional HS	Reg/Voc	522	109	20.88	234	2.15	100	206	6.1
Holyoke	Morgan Elementary	Trad	473	97	20.51	253	2.61	64	129	18
	Excel Academy Charter School Chelsea	Charter	113	23	20.35	30	1.3	20	26	20.4
	Edward W. Brooke Charter School 2	Charter	281	57	20.28	249	4.37	57	249	20.3
Montachusett RVT	Montachusett RVT	Reg/Voc	1,445	293	20.28	490	1.67	264	433	4.2
Chelsea	Clark Avenue School	Trad	589	118	20.03	248	2.1	97	173	17.1

Sources: Headcount dataset, and Incident Count by school dataset, 2012-13

- 1 Mass. Gen. Laws ch. 71 § 37H3/4 (2014). Other states to change their school discipline laws or regulations in the last several years include California (Cal. A.B. 420 (2014)), Colorado (Colo. H.B. 1345 (2012)), Florida (Fla. S.B. 1540 (2009)), Louisiana (La. Act 136 (2010)), and Maryland (40 Md. Reg. 2091 (Dec. 13, 2013)).
- 2 See Tony Fabelo et al., Council of State Governments Justice Center, *Breaking Schools' Rules: A Statewide Study of How School Discipline Relates to Students' Success and Juvenile Justice Involvement* (2011); American Academy of Pediatrics Committee on School Health, *Out-of-School Suspension and Expulsion*, 131 *PEDIATRICS* 1000 (2013); American Psychological Association Zero Tolerance Task Force, *Are Zero Tolerance Policies Effective in Schools: An Evidentiary Review and Recommendations*, 63 *AMERICAN PSYCHOLOGIST* 852 (2006).
- 3 63 Mass. Code Regs. 53.01 (2014).
- 4 603 Mass. Code Regs. 53.14 (2014).
- 5 Massachusetts Department of Elementary and Secondary Education, *School Safety Discipline Report* (2014), <http://www.doe.mass.edu/infoservices/data/ssdr.html>.
- 6 For more on issues with school policing in Massachusetts, see Robin Dahlberg, *Arrested Futures: The Criminalization of School Discipline in Massachusetts's Three Largest School Districts* (2012), available at http://aclum.org/sites/all/files/education/arrested_futures.pdf.
- 7 "Cool downs" and informal suspensions should simply be collected and reported as out-of-school suspensions.
- 8 American Academy of Pediatrics Committee on School Health, *supra* note 2; Fabelo et al., *supra* note 2.
- 9 Office for Civil Rights, U.S. Department of Education, 2011-2012 *Civil Rights Data Collection* Questions and Answers 3,11-13 (2014) [hereinafter *Civil Rights Data Collection* Questions and Answers]. NOTE: While the Office for Civil Rights published national out-of-school suspension rates for Black students and White students (see p.3), the national out-of-school suspension rate for Latino students (6.8%) was determined using the suspension rates for Latino males (p.11) and Latina females (p. 13) and the Latino/a enrollment data (p.3). While this rate is not that different than the national Latino suspension rate (6.9) reported in the 2009-10 *Civil Rights Data Collection*, we felt it important to provide national data from the school year closest to the data reported in the *School Safety and Discipline Report*. For the 2009-10 Latino suspension rate, see Office for Civil Rights, U.S. Department of Education, 2009 *Civil Rights Data Collection: Estimated Values for the United States* (2014), http://ocrdata.ed.gov/StateNationalEstimations/Projections_2009_10.
- 10 *Id.* at 3 (Nationally, 13% of students with disabilities received at least one out-of-school suspension, compared to 6% of their non-disabled peers). Note: while Massachusetts reports the discipline rate for students with disabilities directly, there is no corresponding number for students without disabilities, so the non-disabled discipline rate is calculated backwards from the number of students enrolled and disciplined versus those enrolled and disciplined with disabilities).
- 11 Russell J. Skiba et al., *The Color of Discipline: Sources of Racial and Gender Disproportionality in School Punishment* 34 *Urban Review* 317 (2002)[hereinafter, *The Color of Discipline*].
- 12 Russell J. Skiba, *Race Is Not Neutral: A National Investigation of African American and Latino Disproportionality in School Discipline*, 40 *SCHOOL PSYCHOLOGY REVIEW* 85 (2011)[hereinafter, *Race is Not Neutral*]; *The Color of Discipline*, *supra* note 11; Catherine Bradshaw et al., *Multilevel Exploration of Factors Contributing to the Overrepresentation of Black Students in Office Disciplinary Referrals*, 102 *JOURNAL OF EDUCATIONAL PSYCHOLOGY* 508 (2010).
- 13 A number of major school districts have made significant changes to their school discipline policies in the last several years to limit out-of-school punishments, including Baltimore (Liz Bowie, *Baltimore County School Board Eases Discipline Policy*, *BALTIMORE SUN*, Jun. 12, 2012), Chicago (Noreen S. Ahmed-Ullah, *Board of Education approves new CPS discipline code*, *CHICAGO TRIBUNE*, Jun 25, 2014), Denver (Matt Cregor, *Emphasize the Positive and Personal*, *Education Week*, Jan. 10, 2013), Los Angeles (Teresa Watanabe, *L.A. Unified bans suspension for 'willful defiance'*, *LOS ANGELES TIMES*, May 14, 2013), and Philadelphia (Dale Mezzacappa, *SRC adopts revised student code of conduct*, *NOTEBOOK*, Aug. 17, 2012).
- 14 American Academy of Pediatrics Committee on School Health, *supra* note 2.; Fabelo et al., *supra* note 2. U.S. Dep't of Justice & U.S. Dep't of Education, *Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline* (2014).
- 15 Robert Balfanz et al., *Sent Home and Put Off-Track: The Antecedents, Disproportionalities, and Consequences of Being Suspended in the Ninth Grade* (2012), <http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/state-reports/sent-home-and-put-off-track-the-antecedents-disproportionalities-and-consequences-of-being-suspended-in-the-ninth-grade/balfanz-sent-home-ccrr-conf-2013.pdf>.
- 16 American Psychological Association Zero Tolerance Task Force, *supra* note 2.
- 17 Tary Tobin et al., *Patterns in Middle School Discipline Records*, 4 *Journal of Emotional and Behavioral Disorders* 82, 91 (1996).
- 18 American Psychological Association Zero Tolerance Task Force, *supra* note 2.
- 19 Office for Civil Rights, U.S. Department of Education, *Civil Rights Data Collection* Data Snapshot: *School Discipline 1* (2014).
- 20 *Id.* at 2.
- 21 Anne Gregory, Russell J. Skiba, & Pedro A. Noguera, *The Achievement Gap and the Discipline Gap: Two Sides of the Same Coin?*, 39 *Educational Researcher* 59 (2010).
- 22 Other states to change their school discipline laws or regulations in the last several years include California (Cal. A.B. 420 (2014)), Colorado (Colo. H.B. 1345 (2012)), Florida (Fla. S.B. 1540 (2009)), Louisiana (La. Act 136 (2010)), and Maryland (40 Md. Reg. 2091 (Dec. 13, 2013)).
- 23 603 Mass. Code Regs. 53.01 (2014).

- 24 603 Mass. Code Regs. 53.14 (2014).
- 25 Massachusetts Appleseed Center for Law and Justice, *Keep Kids in Class: New Approaches to School Discipline* (2012).
- 26 Massachusetts Department of Elementary and Secondary Education, *supra* note 5.
- 27 Robert H. Horner et al., *A Randomized Wait-List Controlled Effectiveness Trial Assessing School-Wide Positive Behavior Support in Elementary Schools*, 11 *J. Positive Behavior Interventions* 133 (2009).
- 28 Office for Civil Rights, U.S. Department of Education, 2009 *Civil Rights Data Collection: Estimated Values for the United States* (2014), http://ocrdata.ed.gov/StateNationalEstimations/Projections_2009_10. Note that the U.S. Department of Education has yet to release the aggregate national out-of-school suspension rate from its 2011-12 collection.
- 29 Note that this rate does not include the discipline rates of middle grades at Boston's K-8 schools as DESE does not report disciplinary data by grade level.
- 30 *Civil Rights Data Collection Questions and Answers*, *supra* note 9 at 3.
- 31 Office for Civil Rights, U.S. Department of Education, 2009 *Civil Rights Data Collection: Estimated Values for Massachusetts* (2014), http://ocrdata.ed.gov/StateNationalEstimations/Projections_2009_10
- 32 While males make up 49% of national enrollment, they accounted for 64% of all students receiving in-school suspensions, 64% of all students receiving one out-of-school suspension, 69% of students receiving more than one out-of-school suspension, and 74% of all expelled students. Office for Civil Rights, U.S. Department of Education, *The Transformed Civil Rights Data Collection* 3 (2012).
- 33 See explanation in footnote 9, *supra*.
- 34 *Race Is Not Neutral*, *supra* note 12.
- 35 *The Color of Discipline*, *supra* note 11.
- 36 *Race Is Not Neutral*, *supra* note 12.
- 37 Black students comprise 8.7% of students enrolled in Massachusetts and 10.8% of students disciplined for illegal drugs, while White students comprise 65.2% of students enrolled and 65.8% of students disciplined for illegal drugs. Massachusetts Department of Elementary and Secondary Education, *supra* note 5.
- 38 603 Mass. Code Regs. 53.01 (2014).
- 39 *Id.*
- 40 603 Mass. Code Regs. 53.05 (2014).
- 41 *Id.*
- 42 Mass. Gen. Laws ch. 76 § 21; 603 Mass. Code Regs. 53.13 (2014).
- 43 603 Mass. Code Regs. 53.13 (2014).
- 44 *Id.*
- 45 *Id.*
- 46 603 Mass. Code Regs. 53.08 (2014).
- 47 *Id.*
- 48 *Id.*
- 49 603 Mass. Code Regs. 53.02 (2014).
- 50 603 Mass. Code Regs. 53.14 (2014).
- 51 *Id.*
- 52 *Id.*
- 53 *Id.* These populations include but are not limited to: race and ethnicity, gender, socioeconomic status, English Language learner status, and students with disabilities. *Id.*
- 54 U.S. Dep't of Justice & U.S. Dep't of Education, *Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline* (2014).
- 55 *Id.* at 6.
- 56 *Id.* at 12.
- 57 *Id.* at 21-22; U.S. Dep't of Justice & U.S. Dep't of Education, *Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline* app. (2014); U.S. Department of Education, *Guiding Principles: A Resource Guide for Improving School Climate and Discipline* (2014).
- 58 603 Mass. Code Regs. 53.05 (2014).
- 59 Bob Costello et al., *The Restorative Practices Handbook for Teachers, Disciplinarians, and Administrators* (2009); Lorraine Stutzman Amstutz & Judy H. Mullet, *The Little Book of Restorative Discipline for Schools: Teaching Responsibility; Creating Caring Climates* (2005).
- 60 Sharon Lewis, *Improving School Climate: Findings from Schools Implementing Restorative Practices* (2009); David Simson, *Restorative Justice and its Effects on (Racially Disparate) Punitive School Discipline* (forthcoming).
- 61 Horner et al., *supra* note 27.
- 62 Massachusetts Department of Elementary and Secondary Education, *supra* note 5.
- 63 The Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq. The Family Education Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g.
- 64 The Family Education Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g.



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